MINUTES OF THE T-FACULTY SENATORS COUNCIL MEETING OF DECEMBER 17, 2020

The New York University Tenured/Tenure Track Faculty Senators Council (T-FSC) met at noon on Thursday, December 17, 2020 via Zoom.

In attendance were Senators Amin, Cappell, Chen, De Leon, Dreyfuss, Duncombe, Economides, Fenton, Geppert, Gyorgy, Hartman, Irving, Jauernig, Kamer, Lapiner, Ling, Makarov, Merritt, Mincer, Nonken, Parekh, Pursley, Quinn, Schlick, Sternhell, Stimpfel, Zelikoff; Active Alternates Alter and Cole; and Alternate Senators Branski, Conte (for Battista), Deierlein, Navarra, Partridge, Rock (for Barker), Rosendorff, Schuman, and Van Cleave; and Observer Miao.

APPROVAL OF THE MINUTES

Upon a motion duly made and seconded, the minutes of the November 19, 2020 meeting were approved unanimously.

ELECTION

Election T-FSC Chairperson 2021-2022

The election of T-FSC Chairperson 2021-22 took place by online ballot from the following slate of candidates presented by the Nominating Committee: Darcey Merritt of the Silver School of Social Work and an open candidate seat.

Nominating Committee Chair Parekh reported the results of the election: Darcey Merritt will serve as Chairperson next academic year.

REPORT FROM THE CHAIRPERSON: DARCEY MERRITT

COVID-19

Chairperson Merritt announced the current number of positive cases is 112 across all the NYU NYC sites. She commended the University for their testing, tracing, and quarantining efforts.

Zoom Censorship

Merritt reported Zoom cited the reasoning for cancelling the October 23 event was due to legal reasons. After Zoom's cancellation, the event was switched to another platform and went forward, which is one of the reasons NYU maintains more than one platform.

Vaccine Distribution Working Group

Merritt reported the Council is waiting for more information on the composition of the Vaccine Distribution Working Group. A Senator requested a T-FSC representative serve on the group.

A Senator suggested those schools in front-line positions, such as Dentistry, should receive priority in receiving the vaccine.

A Senator from the School of Medicine noted there are those reluctant to take the vaccine and suggested promoting the vaccine particularly targeting populations that have been distrustful of medical practices.
Senators discussed the University’s potential policies on vaccine requirement and how to handle those in the community that cannot receive the vaccine, because of allergies or religious reasons.

PRESENTATION, DISCUSSION, AND VOTE

Recommendations regarding NYU Abu Dhabi Guidelines for Promotion and Tenure

See attached Document A.

A Senator inquired on the definition of senior faculty, as referred to in the guidelines. Committee Co-Chair Lapiner responded the Committee will note that the reference to “senior faculty” needs clarification. According to the Faculty Handbook, only tenured faculty may vote on matters involving initial appointment to tenure or promotion in rank.

A Senator expressed concern regarding Interfolio being named as the specific digital platform, given potential future technology changes. Lapiner noted the Committee will add a recommendation to instead state all documentation pertinent to appointment, promotion, and tenure request must be submitted through the digital platform approved at the time of submission by NYU for such university-wide use.

Senators also discussed the additional edits to the recommendations: 1) adding large multi-institutional collaborative research projects as another argument for not being unwisely restrictive about eligible evaluators and 2) removing the requirement for a candidate to explain in some detail why s/he has asked to exclude an authorized limited number of individuals identified as potentially biased, from being contacted for the evaluation process.

The recommendations, with the suggested edits, were approved by vote of the Council.

Grossman School of Medicine (GSOM) Proposal

See attached Document B.

Senators expressed concerns with the proposal and process. A Senator noted this threatens the rights of faculty.

Senators affirmed the existing guidelines in the Faculty Handbook regarding the termination of tenure are clear and fair, and should continue to apply for all schools. Senators expressed concerns that other schools could alter their guidelines.

A Senator contended the lack of response from the administration on many of the T-FSC recommendations, which does not follow the principle of shared governance on reasoned justification.

Senators suggested the EC discuss these issues with Provost and President and bring back to the Council at the February meeting. This process was approved by vote of the Council.

Resolution for NYU to Adopt an Open Access Policy

See attached Document C.

Division of Libraries Alternate Senator Conte accepted inquiries on the resolution.

A Senator expressed concern on handling open access of publications from large collaboration of authors. Another Senator noted there are many journals that will not allow open access.
Conte reported there is a clause in the policy that stipulates if a faculty member signed a publishing agreement in violation of the open access policy, they would not be obligated to follow the policy. It was noted this only applies to any articles completed before the adoption of this policy and any articles for which the Faculty member entered into an incompatible licensing or assignment agreement before the adoption of this policy.

A Senator suggested amending the resolution to recommend faculty to follow, rather than obligate.

Conte reported NYU has the Faculty Digital Archive (FDA), which is a long-standing institutional repository.

A Senator noted it would be useful to ask peer institutions that have adopted this policy how they resolved these issues.

It was summarized the Council supports the concept of open access but is concerned regarding the barriers faced with publishing in certain journals and making open access a requirement.

Alternate Senator Conte will bring these issues back to the Division of Libraries.

**Senate Committee on Organization and Governance (SCOG): University Senate composition update**

Merritt reported on the recent SCOG meeting discussing incorporating the Long Island School of Medicine (LISOM) into the University Senate structure. The first option discussed was to add one seat to each Council to incorporate the LISOM. The second option was to increase each Council’s number of seats to 39 across the board. Merritt noted the T-FSC did not show support for this option.

SCOG is now turning its attention to 1) focusing on making adjustments to the Bylaws that will provide a more sustainable solution to increase the size of the Senate as new schools are developed at NYU and 2) creating recommendations to help facilitate more deliberative conversation within the Senate.

The recommendations will be presented to the Senate Executive Committee in the spring.

**COMMITTEE REPORTS**

*See attached Document D.*

**No Discussion/Questions on the following submitted reports:**

Educational Policies & Faculty/Student Relations
Global Network University
Personnel Policies & Tenure Modifications Committee

**Reports at Meeting:**

There were no additional reports at the meeting.

**ADJOURNMENT**

The meeting adjourned at 2:00 PM.
DATE: December 13, 2020

TO: T-FSC

FM: PP&TM COMMITTEE

RE: NYU ABU DHABI PROMOTION AND TENURE GUIDELINES

The Personnel Policies and Tenure Modification Committee met as a whole twice this semester to review the draft guidelines for promotion and tenure, submitted by NYU Abu Dhabi. The co-chairs met subsequently with our two NYU-AD Senators to review (and contextualize) our committee’s observations and questions, and benefit from their insights and experience with the process, while learning about the special flavor of our sister campus.

As to the documents themselves, the transmittal note from the Provost of NYU Abu Dhabi reported the broadly consultative efforts that involved extensive revision of previous policies over an academic year, and that resulted in the policies presently under consideration. He further reported that once they were completed in their current form, over a two-week period last year by means of confidential electronic voting, all tenured and tenure-track faculty were asked to vote their support or rejection of the revised polices: 12 faculty voted against them, 7 abstained, but 72 voted in favor of adoption. They thus carried by a substantial margin, a nearly 4:1 ratio, leading to their submission to the NYU Provost for review and authorization to implement.

Our feedback is of course part of the Provostial review process. The PP&TM Committee found the policies to be judiciously written, well-conceived, consistent with The NYU Faculty Handbook and appropriately sensitive to the unique characteristics of NYU-Abu Dhabi. While we made a number of observations that might prove of use in reducing some ambiguities in the language of the policies, or lead to more explicit descriptions of anticipated procedures (and exceptions), our formal recommendations are few and generally minor.

We nonetheless hope that our comments and suggestions will be welcomed in the constructive spirit they are made, and lead to strengthening an already viable, fair, and (mostly very) clear set of guidelines. (It is to be noted that the NYU-AD guidelines incorporate some policy language—such as referencing the diversity of methodologies available to evaluate teaching effectiveness—that might constitute excellent precedents others NYU schools would be pleased to emulate.)

We hope our fellow T-FSC Senators will concur with the committee’s evaluative comments and guidance, and support our forwarding the document to the Provosts of NYU and of NYU Abu Dhabi.
1. To facilitate review (and further discussion if required), the following copy of the NYU Abu Dhabi Promotion and Tenure Guidelines incorporates within the body of the text specific and general comments and recommendations regarding individual components of the draft policies. (Comments are placed immediately after the relevant passages.)

There are three categories of comments (each category numbered sequentially, and identified as “Recommendations,” “Points of Clarification,” and “Observations”).

The first make formal suggestions about aspect of the policies. The second point out possible matters of unintended ambiguity that might benefit from reformulation, or raise questions about possible oversights. The third are more “editorial” in nature, pointing out or asking questions about generally minor issues in presentation, terminology, sequencing-- things that might be left unchanged, or tweaked if NYU-AD concurs that some adjustment might be warranted.

2. Our committee requests that should our suggestions or remarks themselves need clarification or correction upon subsequent review by the Provosts of NYU or of NYU Abu Dhabi, that all follow-up comments are similarly incorporated within the text.
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1. Introduction

The NYU Abu Dhabi Promotion and Tenure Guidelines (the Guidelines) set forth the principles and procedures for promotion and tenure at NYU Abu Dhabi. The Guidelines are designed to support high academic standards in awarding promotion and tenure and aim to provide a comprehensive and fair review of the candidates. They outline the promotion and tenure process for tenure track and tenured faculty and describe the roles played by the Faculty Review Committee (FRC), the relevant Dean at NYU Abu Dhabi (the NYU Abu Dhabi Dean), the relevant academic department or unit at NYU NY, the NYU Abu Dhabi Promotion and Tenure Committee (P&TC), the Provost of NYU Abu Dhabi; and the Vice Chancellor of NYU Abu Dhabi and the Provost of NYU who make the final decision of promotion and tenure.

These Guidelines are being implemented by NYU Abu Dhabi to supplement NYU policies applicable to promotion and tenure review including New York University Promotion and Tenure Guidelines and the University statement on Academic Freedom and Tenure in the NYU Faculty Handbook. If any part of these Guidelines is inconsistent with NYU policies, the NYU policies then in effect will control.

Future Amendments

Any amendment to these Guidelines must be in writing and must be approved by the Provost of NYU Abu Dhabi, who will consult with the NYU Abu Dhabi Faculty Council, and by the Provost of NYU. As with all NYU and NYU Abu Dhabi policies, these Guidelines, or any provision hereof, are subject to change and the policies in effect at the time of an action will apply to that action.

2. Conferring Tenure: General Criteria

A high standard of excellence and effectiveness in research and teaching is a prerequisite for tenure at NYU Abu Dhabi, as is the promise of effective contributions toward the mission and intellectual life of NYU Abu Dhabi. In order to have a reasonable prospect of gaining tenure at NYU Abu Dhabi, a candidate must have a record of excellent achievement in scholarly research and publication or in creative work, together with a record of outstanding teaching integrally influenced by leading scholarship or creative work. There also must be a reasonable expectation of sustained future accomplishment at the same high level. In the absence of such a record and prospects, tenure will not be granted.

It is neither desirable nor possible to define a universal standard of measurement for tenure or

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promotion. Each case must be examined in detail by making explicit comparisons, delineating special strengths, and acknowledging limits or weaknesses. Context may be a criterion in judging the strength of a particular candidate – context specific to the candidate’s field and research aims and trajectory, and context specific to the mission and needs of NYU Abu Dhabi.

The process of evaluating a candidate for tenure is an inquiry. Is the candidate for tenure among the strongest in his or her field, in comparison with other individuals in the same field at similar points in their careers, taking into consideration the goals of NYU Abu Dhabi and the NYU Abu Dhabi program(s) in which the candidate is appointed? Is the candidate well positioned for further high-impact contributions to the candidate’s field and the scholarly mission of NYU Abu Dhabi moving forward?

In short, research, teaching, and service to the intellectual community in toto will be used as the benchmark for granting tenure NYU Abu Dhabi. All these factors must be carefully and openly discussed and weighed, within appropriate and ethical boundaries of confidentiality, in reaching a recommendation on tenure.

3. Guidelines and Procedures for Tenure (With and Without Promotion)

Promotion and tenure must conform to these Guidelines. Section 3 lays out the responsibilities of the various committees and parties that participate in the assessment of the candidate’s case, focusing on the process of deciding on tenure with or without promotion for internal candidates. Additional considerations for tenure for lateral hires (at the ranks of Associate and Full Professor) are discussed in Section 4. Questions of interpretation of these Guidelines will be determined by the Provost of NYU Abu Dhabi in consultation with the Vice Chancellor of NYU Abu Dhabi and the Provost of NYU.

OBSERVATION #1. Section 4 uses the term “External hires” (for lateral appointments). For consistency’s sake, may wish to substitute “external” for the highlighted word above.

3.1 Mandatory Nature of Review

All candidates for tenure will be reviewed in accordance with the tenure clock requirements set forth in Section 5 of these Guidelines. The tenure application review will take place no later than the year preceding a candidate’s final non-tenure year.

If a candidate for mandatory tenure review tenders a letter of resignation prior to the start of the mandatory review, a Docket and recommendation need not be prepared or submitted. The letter of resignation must be submitted not later than the deadline for the candidate to submit his or her materials, and the effective date of the resignation cannot be later than the end of the probationary period (e.g. August 31, 2019 for candidates with mandatory reviews during AY 17-18). The letter must make clear that the resignation was freely tendered without duress.

OBSERVATION #2. Re the preceding paragraph: PPTM suggests that the context
here could be made clearer. It might be helpful to have a prefatory statement such as “Should a candidate choose to resign out of his or her own volition before the mandatory tenure-review commences…”

3.2 Faculty Review Committee (FRC)

The FRC is an ad hoc committee appointed by the NYU Abu Dhabi Dean in consultation with senior faculty in the candidate’s NYU Abu Dhabi program or division and, as appropriate, with the head of the candidate's relevant academic unit at NYU NY. The FRC is composed of 3-5 tenured faculty members. These members will be drawn from the NYU Abu Dhabi faculty in the candidate’s field (if any), the NYU Abu Dhabi faculty in related fields (if any), and, as needed, faculty in the candidate’s field at other NYU degree-granting campuses, and faculty from other universities. The Chair of the FRC is appointed by the NYU Abu Dhabi Dean from among the members of the FRC and is responsible for overseeing the work of the FRC.

The FRC is responsible for preparing and reviewing the candidate’s Docket (see Sections 3.3 and 3.6 below) and preparing a Report (see Section 3.5 below) that includes a summary of its examination of the Docket and a recommendation on promotion and tenure to the NYU Abu Dhabi Dean. The duty of tenured faculty to give advice on tenure decisions is one of their highest responsibilities. The process is highly dependent upon their thoroughness, fairness, and rigor.

OBSERVATION #3. Issue of document organizational sequencing. The FRC we learn later is subordinate to the AD-wide Promotions & Tenure Committee—which is introduced for the first time in Section 3.8. Would it be feasible to re-order, so that the P & T Committee is introduced first?

If not, we suggest that this paragraph should at least introduce some brief anticipatory statement about the role of/relationship with the P & T Committee, by way of cross-reference.

RECOMMENDATION #1. Suggest explaining more about the process of constituting the FRC.

We understand both the limiting factor that there may be only a small number of faculty in the candidate's field to call upon, and the expectation to be able to trust the discretion and judgment of the Dean.

On the other hand, it could be prudent to explain the criteria that in all cases underlie the selection process. (Keep in mind that the only grounds for “appeal” in the case of an unsuccessful review are about irregularities in procedure; when a critical element in the process is not carefully delineated, the ambiguity can create a vulnerability.)

- Consider that “drawn from” might introduce the methodology/criteria of selection.
- Clarify whether the Dean appoints the chair only after the full committee is constituted—thus involving perhaps some discussion among the members—or may the Dean designate the chair from the outset?
3.3 Preparation of the Docket

The FRC and the NYU Abu Dhabi Dean are responsible for preparing a candidate’s promotion and tenure docket – an evaluation of the candidate’s record (Docket). A Docket that is properly prepared, detailed, and well-documented is the most effective instrument for conveying the essence of the FRC’s evaluation of the candidate. A Docket that provides a thorough and honest appraisal of the strengths and weaknesses of the candidate is most useful to subsequent evaluators for it gives substantive meaning and texture to the evaluation.

The Docket includes (a) materials submitted by the candidate to the FRC, (b) materials collected by the NYU Abu Dhabi Dean, and (c) additional materials submitted to the FRC, the NYU Abu Dhabi Dean, or the Provost of NYU Abu Dhabi.

Materials Provided by Candidate

The candidate must submit the following documents:

General
1. Current complete curriculum vitae; (CV)

Teaching
1. Candidate’s personal statement on teaching philosophy and practice
2. List of courses taught
3. Course syllabi
4. List of NYU Abu Dhabi and other advisees (if applicable)
5. List of Honors projects, capstone projects, Master’s theses, and PhD dissertation candidates supervised or dissertation committees served on; information about placement and other supervisee success.
6. Course evaluations and other evidence of teaching effectiveness

OBSERVATION #4. Since pertinent examples of the materials to be assembled are provided in the next section, for the benefit of the reader, suggest introducing the simple phrase “(see below)” here—or (see below section X.y) where appropriate whenever there is some distance between the first reference to an expectation/step in process and where it is subsequently explained in greater detail.

Research
1. Candidate’s personal statement on research accomplishments and objectives, including a description of the research program in terms accessible to non-specialists.
2. Copies of the candidate’s scholarly work and/or records of his or her creative work
3. Candidate also may submit such supplementary materials as readers’ reports for unpublished manuscripts or creative works in progress, reports of grant review panels, published reviews of scholarship or curatorial works, etc.

POINT of CLARIFICATION #1. Issue of terminology. It is our understanding that grant reviewers' comments are not generally referred to as “reports.”
“comments of grant review panels” intended? Applies to usage in 3.3. as well.

Service

1. Candidate’s personal statement on service (including work on committees and contributions toward the work and intellectual community of NYU Abu Dhabi)
2. Candidate’s contributions to the profession, including participation in peer review, conference organization, editorial boards, and participation in professional societies.

POINT OF CLARIFICATION #2. We note that “service” in the first category above does not appear to reference consideration for any academic administrative responsibilities for the department or school. No need to alter if that omission is intended. But if it is an oversight, perhaps should be included in the list of examples.

Personal statements on teaching philosophy and practice, research accomplishments and objectives, and service record as requested above may be combined in a single document with clearly separated sections or be conveyed in three separate personal statements.

OBSERVATION #5. The previous sentence reads at first glance as a non-sequitur. Since all other sections here use rubrics in italics that connect back to the categories of information required for the docket, for consistency’s sake consider introducing the directions for the personal statement with a header, like “Guidelines regarding personal statements.”

Materials Collected by NYU Abu Dhabi Dean

The NYU Abu Dhabi Dean will collect, and append to the candidate’s Docket, the following documents:

1. Student evaluations. In keeping with our recognition of the importance of high-caliber teaching and mentorship, in addition to the course evaluations submitted by the candidate, the dean’s report should comment on the candidate’s capstone advising (if applicable). The dean’s report should also include student input collected as follows: A standardized form will be sent by the Dean’s Office to all (or a randomized sample of) former students of the candidate (who have taken classes or have been mentored/advised by the candidate) with the firmest assurances that there is no requirement to participate, and that anonymity of student responses included in the docket will be ensured. Typically, the dean’s report shall include ten, but at least five responses, ideally representing a diverse array of advising, mentoring, and courses taught. In the case of candidates for tenure who have not taught at NYU Abu Dhabi, every effort should be made to provide information on teaching excellence.

2. Peer reports, which may include formal assessments of teaching effectiveness arrived at by direct observation by faculty.

3. List of highly qualified external evaluators contacted, and for those who provide an evaluation, their scholarly or creative credentials and an explanation of why they were chosen

4. Letters of evaluation from at least five outside evaluators

5. Reasons given by the evaluators who decline to write letters
6. Text of the letters requesting evaluation sent to each of the outside evaluators
7. Course Listings Form

**OBSERVATION #6 (with minor recommendation).** The diversity of anticipated sources of information about teaching effectiveness listed above is altogether admirable, especially since there is a considerable literature about the inherent biases in student evaluations alone (a problem exacerbated in courses of intimate size, like those of many NYU AD classes). Some NYU schools (and some universities) use evaluations only as feedback for encouraging the pedagogical self-development of faculty—but limit or, in some cases, proscribe their use in reviews for promotion or tenure.

The other thoughtful examples of evidence to be considered, cited above, are likely to be more substantively informative.

Because of the variable utility of these qualitative instruments, it might be advisable to indicate something about the relative weight in the tenure evaluation process that might be accorded to student input about the candidate’s effectiveness in teaching and mentorship

**Additional Materials**

Each NYU Abu Dhabi dean, in consultation with the senior faculty in the division and with the FRC, will devise a standard procedure to solicit in each case the opinion of senior faculty (if any) in the candidate’s program/division (if any). This could be done by a voting process or individual letters from faculty, depending on the number of faculty involved and on the divisional governance structures. Senior faculty with appointments in both NYU Abu Dhabi and NYU New York or NYU Shanghai who wish to weigh in on the candidacy as part of the NYU Abu Dhabi unit must be recused from the assessment process at the cognate department or unit at NYU New York or NYU Shanghai.

In addition to the materials set forth above, the candidate may submit, and the NYU Abu Dhabi Dean and FRC may request, any additional evidence to facilitate an assessment of the teaching, research, and service impact of the candidate. Materials submitted by the FRC, the NYU Abu Dhabi Dean, and/or Provost of NYU Abu Dhabi should appear in a section of the Docket titled “Supplementary Materials.” Examples might be readers’ reports for unpublished manuscripts, creative works in progress, reports of grant review panels, published reviews of scholarship or curatorial works, etc.

**Use of Interfolio**

The University, including NYU Abu Dhabi, utilizes the Interfolio ByCommittee P&T® platform for submission and review of all dockets for faculty appointment, promotion and tenure requests.
3.4 Evaluator Guidelines

The NYU Abu Dhabi Dean will solicit at least five letters from outside evaluators to be reviewed by the FRC. These evaluators should not be scholars or artists with whom the candidate has been closely associated, such as a thesis advisor, co-author, co-investigator, joint producer, or other close associates. If the FRC and the dean learn later that they have inadvertently solicited an opinion from someone who was close to the candidate, this must be noted in the report. Nor can these required evaluators be scholars that have been suggested by the candidate.

**POINT OF CLARIFICATION #3.** Regarding the opening sentence: Presumably not intended as written. The goal is to have at least five letters in hand to evaluate (other NYU schools require more, but not all). Would normally lead to soliciting a greater number of prospective letter-writers to secure the five required for the review.

However, in addition to these five required letters, the FRC may in unusual circumstances, solicit additional letters from additional evaluators who are co-authors or the thesis advisor or other close associates of the candidate, provided that this information is clearly noted in the Docket and a justification for contacting these evaluators is provided.

**POINT OF CLARIFICATION #4.** Issue of “excluding” former associates is a recurrent conundrum. Might you consider a more flexible approach (collaboration within last 5-7 years, for example)? Consider that the U.S. NIH limits reviewers (of grant proposals) associated with applicant during the previous 5 or 10 years (according to the type of relationship) —but allows them from those whose collaboration precedes the respective time-frame.

At NYU, some schools accept letters from thesis advisers, if the thesis has been completed at least 10 years in the past.

In other words, as the next paragraph anticipates, exclusions don’t have to be categorical.

While the willingness in the policy to consider “unusual circumstances” is important, in fact in some disciplines where multiple authorship is normative in research publication, to exclude co-authors, etc., routinely and categorically might greatly limit access to trustworthy and relevant insights about the candidate. (Also true for faculty in some areas of creative arts, where collaboration is central to the output.) Perhaps “unusual circumstances” might be replaced with “in some circumstances, such as... [pertinent hypothetical examples].”

The candidate also may identify one or two scholars who he/she believes would not – for professional or personal reasons – provide a balanced evaluation. The candidate must state in writing the reasons for this belief. The FRC and Dean are not required to accept the candidate’s request to exclude a scholar as an evaluator. If the FRC and/or the Dean decide to consult with scholars the candidate wishes to exclude, their report should provide a justification for doing so.
These evaluator guidelines apply at all stages in the review process. These guidelines and the evaluation process are subject to NYU's policy regarding the confidentiality of such external letters and other tenure decision materials, which can be found in the University Policy on Legal Protection for Faculty Members.

Criteria for Selecting Outside Evaluators

Evaluators normally will hold a tenured position (as a full professor in the instance of cases of promotion to full professor) in an institution of recognized distinction as a research university, a position of equivalent rank in an academic unit that does not grant tenure, or a position of equivalent rank in a non-academic institution (e.g., laboratory, research institute, museum, or arts company).

Evaluators must be recognized leaders in the candidate's discipline. They must be representative of their subject, broadly defined, and not be drawn exclusively from narrow specializations. At least one of the evaluators must be a scholar or artist identified with broader sectors of the discipline in question.

The Docket must include specific explanations for the choice of the evaluators contacted. The explanations must include their CVs, and a statement as to why this particular evaluator’s opinion matters (e.g., evaluator is the most widely published author in the candidate’s field; evaluator is in a different discipline but edits the premier journal in the candidate’s field, etc.).

Letter of Solicitation

Letters of solicitation to potential evaluators must come from the NYU Abu Dhabi Dean and must follow the prototypes in Appendix B to these Guidelines. The letter must explicitly request comparative rankings with the candidate’s peers, and it must not in any way imply that a positive or negative response from the evaluator is desired.

All evaluators must be provided with the same CV, personal statement(s), and copies or

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1http://www.nyu.edu/about/policies-guidelines-compliance/policies-and-guidelines/legal-protection-for-faculty-members.html
descriptions of the candidate’s work. If unpublished work or creative work in progress is to be part of the Docket, the FRC must ask all evaluators to comment on its quality subject to their confirmation that the content of the unpublished or creative work in progress be kept confidential.

The confidentiality of letters from outside evaluators must be scrupulously preserved. Neither the names of evaluators nor the contents of their letters, including in summary form, may be communicated to the candidate or anyone else beyond individuals at NYU Abu Dhabi and NYU who are involved in the process of evaluating the candidate for promotion and/or tenure. Evaluators must be assured in writing that their letters will be held in confidence in accordance with these Guidelines, except as may be required by applicable law.

3.5 Faculty Review Committee Report

The FRC must undertake with utmost seriousness its examination of a candidate’s Docket, including the scholarship or creative work, comparative evaluations, peer review, and faculty colleague consultations. Assessments must not ignore a candidate’s shortcomings, because assessments that attempt to gloss over imperfections are more likely to arouse suspicion than support. It is far more helpful to have a balanced discussion of a candidate’s strengths and weaknesses.

**POINT OF CLARIFICATION #5:** Is there value in adding “relevant” before “imperfections” above?

It is essential that tenured faculty members who participate in the promotion with tenure review process uphold high standards of responsibility and ethical behavior. Responsibility includes the obligation to give careful attention to the materials in the Docket. Ethical behavior includes a clear obligation to maintain the confidentiality of all proceedings, since confidentiality facilitates honest and open discussion.

The Chair of the FRC has ultimate responsibility for ensuring that the FRC upholds these processes of inquiry in its recommendation to the NYU Abu Dhabi Dean. The NYU Abu Dhabi Dean will return a report he or she considers [to be] weak advice or reflects procedural irregularities to the FRC with a request that the problem be corrected.

A complete version of the Docket must be made available to each member of the FRC for examination. After the FRC has had sufficient time to review the Docket, the Chair of the FRC must present the candidate’s case to the FRC in a designated meeting, where not more than one member of the FRC may be absent. FRC members who participate in the special meeting by videoconference or telephone will be considered “present”.

**RECOMMENDATION #2.** Ambiguity with respect to any aspect of process expectations can prove troublesome. Suggest replacing “sufficient time” with a time-frame of stipulated duration.

After the presentation of the candidate by the Chair and a discussion among the members present, the Chair will call a vote. Each member of the FRC has one vote. The report of the
FRC should include the result of the vote. Re-voting must not be undertaken for the sole purpose of achieving near consensus or unanimity, or to avoid reporting a split vote. (Re-voting may occur only on new information that was previously not considered by the FRC and must occur within ten days after new information has been presented to the FRC by the NYU Abu Dhabi Dean.) If the FRC fails to achieve consensus the FRC chair should include a minority report or a discussion of the differences in the evaluation of the case in the committee.

The FRC will prepare a Report that summarizes its analysis of the Docket, reflects the requirements of these Guidelines, and sets forth its recommendation and the numerical vote of the FRC with respect to promotion and tenure for the candidate. The Report must include a separate section consisting of a list of all potential evaluators who were asked to write on behalf of the candidate, including those who declined. All communications with potential evaluators must be documented and included in the Docket, as well as an explanation for each of the declinations.

Each member of the FRC will sign the Docket and attest that he/she has read the Report and the Docket and that the Report accurately reflects the opinions of the members of the FRC. The Report along with a complete version of the Docket must be submitted to the NYU Abu Dhabi Dean.

**RECOMMENDATION #3: Consideration should be given as to whether persons from the same department at NYU-AD or either the FRC or P&TC should recuse themselves from voting.**

Also, if individuals serving on either the FRC or P&TC, write a letter of evaluation for the candidate, they should be expected to recuse themselves from voting as well.

**Suggestion language to this effect should be added to the document.**

### 3.6 Review Parameters: Specifications and Considerations

#### Personal Statement(s)

The review by the FRC of the candidate’s personal statement(s) in the teaching, research, and service sections must consider the trajectory of the candidate’s career, including a description of the relationships among works already published, distributed, performed, screened, or installed, a description of new projects planned or under way, and a description of the candidate’s teaching mission as reflected in particular courses.

#### Scholarly and Creative Work

The candidate’s scholarly and creative work must be carefully reviewed by the FRC. The assessment of a candidate’s scholarly research or creative works must address issues of intellectual, scholarly, and creative quality, originality, significance, impact, and future development. The quality and significance of the journals or venues of distribution or
exhibition in which the candidate’s work has appeared must be appraised. If they are not the most prestigious, relevant and meaningful venues in the field, those must be named, and the absence of such achievements must be considered. The Report must indicate what parts of the candidate’s work are based on the dissertation or thesis work, and for such work, what advances have been made since the completion of the highest degree. In research areas where external funding is important and generally available, and if NYU Abu Dhabi faculty are eligible to apply for such funding, the candidate's success at securing grants should be evaluated in relation to reasonable expectations for scholars in the same field and at the same stage of professional development. The assessment must list and appraise the relative competitiveness of grants and fellowships received by the candidate.

**OBSERVATION #7:** We salute the sensitivity of this paragraph, especially the penultimate sentence. Might it also be worthwhile to acknowledge that with respect to U.S. funding agencies, applicants who are not U.S. citizens or in residence stateside at a U.S. institution are sometimes excluded from consideration—however worthy their project or their qualification?

**Scholarly Impact**

The candidate’s position in the field and the discipline as a whole must be described as precisely as possible. This appraisal must include comparisons with other scholars, both in the discipline at large and within NYU Abu Dhabi when appropriate. While most comparisons should focus on scholars at a similar career stage, the relative promise of matching the accomplishments of more senior scholars must be addressed.

**POINT OF CLARIFICATION #6:** Is the unconditional emphasis of “must” (in the preceding sentence) intended, or might “should be addressed” be an acceptable alternative?

The FRC Report and the recommendation to the NYU Abu Dhabi Dean should explain the importance of the candidate's field of expertise to the discipline and the work of NYU Abu Dhabi. In what ways does the candidate’s strength in that field advance NYU Abu Dhabi’s current goals? How does the candidate’s field supplement other existing or proposed strengths in the NYU Abu Dhabi curriculum and research agenda, and vice versa? How does the candidate’s field and performance affect the standing and visibility of NYU Abu Dhabi, along with its attractiveness to top undergraduate and/or graduate students in the field?

**Teaching**

The assessment of teaching performance must appraise the quality and pertinence of courses taught or developed, provide an assessment of teaching strengths, and evaluate the candidate's contributions to the teaching program of NYU Abu Dhabi. Specific evaluation and an analysis of the effectiveness of undergraduate and/or graduate teaching must be provided in narrative form. Evidence cited should include course syllabi and student evaluations (quantitative and qualitative) as well as peer evaluations and observation reports. A list of all PhD dissertations, Master’s thesis projects, and/or undergraduate Honors/Capstone Projects supervised by the candidate, including those in progress, should be appended, where relevant.
Service

The assessment of service must indicate the quality and significance of service to NYU Abu Dhabi. Specific comments, including testimony from fellow committee members, specification of authorship of particular reports and the like, are helpful. The assessment of service may include a discussion of participation in professional organizations in the candidate's field.

POINT OF CLARIFICATION #7: Noting (again) that service in any academic administrative capacity is not referenced. (And of course customarily those in the tenure-track rank are protected from taking on administrative duties.) Yet some NYU school policies affirm the value of such service as evidence of institutional citizenship, but indicate that it may not be a determining factor in consideration of advancement to the rank of professor.

3.7 NYU Abu Dhabi Dean

Consultation with NYU New York and/or NYU Shanghai in Tenure Review

In accordance with University guidelines, the NYU Abu Dhabi Dean will consult with the relevant departments in NYU New York as appropriate, e.g., in tenure review of faculty with Global Network Professor Titles (see Section 3.12) and faculty with joint appointments in NYU. The NYU Abu Dhabi Dean will provide a full copy of the docket, and solicit an assessment of the file. The NYU New York assessment shall consider the General Criteria for conferring tenure in NYU Abu Dhabi (Section 2, above) as well as comment on the eligibility of the candidate to participate in scholarly and instructional activities of the unit, including teaching graduate courses and mentoring PhD dissertations and master's theses. It is the responsibility of the NYU New York chair of the relevant department or unit to determine how the assessment should be conducted, and that chair should communicate in writing to the NYU Abu Dhabi Dean both the assessment and the method through which it was arrived at. As noted above, NYU Abu Dhabi faculty with joint, associate, or affiliate appointments with primary appointments at NYU New York who wish to weigh in on the NYU Abu Dhabi review must be recused from the decision-making process in the NYU New York unit.

OBSERVATION #8: What if the corresponding NYU School has a tenure review process that is substantively different in its methodology? How would differences be reconciled? Would NYU-AD be able to proceed autonomously following its own guidelines, albeit after consultation? (If section 3.8 below constitutes the “answer” to this question, as it appears it might do, again for the sake of the reader, it would be prudent to anticipate with a cross-reference.)

The Dean’s Recommendation

When drafting his or her own recommendation, the NYU Abu Dhabi Dean will take into consideration the Report, including the vote of the FRC and the Docket, as well as the assessment of the NYU New York unit, as appropriate.

If the recommendation of the NYU Abu Dhabi Dean is contrary to the recommendations of the FRC, the NYU Abu Dhabi Dean will provide the Chair of the FRC with the reasons. The Chair of the FRC will then have ten days in which to provide further
information or counter-argument before the NYU Abu Dhabi Dean’s recommendation is made to the Provost of NYUAD.

**POINT OF CLARIFICATION #8:** Given the vagaries of the calendar and of the dates when recommendations might fall, it might be useful to stipulate “working or business days” --if that's what's intended. (This concern is relevant to all references in the document to the expected duration of procedural obligations.)

The NYU Abu Dhabi Dean’s recommendation must be a balanced assessment of the candidate’s performance and promise. The NYU Abu Dhabi Dean’s assessment on the service contribution of the candidate, as well as how the candidate contributes to the evolving mission and needs of NYU Abu Dhabi, should be particularly detailed. The NYU Abu Dhabi Dean may solicit additional reviews if necessary, subject to the confidentiality requirements for evaluation letters set forth in these Guidelines, from outside evaluators on scholarship or from within the university on teaching and service (or both). The NYU Abu Dhabi Dean’s recommendation must include a description for non-specialists of the candidate’s work’s relevance to his or her discipline or field. It may also be helpful for the recommendation to include information about the usual criteria for excellence in the candidate’s discipline (e.g., quality of venues within which the work appears).

**RECOMMENDATION #4:** With regard to matter of soliciting additional reviews. It is strongly recommended to stipulate a number or finite range of numbers. The issue is the need to maintain consistent treatment in each individual tenure case: in order neither to advantage nor prejudice any candidate by soliciting more (or fewer) reviews, suggest some delineation here. Or perhaps some examples of situations that would trigger the need for more letters than the process would otherwise require.

**OBSERVATION #9.** The recommendation to keep the non-specialist in mind is a very considerate guideline! A precedent to promulgate….

The NYU Abu Dhabi Dean must forward the Report, including the vote of the FRC and the Docket, and the assessment of the NYU NY unit to the Provost of NYU Abu Dhabi along with his or her own recommendation on the candidate. Recommendations that do not deal with evident weaknesses, in the case of a positive recommendation, or that do not note evident strengths, in the case of a negative recommendation, may be returned for revision to the NYU Abu Dhabi Dean by the Provost of NYU Abu Dhabi.

### 3.8 Promotion & Tenure Committee (P&TC)

The Provost of NYU Abu Dhabi appoints a P&TC, which is a standing committee consisting of nine tenured professors, a majority of whom will be drawn from the faculties of NYU Abu Dhabi and in the case of Global Network Professors and faculty with Joint appointments in NYU Abu Dhabi and NYU New York, faculties from NYU New York, consisting of a sufficient number of full professors. During the initial period of NYU Abu Dhabi’s operations, the P&TC may include full professors from other universities, as needed.

**RECOMMENDATION #5:** The appointment process to the P&T Committee is obscured by the passive verb form “will be drawn.” How are the members identified? By vote of their peers, through a secret ballot—then constituting a “pool” from which the NYU AD Provost draws? Does the NYU AD Dean nominate
to the Provost? Some combination (i.e., some members elected for service by their peers, and some chosen by the senior leadership).

The essential question here from a shared governance perspective: how is the expected participation of the faculty community assured in the formation of the P & TC?

We suggest describing the process more explicitly.

Typically, members of the P&TC will serve for a term of three years with potential extension for an additional two years. The Provost of NYU Abu Dhabi and the Associate Vice Chancellor for Global Network Faculty Planning of NYU Abu Dhabi and/or the Vice Provost for Faculty Development and Faculty Diversity of NYU Abu Dhabi may participate in meetings of the P&TC without vote and with voice confined to procedural issues or responses to questions by the P&TC.

POINT OF CLARIFICATION #9: Will there be any process/or specific conditions that would enable the two year extensions of service? If so, it might be prudent to reference them, perhaps with hypothetical examples.

The Provost of NYU Abu Dhabi will provide to the P&TC for examination of a candidate the Report, including the vote of the FRC and the Docket, the assessment of the NYU NY unit, and the recommendation of the NYU Abu Dhabi Dean. If there are questions in any particular case, the NYU Abu Dhabi Dean and/or the Chair of the FRC may be asked to attend a meeting of the P&TC to clarify the Docket or to provide additional information.

After the P&TC has had sufficient time to review the Docket and recommendations, the members will vote on the candidate in a designated meeting, where not more than one member of the P&TC may be absent (excepting P&TC members that are recused from the proceedings, e.g. members of the candidate’s program, from the absent count). P&TC members who participate in the special meeting by videoconference or telephone will be considered “present”. Each member of the P&TC has one vote. Votes of absent members must be recorded and reported separately to distinguish them from votes made with the benefit of the open discussion of the case. Voting modalities and other procedures used by the P&TC are determined by the P&TC chair in consultation with the committee members at the first meeting in each academic year.

The P&TC Chair will submit to the Provost of NYU Abu Dhabi its recommendation, including the numerical vote of the P&TC with respect to promotion and tenure for the candidate.

3.9 Provost of NYU Abu Dhabi
The Provost of NYU Abu Dhabi will review the Report, including the vote of the FRC and the Docket, the assessment of the NYU NY unit, and the recommendations of the NYU Abu Dhabi Dean and the P&TC. The Provost of NYU Abu Dhabi may solicit additional information and/or external reviews, but not from the scholars the candidate believes would not – for professional or personal reasons – provide a balanced evaluation, and/or seek a
consultation with the FRC, unless the NYU Abu Dhabi Provost deems consulting these scholars necessary to make an informed decision.

The Provost of NYU Abu Dhabi makes his or her recommendation on promotion and tenure to the Vice-Chancellor of NYU Abu Dhabi and the Provost of NYU. The recommendation shall be a clear endorsement to tenure or promote, or a clear recommendation to not tenure or promote. If the recommendation of the Provost of NYU Abu Dhabi is contrary to the recommendations of the NYU Abu Dhabi Dean, the Provost of NYU Abu Dhabi will provide the NYU Abu Dhabi Dean with the reasons. The NYU Abu Dhabi Dean will then have ten days in which to provide further information or counter-argument before the Provost of NYU Abu Dhabi’s recommendation is made to the Vice Chancellor of NYU Abu Dhabi and the Provost of NYU. A record or summary of these discussion should be appended to the docket.

After the evaluation of the docket presented by the Dean and subsequently by the NYUAD Promotion & Tenure Committee, the NYUAD Abu Dhabi Provost will inform the Dean of his/her proposed recommendation to the NYUAD Vice Chancellor and the NYU Provost.

The Dean will promptly inform the faculty member of the recommendation of the NYUAD Provost.

**OBSERVATION#10.** Issues of time-frames: In the second paragraph above, are ten [business] days sufficient to assemble adequate documentation to contest a Provostial decision?

**RECOMMENDATION #6.** With respect to the Dean's informing the faculty about the NYUAD Provost's recommendation, consideration should be given to stipulate a specific (and reasonable) time-frame in place of “promptly.”

**3.10 Vice Chancellor of NYU Abu Dhabi and the Provost of NYU**

The Provost of NYU Abu Dhabi will provide the Vice Chancellor of NYU Abu Dhabi and the Provost of NYU with the Report, including the vote of the FRC, the Docket, the assessment of the NYU NY unit as appropriate (and in the case of a joint appointment with NYU Shanghai, the assessment of that unit) and the recommendations of the NYU Abu Dhabi Dean, the P&TC, along with his or her own recommendations.

All recommendations for promotion and tenure require the approval of both the Vice Chancellor of NYU Abu Dhabi and the Provost of NYU. If the Vice Chancellor of NYU Abu Dhabi and/or the Provost of NYU disagree with the recommendation of the Provost of NYU Abu Dhabi, they will discuss the case with the Provost of NYU Abu Dhabi. If this process leads the Vice Chancellor of NYU Abu Dhabi and/or the Provost of NYU to believe there are grounds for a review of the recommendation, they may decide to consult internal and/or external experts to advise them on the promotion and tenure decision. If either the Vice Chancellor of NYU Abu Dhabi or the Provost of NYU does not approve, tenure will be denied.
The Vice Chancellor of NYU Abu Dhabi and the Provost of NYU will communicate their decision on tenure to the Provost of NYU Abu Dhabi in advance of the deadline for a mandatory decision. The Provost of NYU Abu Dhabi will inform the NYU Abu Dhabi Dean and the candidate of the decision on tenure within three weeks of receipt of the decision of the Vice Chancellor of NYU Abu Dhabi and the Provost of NYU.

**POINT OF CLARIFICATION #10: Is there any anticipation of providing the rejected candidate any agency in the right of appeal? Does the NYU-AD Grievance Policy have any statement on the rights (or absence of rights) of a tenure-track faculty member whose bid for tenure is unsuccessful? (If so, there should be a reference to where in the NYU Abu Dhabi Faculty Governance Guidelines such information can be found.)**

3.11 Joint Appointments

Joint appointments are one category of cross appointments that can be across departments within schools, across schools, or across campuses. In the case of a faculty member jointly appointed between NYU Abu Dhabi and NYU New York or NYU Shanghai, the relevant department and/or program chairs and deans in all units, the Provost of NYU Abu Dhabi, the Vice Chancellor of NYU Abu Dhabi, and the Provost of NYU all must be involved in the review process (promotion, tenure, and third year review) and respective input of all relevant units. The process must comply with these Guidelines for the NYU Abu Dhabi appointment and the New York or Abu Dhabi guidelines for the NYU appointment.

All evaluations of individuals with Joint appointments in more than one unit, whether part of a third year review or preparatory to a recommendation for promotion or tenure, must include an explicit discussion of the special circumstances of the appointment, expectations for the candidate's multi-disciplinary activities, perspective and position, and the judgment of how well the appointee has met these expectations. The composition of the FRC in the primary unit of appointment must include members of both units. Both units must vote on the report, with the guidelines herein outlined concerning procedures and reporting applying to both.

The Chair of the FRC and the Chair of the unit(s) at NYU NY and/or NYU Abu Dhabi and/or NYU Shanghai must forward his or her unit’s recommendation to the responsible deans of NYU Abu Dhabi and NYU NY or NYU Shanghai following mutual consultation. If the deans in Abu Dhabi, and/or New York and/or Shanghai find themselves in disagreement, they will discuss the case jointly and individually with the Provost and Vice Chancellor of NYU Abu Dhabi, and the Provost of NYU. All recommendations for promotion and tenure require the approval of both the Vice Chancellor of NYU Abu Dhabi and the Provost of NYU.

Where the candidate has an Associated Appointment in a secondary unit, that unit’s review must include a written evaluation from the secondary unit explaining, among other matters thought relevant, the particular contribution of the candidate to that unit’s mission. This evaluation may be written by the Dean or Chair of the secondary unit after formal consultation with the faculty members of the unit.

In the case of an Affiliated Appointment, written evaluations on the secondary appointment are recommended but are not required.
3.12 Global Network Professor Title

The title Global Network Professor was conferred in searches for appointment start dates on or after June 1, 2020 at the time of appointment as an additional title upon all full-time tenured/tenure track faculty, Arts Professors, and Music Professors at NYU Abu Dhabi as provided by the NYU guidelines for coordinated faculty hiring that were instituted in the early years of NYU Abu Dhabi and Shanghai. This title was also conferred upon select full-time continuing contract faculty at NYU Abu Dhabi, upon the recommendation of the provost of the particular campus and with the consent of the New York school/department. The New York unit that conferred the title participates in the appointment, third-year, tenure, and promotion review of the tenured/tenure track faculty member (for Arts and Music professors, appointment, reappointment and promotion review) at their home campus. For NYU Abu Dhabi faculty, Global Network Faculty status confers eligibility to teach and mentor graduate students in New York, with the New York department making specific assignments in accordance with its own policies. The title does not confer rights or obligations, either upon the faculty member or the New York unit, with respect to tenure or participation in its department’s governance.

4. Additional Procedures for Promotion to Full Professor and Tenured External Appointments (Lateral Hires)

4.1 Promotion to Full Professor

For promotions to full professor, the inquiry and process is essentially analogous to that for a tenure-track candidate. Is the candidate for promotion among the strongest in her/his field, in comparison with individuals at similar points in their careers at comparable prominent institutions or in other relevant settings? In addition, there is a presumption that the candidate will have achieved a significant milestone or marker beyond the work considered at the point of their last promotion. The normal expectation will be work that marks significant new scholarly research or artistic achievement since the conferring of tenure. The Docket must demonstrate teaching effectiveness and clearly indicate which work distinguishes the candidate’s achievements since the last review for promotion.

Membership in all voting bodies in the case of promotion to full professor is restricted to full professors with tenure. Evaluations and peer reports are similarly only to be sought from full professors.

The Provost of NYU Abu Dhabi ordinarily will make a recommendation to the Vice Chancellor of NYU Abu Dhabi and Provost of NYU within six months from the start of the review process. A final decision will be made by the Vice Chancellor of NYU Abu Dhabi and the Provost of NYU.

4.2 Tenured External Appointments (Lateral Hires)

The tenure review of external appointees will follow the procedures outlined in Section 3.

It is helpful for the Report to include the justification for establishing a tenured position.
within the candidate's field of expertise. The Report also must include a report on the search and a summary of the recommendations of the Search Committee and must identify the external evaluators consulted by the Search Committee in the process. The Report also may include letters from other Search Committee evaluators as supplemental materials to the Docket. In all cases a full Docket must be submitted in accordance with Section 3.3. The Docket may include a description of the candidate’s teaching and an indication of how the candidate will meet the teaching needs at NYU Abu Dhabi. If evaluations are not available, alternative assessment of teaching ability must normally be provided by the Chair of the FRC.

5. Deadlines

There may be disciplinary variance in the optimal time to request external evaluation of candidates. Deadlines for the submission of materials for candidates for internal promotion and tenure and for the report of the FRC may therefore vary between divisions and programs and are at the discretion of the dean. Candidates should be apprised of this deadline by the NYU Abu Dhabi divisional dean at least six months before the due date for their materials. The respective deadlines will also be posted on a dedicated NYU Abu Dhabi website readily available to all candidates. Deans should submit the docket for internal tenure/promotion reviews to the NYU Abu Dhabi P&T committee no later than December 1st for candidates with September starting dates, and no later than August 10th for candidates with January starting dates. In the event this deadline is missed, the dean will need to notify the P&T administrators of the delay to ensure that the case can be processed in time to meet the deadline for the tenure decision.

Dockets for lateral hires can be submitted on a rolling basis and will be processed at the next available P&T meeting; note that deans must submit the dockets at least five weeks before the meeting so that the committee members can give sufficient consideration to each case. Dockets submitted after February 1st may need to be processed in the following academic year.

The promotion and tenure review process shall typically begin and conclude within the same academic year or within one calendar year in the case of off-cycle cases (i.e. lateral hires). The P&T Committee shall submit dockets in a timely fashion in order to prevent delays from unforeseen complications that may arise, especially for dockets received near the end of the academic year.

6. Tenure Clock

The tenure clock for faculty is set forth in rules adopted by the NYU Board of Trustees, which can be found in the Statement on Academic Freedom and Tenure and Appointment and Notification of Appointment, Titles I and II, respectively, of the NYU Faculty Handbook.

6.1 Acceleration of Schedule

Proposals for early promotion to associate professor and for tenure will occur only under extraordinary circumstances. Indeed, it is not normally in the best interest of a candidate or of the institution to propose candidates for tenure ahead of schedule. The Provost of NYU Abu
Dhabi must be consulted prior to the preparation of an early case. The best reason for proposing early consideration is a record of extraordinary accomplishment that can be readily distinguished from other, more typical strong cases. It must be noted that external letter writers must be asked to comment specifically on the special grounds for an early decision. The NYU Abu Dhabi Dean and the FRC also must specifically address this issue. Even with these affirmative recommendations, the Provost of NYU Abu Dhabi will not recommend early tenure unless the case is extraordinary and compelling in relation to the already high expectations for candidates reviewed under the usual schedule.

6.2 Stopping the Tenure Clock

Tenure clock stoppage will be granted in accordance with the Tenure Clock Stoppage for Personal Reasons in the NYU Faculty Handbook. Requests for stoppage should be made as early as possible, and when feasible, approvals should be in place no later than the onset of the semester preceding the period of tenure clock stoppage. The granting of tenure clock stoppage does not influence granting of tenure in the future.

6.3 Tenure clock Extensions for Early NYU Abu Dhabi Hires

NYUAD faculty hired before September 2015 may request an extension to their tenure clock, typically for up to one year, on the basis of having been unduly encumbered by the start-up nature of the institution and the additional demands placed on early hires. The request for an extension must be filed with the NYU Abu Dhabi Provost’s office at least one year before the scheduled year of tenure review and must explain how and why the candidate’s progress was unduly encumbered by start-up issues. Tenure clock extensions based on start-up must be approved by the NYU Abu Dhabi Dean, and the NYU Abu Dhabi Provost, who shall submit a recommendation to the NYU Provost. At the Provost’s recommendation, requests for extension are submitted for approval by the NYU Board of Trustees.

7. Guidelines for Grievance and Appeal

For the grievance procedures for a Tenured/Tenure-Track Faculty member, please see the Appendix II of the “NYU Abu Dhabi Faculty Governance Guidelines”.

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Appendix A. Sample Solicitation Letters to Outside Evaluators

1. External Appointment of Associate or Full Professor with Tenure

Dear [X]:

Professor [X], currently [Title] at [Institution], is being considered for a tenured faculty position at NYU Abu Dhabi. His/her appointment will be at the rank of XX with tenure. Because of your knowledge of the field, we would very much appreciate your evaluation of this tenure case.

NYU Abu Dhabi is a portal of New York University’s global network, a multi-site, organically connected network encompassing key global cities. Currently, the network has three degree-granting campuses - New York, Abu Dhabi, and Shanghai - complemented by many additional academic centers across six continents. Our goal is to be both a premier research university and a highly selective liberal-arts-and-sciences college. Hence, our faculty aspire to be outstanding researchers as well as transformative teachers.

*Please add for faculty hired before September 2015:*

*It is important to note that faculty seeking tenure in the first years since NYU Abu Dhabi opened have been given the task of setting up new structures and institutional frameworks, in addition to the normally high expectations of research and teaching.*

We are enclosing Professor [X]’s curriculum vitae and his/her teaching and research statements with this letter. Also enclosed are selected copies of his/her published work. If you need copies of any other publications or documents, please let us know as soon as possible, and we will forward these materials to you.

We ask that you provide a brief, but explicit and specific, description of Professor [X]’s major contributions to his/her field of research. We also ask that you provide a candid assessment of the strengths and weaknesses of Professor [X]’s research with respect to intellectual quality, originality, scope, and significance.

We also request an explicit comparison of his/her work with that of prominent individuals working in the same field who are at comparable levels in their careers. Any additional comments you consider pertinent would be welcome. If you have knowledge of Professor [X]’s teaching ability or service to NYU Abu Dhabi and/or the professional community, we would appreciate your commentary on these matters as well.

Finally, we would appreciate your judgment of whether or not Professor [X] would be considered a strong candidate for tenure in other leading departments in the field.

We will need your letter by [X], or sooner if possible. We would also be very grateful if you could forward with your letter a current curriculum vitae.
Let me assure you that your letter will be kept confidential to the extent allowed by law. It will be available only to the professors charged specifically with the review of this candidate, as well as appropriate decision makers and review panels within NYU Abu Dhabi and NYU.

Thank you for generously assisting us. We realize this is a time consuming task, but, as you know, it is a central element of the academic process of peer review.

Sincerely,

OBSERVATIONS #11 & 12: Fine letter. But two modest suggestions: #11) Use of the word “portal” might merit a footnote. Our shared idiosyncratic use of the term is familiar to all of us within NYU—albeit not universally understood, and it is probably less widely understood elsewhere, as we have a rare (if not unique) structure in the world of Higher Ed. Perhaps a parenthetical explanation or footnote would be useful for prospective evaluators.

#12) Re the fourth to last paragraph, beginning with “Finally”: If the intended recipient is a tenured faculty member in a highly ranked department in the discipline, consider: “at your institution or in other leading departments in the field.”
2. Promotion and Tenure Review

Dear [X]:

Professor [X] of NYU Abu Dhabi is being considered for a tenured appointment with promotion to the rank of full professor in [Subject]. Because of your knowledge of the field, we would very much appreciate your evaluation of his/her research.

NYU Abu Dhabi is a portal of New York University’s Global Network University, a multi-site, organically connected network encompassing key global cities. Currently, the network has three degree-granting campuses - New York, Abu Dhabi, and Shanghai - complemented by 12 additional academic centers across six continents. Our goal is to be both a premier research university and a highly selective liberal-arts-and-sciences college. Hence, our faculty aspire to be outstanding researchers as well as transformative teachers. It is important to note that faculty seeking tenure in the first years since NYU Abu Dhabi opened have been given the task of setting up new structures and institutional frameworks, in addition to the normally high expectations of research and teaching.

I am enclosing Professor [X]'s curriculum vitae with this letter. Also enclosed are copies or descriptions of his/her work.

We ask that you provide a brief, but explicit and specific, description of Professor [X]'s major contributions to his/her field of research. We also ask that you provide a candid assessment of the strengths and weaknesses of Professor [X]'s research with respect to intellectual quality, originality, scope, and significance.

We also request an explicit comparison of his/her work with that of prominent individuals working in the same field who are at comparable points in their careers. Any additional comments you consider pertinent would be welcome. If you have knowledge of Professor X's teaching ability or service to NYU and/or the professional community, we would appreciate your comments on these matters as well. Please indicate in your letter how long and in what specific capacities you have known Professor [X].

Finally, we would appreciate your judgment of whether or not Professor [X] would be considered a strong candidate for appointment as a tenured full professor in other leading departments in the field.

We will need your letter by [X], or sooner if possible. We would also be very grateful if you could forward with your letter a current curriculum vitae.

Let me assure you that your letter will be kept confidential to the extent allowed by law. It will be available only to the full professors charged specifically with review of this candidate, as well as appropriate decision makers and review panels within NYU.
Thank you for generously assisting us. I realize this is a time-consuming task, but, as you know, it is a critical element of the academic process of peer review.

Sincerely,
TO: Darcey Merritt, Chair, Tenured/Tenure Track Faculty Senators Council

FROM: Terrance Nolan, Secretary and General Counsel

DATE: December 14, 2020

RE: Approved Amendments to the NYU Faculty Handbook

Upon the recommendation of the Grossman School of Medicine (GSOM) Advisory Board and the GSOM Faculty Council, and after administration consultation with the Tenured/Tenure Track Faculty Senators Council, please be advised that the NYU Board of Trustees adopted the attached resolution at its meeting on December 9, 2020, approving certain amendments to the faculty disciplinary procedure applicable solely to the GSOM tenured and tenure track faculty.

Attachment
RESOLUTION OF THE BOARD OF TRUSTEES
OF NEW YORK UNIVERSITY

APPROVE AMENDMENT TO NYU FACULTY HANDBOOK

WHEREAS, faculty members of NYU Grossman School of Medicine ("GSOM") are governed by policies set forth in the New York University Faculty Handbook; and

WHEREAS, in recognition of the types and import of misconduct issues specific to the GSOM, GSOM leadership recommends that provisions of the Faculty Handbook with respect to disciplinary and termination procedures for tenured and tenure-track faculty be amended as applicable to faculty of GSOM, as set forth in the proposed amendment attached hereto; and

WHEREAS, the GSOM Faculty Council and the GSOM Advisory Board approved the proposed amendment; and

WHEREAS, the New York University Board of Trustees (the “Board”) referred the resolution approved by the GSOM Advisory Board to the University President for consultation with the Tenured/Tenure Track Faculty Senators Council, which has now been completed.

NOW, THEREFORE, BE IT RESOLVED, that the Board approves the proposed amendment to the NYU Faculty Handbook, solely applicable to the NYU Grossman School of Medicine.
The procedures outlined below are intended to supersede the procedures set forth in Titles I (VI), III and IV of the New York University Faculty Handbook establishing the disciplinary rules and proceedings applicable to tenured and tenure-track faculty members at the Grossman School of Medicine.

A. Tenured Faculty

I. Termination of a Tenured Appointment

A tenured faculty member’s employment and faculty appointment in the Grossman School of Medicine may be terminated for “Adequate Cause” as defined in Title I.VI.2 of the New York University Faculty Handbook.

II. Proceedings for Termination of a Tenured Appointment


   a) [Rules; notice; record] Proceedings for termination of service for cause shall be conducted in accordance with the rules herein as may from time to time be amended by the Board of Trustees, and shall be initiated by service upon the person involved of a written notice setting forth clearly and directly all charges preferred against him or her and informing him or her of his or her rights under this section. The person charged shall be entitled to a hearing before a hearing panel of the Grossman School of Medicine Tenure and Tenure-Track Faculty Disciplinary Committee. A full stenographic record of the hearing shall be given to the parties concerned.

   b) [Appeal to the University President] Upon the request of either the faculty member charged or the charging party, the record, findings, conclusions, and proposed sanctions of the hearing panel of the Tenure and Tenure-Track Faculty Disciplinary Committee shall be forwarded to the University President for review and final determination. In the absence of such request, the findings, conclusions, and proposed sanctions of the hearing panel shall be final.

   c) [Rules bind all parties] The rules regulating proceedings to terminate service for cause shall be binding upon all parties.

   d) [Summary suspension] Summary suspension pending termination proceedings is an extraordinary remedy, but nothing in this statement shall be interpreted as precluding such action by the Dean of the School, with the assent of the President whenever, in his or her judgment, continuance of the person in service threatens substantial harm to himself or herself, to others, or to the welfare or reputation of the University or the Grossman School of Medicine. During the period of such suspension, the faculty member’s pay shall be adjusted to, and the faculty member
shall be paid, the base salary commensurate with the faculty member’s position, except in a case where the faculty member is incarcerated or under prosecution for a criminal act or is employed by another employer with equivalent compensation during the period of any such suspension, in which case the suspension shall be without salary or compensation. At any time during the pendency of termination proceedings, the President may lift or modify any suspension in the interest of substantial justice.

2. Initiation of Dismissal Proceedings

a) Whenever the Dean or the Vice Dean for Education, Faculty, and Academic Affairs of the Grossman School of Medicine (the “charging party”), with the assent of the President, deems that such action is warranted, the charging party shall initiate proceedings to terminate for cause the service of a tenured faculty member. The charging party shall formulate, or cause to be formulated, the charges in writing. A copy of such charges, together with notice of proceedings for termination of his or her service for cause, shall be e-mailed or mailed by registered mail to the faculty member involved (the “respondent”).

b) The respondent shall serve a written answer upon the charging party within twenty (20) days after service of the charges and notice upon him or her admitting or denying each of the allegations contained in the charges and setting forth any defenses to the charges. The time for service of the answer may be extended by the charging party in the interests of substantial justice.

c) Upon receipt of the answer of the respondent, unless the respondent resigns their tenured faculty appointment, the charging party shall convene the Tenured and Tenure-Track Faculty Disciplinary Committee. The Committee shall be composed of five members, each a tenured faculty member, consisting of President of the Faculty Council, the Chair of the Grossman School of Medicine Appointments, Promotion and Tenure Committee, the Chair of the Professional Conduct Committee of NYU Langone Hospitals, the School of Nursing’s longest-serving Senator on the Tenured/Tenure Track Faculty Senators Council, and the School of Dentistry’s longest-serving Senator on the Tenured/Tenure Track Faculty Senators Council. In the event any of the faculty members holding these designated positions are non-tenured, the Executive Committee of the Faculty Council shall select a tenured member of the body represented by such non-tenured faculty member (except that, in the case of the Faculty Council, it shall be the most recent past President of the Faculty Council who was tenured). After appointment, in the event of a Committee members’ conflict of interest or inability to serve, the other Committee members will designate a tenured senior faculty member of the body represented by such Committee member to serve on the Committee in such member’s place. No member of the Tenured and Tenure-Track Faculty Disciplinary Committee from the same department as the respondent may serve as a member of the Committee during tenure revocation proceedings.

d) The charging party shall forward to the Tenured and Tenure-Track Faculty Disciplinary Committee copies of the written charges and of the answer to such charges. If the respondent fails to serve a written answer within twenty (20) days, or any extension of such time, the charging party shall nevertheless forward the charges to the Tenured and Tenure-Track Faculty Disciplinary Committee with a statement showing that no answer has been served by the respondent.
e) Within twenty (20) days after submission of the charges and answer, or of the charges alone, as the case may be, to the Tenured and Tenure-Track Faculty Disciplinary Committee, the committee shall set a time for the commencement of a hearing, which shall not be more than thirty (30) days thereafter unless further time is granted by the Committee upon request of either party. The Tenured and Tenure-Track Faculty Disciplinary Committee shall serve as the hearing panel.

3. Conduct of Hearings before the Hearing Panel

a) A hearing officer who is an attorney shall preside over the hearing on the charges. The charging party and the respondent shall select a hearing officer from a list of 10 qualified attorneys compiled by the American Arbitration Association to conduct the proceedings. The charging party and respondent may each strike up to five names from the list and each shall rank, in order of preference, the names of those whom they have not stricken. The Association shall then designate as the hearing officer the available person with the highest degree of joint preference of the parties. Should more than one available person have an equally high joint preference, the Association shall select the hearing officer by lot from those with the highest joint preference.

b) A calendar of hearing dates in a proceeding for dismissal shall be fixed by the hearing panel after consultation with the parties to the proceeding and the hearing officer; the calendar shall be read into the record on the opening day of the hearing; it shall be adhered to unless the hearing panel orders exceptions for due cause. Whenever the interests of substantial justice appear to so require, the hearing panel may direct either or both parties to submit a summary of the evidence, a first list of witnesses to be called, or both. If the statement of the charges, or the answer thereto, appears to the hearing panel to be indefinite or obscure, the hearing panel may require a more definite statement. Where the respondent has failed to serve an answer to the charges and where it further appears that the respondent is unable to understand the charges and to participate meaningfully in the proceeding, the panel shall obtain the services of a qualified person to represent the respondent, at the respondent’s expense. In the absence of such circumstances or other good cause, upon the failure of the respondent to serve an answer prior to the commencement of a hearing or to appear at the hearing, the panel may, in its discretion, preclude the subsequent assertion of any defense or the introduction of evidence on behalf of the respondent.

c) The hearing officer shall preside over the hearing and rule on all procedural matters, including the admissibility of evidence, subject to the right of each party to appeal to the hearing panel. Upon such appeal, the decision of a majority of the panel members shall control. The panel shall have the power to enlarge the time appointed in these procedures for doing any act or taking any proceedings, where the interests of substantial justice appear to so require.

d) The hearings shall not be restricted by the rules of procedure or of the admissibility of evidence which prevail in the courts of law. Subject to the provisions of section (c) above, each member of the hearing panel may inquire into whatever is believed relevant to the inquiry. Whenever the proceedings originate from a finding of scientific or research misconduct in accordance with the separate rules governing such proceedings, the hearing panel shall deem the report of the earlier committee to constitute the facts as to the existence of such misconduct.
e) The respondent and the charging party may be assisted by counsel of his or her choice throughout the proceedings. Counsel for both sides shall cooperate at all times with the panel and the hearing officer.

f) A request by either party to present witnesses shall be made to the hearing panel, which may limit the hearing of witnesses at its discretion. If witnesses are called, each party shall have the right of cross-examination. Each party may introduce exhibits, which shall constitute part of the record of the case.

g) A stenographic record shall be made of all proceedings at the hearing. On order of the hearing officer, procedural matters may be discussed in executive session, the minutes of which need not be included in the transcript of the record of the hearing. The transcript shall be available to all parties to the hearing.

h) Each party shall have equal opportunity at the final session of the hearing for the summation of the case, either in person or by counsel, but no new evidence or testimony may be introduced during such summation.

i) All three members of the hearing panel shall be present at the hearing. If, after the commencement of the hearing, a member of the panel becomes unable to continue to serve, he or she shall be excused from further service, and the member’s designee (a tenured senior faculty member of the body they represent) shall serve in his or her place. Prior to serving on the panel, the member’s designee must have read the hearing transcript and all charges and other pleadings filed in connection with the hearing and certify to having done so. Should a member of the panel repeatedly fail to carry out his or her obligations as a member of the panel, upon a unanimous vote of the remaining members of the panel, he or she may be discharged from further service and replaced by a tenured senior faculty member of the body represented by the replaced member, such replacement member to be elected by the remaining panel members.

j) Upon completion of the hearing, the panel shall deliberate and issue its decision in a written report. The deliberations shall be conducted in executive session and shall be attended only by the members of the hearing panel. The decision of the panel must be based upon the evidence presented, and no recommendation of dismissal shall be made solely upon the failure of the person involved to answer the charges or appear at the hearing. The decision of the panel must be supported by a majority of its members.

k) [Hearing Immunity]. The members of the Board of Trustees, the President and Provost of the University and other officers of administration, the members of the Tenured and Tenure-Track Faculty Disciplinary Committee, the Vice Dean, the Dean and members of the faculty, and all witnesses and other participants in any hearing shall be absolutely privileged as to statements or publications made in connection with the hearings, and shall have complete immunity for any decision, statement of fact, or comment relating thereto.

4. **Decision and Report of the Hearing Panel**

a) The hearing panel’s decision shall resolve the matter, unless the matter is appealed, as set forth in section (d) below. The report containing the hearing panel’s decision shall be in writing and shall
consist of: (1) a transcript of the record of the hearing and the exhibits offered or introduced into evidence by the parties; (2) such findings, conclusions and any proposed sanctions as the panel shall make, including a statement of the facts deemed essential to the findings; (3) a memorandum setting forth the reasons for any recommendations; and (4) any memorandum submitted by any dissenting member of the panel, at his or her own discretion, with reference to his or her opinion as to the matters in controversy.

b) Each finding, conclusion, and recommendation shall be reported with the numerical vote of the members of the panel but not with the names of the members who voted for or against the same.

c) Complete copies of items (2), (3), and (4) in section (a) above shall be transmitted to the parties to the hearing and to the University President.

5. Appeal to the President

a) Either party may appeal the hearing panel’s decision in writing to the University President, who may seek consultation at his or her own discretion. The bases for appeal are limited to the following: (1) findings in support of one or more of the charges are not supported by substantial evidence in the record as a whole, or (2) hearing was not conducted fairly or was not conducted in substantial compliance with the governing rules, or (3) the sanction is disproportionate to the infraction. The appeal request should set forth the basis for the party’s appeal, and any arguments in support of a reversal of the hearing panel’s decision.

b) Upon appeal, after reviewing the report and decision of the hearing panel, and any documentation submitted in support of the appeal, the President shall issue a written decision, which shall be considered final.

c) [Appeal of Decision to Dismiss for Cause]. On appeal of the hearing panel’s decision to dismiss the faculty member for cause, the President shall uphold the hearing panel’s decision unless the President determines either: (i) that the findings against the faculty member on one or more of the charges are not supported by substantial evidence in the record as a whole; (ii) that the hearing was not conducted fairly and in substantial compliance with the rules set forth above for the conduct of such hearings; or (iii) that the sanction of dismissal is not appropriate. If the President determines either (i), (ii), or (iii), the President shall have the option to either: a) dismiss the charges; b) remand the case for a new hearing before the same or a new hearing panel; or c) reduce the sanction.

d) [Appeal of Decision Not to Dismiss for Cause]. On appeal of the hearing panel’s decision not to dismiss the faculty member for cause, the President shall make the final determination with respect to the appropriate sanction to be imposed, including any decision to dismiss the faculty member or increase any sanction recommended by the hearing panel. If the President determines either that the hearing panel’s findings are not supported by substantial evidence in the record as a whole, that the hearing was not conducted fairly, or was not conducted in substantial compliance with the governing rules to the detriment of the charging party, the President shall have the option, but shall not be required, to remand the case for a new hearing before the same or a new hearing panel.

e) If the President’s decision is to terminate the service of the tenured faculty member, it shall be subject to approval by the Board of Trustees. The final disposition of the case shall be made
public only after the faculty member has been officially informed of the decision of the President. Until that time no information concerning the hearings shall be disclosed to the public.

B. Tenure-Track Faculty

Notwithstanding provisions set forth in Title II, Section XI of the Faculty Handbook by which a non-tenured tenure track faculty member may be removed upon sufficient notice where it is unlikely that tenure will be achieved, a tenure-track faculty member may be removed for “Adequate Cause” (as defined in Title I.VI.2 of the University Handbook), in which case the proceedings set forth below shall apply.

I. Proceedings to Terminate for Cause a Non-Tenured Tenure-Track Appointment

a. Whenever the faculty member’s Department Chair (the “charging party”) deems that such action is warranted, the charging party shall initiate proceedings to terminate for cause the service of a non-tenured tenure track faculty member.

b. The charging party shall draft a memorandum setting forth the basis for removing the faculty member and forwards to the Vice Dean for Education, Faculty, and Academic Affairs of the Grossman School of Medicine (the “responsible administrator”). Upon authorization by the responsible administrator, a copy of such memorandum, together with notice of proceedings for termination of his or her service for cause, shall be e-mailed or mailed by registered mail to the faculty member involved (the “respondent”).

c. The respondent shall serve a written response to the charging party and to the responsible administrator within twenty (20) days after receipt of the charging party’s memorandum. The time for service of the answer may be extended by the responsible administrator in the interests of substantial justice.

d. The responsible administrator shall forward to the Tenured and Tenure-Track Faculty Disciplinary Committee (as described in Section III.2(d) above) a copy of the memoranda from each party. If the respondent fails to serve a written response within twenty (20) days, or any extension of such time, the responsible administrator shall nevertheless forward the charging party’s memorandum to the Committee with a statement showing that no response has been served by the respondent.

e. Both the charging party and the respondent will have the opportunity to appear before the Committee to present an oral summary of the arguments in support of their position. The respondent and the charging party may be assisted by counsel of his or her choice. Counsel for each party shall cooperate at all times with the panel.

f. A request by either party to present witnesses shall be made to the hearing panel, which may limit the hearing of witnesses at its discretion. If witnesses are called, each party shall have the right of cross-examination. Each party may introduce exhibits, which shall constitute part of the record of the case.
g. Each member of the Committee may inquire into whatever is believed relevant to the inquiry. Following the oral summaries, the Committee shall deliberate and deliver its decision, in writing, to both parties and to the responsible administrator. The Committee’s decision shall consist of: (1) such findings, conclusions and any proposed sanctions as the panel shall make, including a statement of the facts deemed essential to the findings; (2) a memorandum submitted by any dissenting member of the panel, at his or her own discretion, with reference to his or her opinion as to the findings, conclusions, and any proposed sanctions.

h. Either party can appeal the Committee’s decision to the Dean. The bases for appeal are limited to the following: (1) findings are not supported by substantial evidence in the record as a whole, or (2) the sanction is disproportionate to the infraction.

i. After reviewing the report of the Committee, the Dean shall issue a written decision to the parties, which shall be considered final. If “cause” is found, the faculty member shall no longer be eligible for tenure at the School and may be terminated without further notice.

C. Other Disciplinary Proceedings for Tenured or Tenure-Track Faculty

The following procedure applies when a tenured or tenure track faculty is alleged to have violated or failed to abide by any rule or regulation of the Grossman School of Medicine, engaged in behavior or conduct that does not meet the professional standards of the School, engaged in an activity that is a threat to the welfare or safety of anyone in the medical center community, or violated any local, state, or federal law, for which the discipline sought is not termination.

a. After an internal investigation confirms evidence of a basis for such action, the Chair of the faculty member’s department shall make a recommendation to the Vice Dean for Education, Faculty, and Academic Affairs of the Grossman School of Medicine for disciplinary action. Disciplinary action under this section shall include, but is not limited to, the following:

   1) Reprimand
   2) Censure
   3) Removal of Privileges
   4) Suspension
   5) Monetary fine

b. If the Vice Dean approves disciplinary action, the Vice Dean will notify the Chair, who will notify the faculty member in writing.

c. The faculty member has the right to appeal the decision in writing to the Dean on the following grounds: (1) the decision was not supported by substantial evidence on the record, or (2) the investigation was not conducted fairly or in accordance with the applicable policy and/or procedures; or (3) the sanction is disproportionate to the infraction.

d. Upon review of the record and the appeal request, the Dean shall issue a decision, which shall be considered final.
Date: December 11, 2020

Memorandum to: Terrance Nolan, General Counsel and Secretary of the University

From: Darcey Merritt
Chairperson, T-Faculty Senators Council
A/Y 2020-2021

Subject: Grossman School of Medicine (GSOM) Proposal

Dear Terry,

The T-FSC appreciates your attentive and prompt response to our concerns relating to the new policy framework proposed by the Grossman School of Medicine. At this time, we ask that you clarify your responses to two consequential areas of our recommendations, which merit further attention.

1) We ask that you consider our item #9, to which your memo does not refer. It contains our most consequential recommendations, to ensure broader participation in the deliberative process potentially leading to loss of tenure and dismissal. Specifically, we recommend crucially including in the pool of external faculty 1) GSOM T-faculty members elected by their peers with no appointed administrative oversight of their colleagues, and 2) senior faculty from other NYU Schools beyond those in the Health Sciences.

The T-FSC questions neither the competence nor judgment of faculty holding senior administrative appointments under the dean, nor their commitment to the objective evaluation of evidence. Yet the deliberative process would be less susceptible to perceptions of bias, were the committee peopled by those with no a priori stake in the outcome, those without executive function and the ability to bring charges. We appreciate your addressing this item in particular.

2) With regard to our assertion that the Faculty Council is constituted overwhelmingly by Clinical Faculty, we acknowledge that our data were incorrect and our expression of disapproval partly misplaced. Upon receipt of your message, the GSOM/T-FSC members explained the disparity between what we affirmed to you and your correction. We have learned that the information available on the GSOM website about the FC (accessible only to members of the NYU Langone community) is not accurate, and an informal but careful reconstruction of the current membership shows a nearly even split between clinical faculty and tenured and tenure-track faculty. Your mathematical conjecture is sound, and majority of the eligible T-faculty who voted did so in favor of the policy.

Our mistake, however, does not mitigate the seriousness of our concern about giving C-faculty the authority to vote on matters affecting the continuing employment of T-faculty. Although the vote in this instance was carried by a majority of both tenured and clinical faculty and thus stands, the voting process is inconsistent with the principles of the Faculty Handbook. These require that only T-faculty deliberate on decisions affecting recommendations involving the awarding of tenure and the advancement in rank. Furthermore, the new GSOM policies—and the Faculty Handbook—require that only T-faculty participate in the determination of adequate cause. Clearly, the GSOM decision to allow C-faculty to vote on issues concerning only T-faculty is anomalous and inconsistent with a cornerstone of shared governance at NYU.

It is imperative that the roles of our two essential and vital full-time faculty communities be distinguished, and their purviews upheld.

We thus urge that this irregular practice at the GSOM be revisited.

Respectfully yours,
Darcey Merritt
cc: David Irving, T-FSC Vice Chairperson
     Marilyn Nonken, T-FSC Secretary
     Nicholas Economides, T-FSC Immediate Past Chair

     Robert Lapiner, T-FSC Personnel Policies & Tenure Modifications Committee Co-Chair
     Judith Zelikoff, T-FSC Personnel Policies & Tenure Modifications Committee Co-Chair
December 4, 2020

(via electronic signature darcey.merritt@nyu.edu)
Professor Darcey Merritt
Chair, Tenured/Tenure Track Faculty Senators Council (T-TFSC)

Re: Grossman School of Medicine (GSOM) Proposal

I have been asked, after consultation with University leadership, to respond to the memorandum of the T-FSC Executive Committee of November 20, 2020. The comprehensive review by the Executive Committee is very much appreciated. In light of your helpful suggestions, the document has been improved with some changes to the proposal by GSOM.

The Executive Committee memorandum has been shared with GSOM, which is making certain technical changes to its proposal regarding the numbering of paragraphs and correcting the reference to its faculty committee to reflect that it has five (5) members (PPTM comments #10). GSOM also has noted in particular the Executive Committee’s comment about “the most worrisome language in the policy document as written” (memorandum, p. 20, PPTM comments #15) regarding disciplinary proceedings where tenure termination is not sought. The Executive Committee viewed the language as too open-ended, so GSOM has amended that language to track the relevant language in the existing Faculty Handbook.

We do want to address the other concerns raised in the cover memorandum to the Executive Committee’s sequential commentary. It is important to note that in most instances, the GSOM proposal closely tracks the existing procedure contained in the Faculty Handbook (PPTM comments #4, #5, #12, in addition to comments discussed, below). There is no change to the substantive provisions requiring “adequate cause” to terminate a tenured appointment. The high standard remains the same. The computation of days (PPTM technical comment #B) is identical to that in the Faculty Handbook (if not specified, calendar days apply, as a matter of general construction). The language on “Hearing Immunity” (PPTM comments #11) is the same as in the Faculty Handbook – its goal is to provide legal protection for all participants, including committee members and witnesses, for statements or decisions they make during the course of the proceedings.

There is a sufficient basis for GSOM to have a somewhat different procedure – as long as a fair procedure is maintained and there is no change to the substantive requirement of adequate cause. Both of these criteria are met with a faculty disciplinary committee consisting solely of tenured faculty (PPTM technical comment #C – the purpose is to insure that only tenured faculty may serve on such a committee). The President, before making a final decision, is free to solicit advice from any quarter, most likely from a committee of tenured faculty from various schools. Differences presently exist in the tenure rules among schools. For example, tenure track probationary periods are longer in several schools, including GSOM, and the internal processes
in making tenure recommendations necessarily differ among the schools, within the broad requirements contained in the Faculty Handbook.

There is certainly agreement that the principles of faculty governance within a school are central to evaluating the GSOM proposal. The GSOM Faculty Council confidential vote was overwhelmingly in favor of the proposed revised procedure and that should, as matter of comity, be given great weight. The GSOM, in adherence to those principles of faculty governance, should be cautious not to overturn a vote that was abundantly clear from the faculty. While non-tenure track faculty are on the GSOM Faculty Council, they were not the majority here. Given the 36-4-1 vote in favor, even if all the negative votes (and one abstention) were from tenured faculty (and we do not know that), the remaining cohort of twenty-one (21) tenured faculty, at a minimum, would have voted 16-4-1 in favor. There is no rule or procedure which would require a vote of the entire tenured faculty – that is the very purpose of an elected representative body. The comments of the T-FSC have been very helpful in considering this proposal, which, as amended, will be presented by GSOM to the Board of Trustees for its consideration.

Very truly yours,

Terrance J. Nolan
MEMO TO:    Terry Nolan, General Counsel and Secretary NYU
MEMO FROM:  Executive Committee, T-FSC
RE: Examination and response to the proposal from the Grossman School of Medicine to adjust their Tenure and Promotions guidelines
DATE:  11.20.20

The T-FSC Council is writing to share our review of the Grossman School of Medicine proposal to create its own policy for the revocation of tenure for “adequate” cause and has examined its three-part policy document with great care. The attached document was generated by the Personnel Policies & Tenure Modifications Committee (PPTM), vetted by the Council (T-FSC), and overwhelmingly supported by the Senators.

T-FSC Council has significant concerns regarding the three key points below.

1. Protocols. Our Senators believe that The Faculty Handbook contains fair and clear guidelines for the termination of tenure. The Council believes the existing guidelines should continue to apply for all schools; GSOM has not offered compelling explanations and evidence as to why they were superseded. This foremost concern was discussed by the T-FSC as a whole, is not articulated in the attached committee review.

Should the GSOM have issues with these guidelines, a preferable course would be to seek amendments to them and supplement the Handbook, rather than seek to replace in practice the Handbook’s carefully delineated, legally sound procedures.

2. Process. The majority of faculty who comprise the Faculty Council at the School of Medicine are not tenured/tenure-track. Thus, the majority vote of the Council does not reflect the support of the community to whom the policies apply (tenured faculty). Moreover, separate from the Faculty Council vote, it does not appear that the community of tenured faculty at GSOM were given the opportunity to vote separately and confidentially about the proposed terms. These conditions do not conform to university practice pertaining to shared governance and set a troubling precedent that threatens the sanctity of tenure.

3. Policy. The policy that introduces grounds for disciplinary action (not rising to the revocation of tenure) appears capricious and invites unnecessary and arbitrary allegations.

In short, the T-FSC is unable to support the proposed policies submitted for our review and find the process that produced them most irregular.

We trust the University senior leadership and GSOM will consider the judicious commentary of the committee report seriously. We look forward to your feedback regarding this correspondence and the deliberative report from the PPTM committee of T-FSC.
Observations, Concerns, and Recommendations regarding the Grossman School of Medicine’s Proposed New Policies for 1) Termination of Tenure for Cause, 2) Termination of Tenure-Track Appointments for Cause, and 3) Other Disciplinary Proceedings for Tenured and Tenure-Track Faculty.

The observations and concerns shared below for consideration by the Provost’s Office, The President’s Office, and GSOM are primarily in the form of questions. Each arises out of preliminary observations that seek clarification about: the text/formulation of the policy including ambiguities that need resolution; how a section relates to (or departs from) The Faculty Handbook or best practices across the university; and in some cases, about the need for complementary information (by way of explanation or justification) that appears to have been overlooked.

All comments are intended to be constructive. It is our hope that any subsequent revisions to the GSOM policies ultimately submitted to the President and the Board of Trustees will benefit from this input, and achieve the policies’ reasonable objectives, with fewer risks, fuller deliberation, and greater procedural clarity.

**Development process concerns.** It is important, before sharing observations about the new policy frameworks themselves, to raise some questions about the process behind their development. This is particularly important with regard to the customary expectations of appropriate T-faculty involvement and representation in the drafting, consultation, and voting on any policy document concerning matters of tenure.

In the experience of the T-FSC over the past several years at least, the practice of all other NYU schools that have submitted new policies concerning appointment, advancement to tenure, promotion or separation of T-Faculty or of appointment, promotion, or separation of C-Faculty has been to provide confirmation of support by the majority of all eligible concerned faculty. This is usually done by citing the results of an official voting process conducted by secret ballot. (Indeed, over the last two years, the Provost has returned proposals to some schools, when it has been noted that that expectation was not met--or at least not reported. A majority vote of support from the pertinent faculty community has been expected, separate from the vote of the representative body of the Faculty Council, before the new policies would be eligible for consideration.)

This practice is consistent with the spirit of The Faculty Handbook, which is explicit about voting on matters of tenure and promotion: "Only tenured faculty may vote on the awarding of tenure; only full Professors with tenure may vote on promotion to full Professor within the Tenured/Tenure Track Faculty and on the awarding of tenure to a faculty member hired as a full Professor." Schools have applied this principle in assuring that the eligible faculty cohort is given voice before policies are approved within a school, prior to submissions to the Provost (or in this case, to the President).
The reason for the reminder here is that the GSOM transmittal document refers to the Faculty Council’s support for the policies. But it makes no reference to further consultation, such as a vote by protected secret ballot of all the eligible tenured and tenure-track faculty of the GSOM.

Why is securing the support of all eligible tenured and tenure-track faculty important? While it is clear that the new policies were supported by the GSOM Faculty Council by a large margin, the vast majority of the GSOM Faculty Council members are drawn from the clinical faculty, who constitute the vast majority of GSOM faculty as a whole. That means that however the T-faculty on the Council may have voted, their voice as T-faculty would have been in the minority.

Our T-FSC Senators from the GSOM have informed us that about two or so years ago the GSOM Faculty Council by-laws were revised—following the school’s guidelines. They now affirm that Clinical and T-Faculty can vote equally on all matters, including policies that govern Tenured and Tenure-Track faculty alone.

Given the natural majority of clinicians and their importance, it is of course entirely desirable that their views are considered in all shared issues that involve the faculty and their school as a whole. And it can certainly be argued that their opinions should always be solicited, and their experience valued.

*But is there not a policy dilemma here?*

Although the Provost on October 22 at the T-FSC meeting affirmed correctly that the vote was conducted in accordance with the school’s by-laws, might there be an unintended, but potentially highly problematic precedent for the university as a whole—in authorizing C-Faculty to vote on matters governing the tenure rights of T-Faculty, let alone the process for removing tenure? That authority seems to be in clear opposition to the language (and the spirit) of the Handbook, cited above.

In this instance, do the School’s Faculty Council by-laws supersede the kind of comity of principles that animate the Handbook—and if so, can they be maintained? (A question of constitutionality, of sorts.) Would such a change in itself require a policy review—and vote of approval—by the President and the University Board of Trustees, for superseding university-wide principles?

The preoccupation with precedent here is also a matter of prudence for GSOM with respect to the application of its proposed new policies. If the rights of the T-Faculty to have a protected voice on matters that affect them exclusively were not respected, does that not make GSOM vulnerable in a potential grievance/lawsuit emanating from a “guilty” party—who might credibly raise a *procedural* challenge whether the policy that led to his/her dismissal was legitimately implemented, and if not, whether it has standing?
The aforementioned concern is thus far hypothetical. It could be easily attenuated if we were informed that separately the proposal was also submitted to all GSOM T-Faculty for a vote by secret ballot (the practice at other schools), and received the support of a majority of those eligible.

While these questions and references to best practice comparisons are not about the substance of the particular tenure policy modifications under consideration, the absence of clarity about this sensitive matter of apparent inconsistency with University policy and practice impacts our reading of the policy document, making us more attentive to ambiguities in its language that appear concerning.

What follows are a series of numbered (1-16) "PPTM comments" about substantive issues, presented as interlinear notes in the body of the submitted documents themselves.

Concerns about errors in presentation, textual cross-references, gnarled passages, etc. are identified as “PPTM technical comments”--and to differentiate them for the more substantive issues addressed by the "PPTM comments,” are in a distinctive font and color and are marked alphabetically (A-F).
PPTM #1 comments re: The Resolution (below).  Question about process.  The Medical School has its own Advisory Board, made up of select members of the NYU Board of Trustees.  The President and the NYU Board of Trustees must vote on any policy that will supersede the guidelines spelled out in *The Faculty Handbook*.

This resolution comes from the Advisory Board of the GSOM to the NYU Trustees as a whole.

Is this the normal route for approval? Would it not be established academic protocol for the President (in consultation with the Provost) to weigh in first—as the ultimate academic authorities of the University—before involving members of the Board of Trustees? Is there not a risk of politicizing what should be a carefully wrought academic recommendation?

**RESOLUTION OF THE BOARD OF TRUSTEES OF NYU GROSSMAN SCHOOL OF MEDICINE ADVISORY BOARD**

Recommend Amendment to NYU Faculty Handbook September 22 2020

WHEREAS, faculty members of NYU Grossman School of Medicine ("GSOM") are governed by policies set forth in the New York University Faculty Handbook; and

WHEREAS, in recognition of the types and import of misconduct issues specific to the GSOM, GSOM leadership recommends that provisions of the Faculty Handbook with respect to disciplinary and termination procedures for tenured and tenure-track faculty be amended as applicable to faculty of GSOM, as set forth in the proposed amendment attached hereto, and

WHEREAS, the GSOM Faculty Council has approved the proposed amendment.

NOW, THEREFORE, be it hereby:

RESOLVED, that the Advisory Board hereby recommends that the Board of Trustees of New York University approve the proposed amendment to the NYU Faculty Handbook, solely applicable to the NYU Grossman School of Medicine.
NYU GROSSMAN SCHOOL OF MEDICINE
PROPOSED AMENDMENT TO THE
NEW YORK UNIVERSITY FACULTY
HANDBOOK

DISCIPLINARY RULES AND PROCEEDINGS FOR TENURED AND
TENURE TRACK FACULTY FOR THE GROSSMAN SCHOOL OF
MEDICINE

PPTM #2. Comment regarding the bracketed introductory paragraph: We note the
expressed intention to have these policies replace the procedures laid out in the
Faculty Handbook.

[The procedures outlined below are intended to supersede the
procedures set forth in Titles I (VI), III and IV of the New York
University Faculty Handbook establishing the disciplinary rules and
proceedings applicable to tenured and tenure-track faculty members
at the Grossman School of Medicine]

A. Tenured Faculty

I. Termination of a Tenured Appointment

A tenured faculty member's employment and faculty appointment in
the Grossman School of Medicine may be terminated for "Adequate
Cause" as defined in Title I.VI.2 of the New York University Faculty
Handbook.

II. Proceedings for Termination of a Tenured Appointment

I. General Provisions

a) [Rules; notice; record] Proceedings for termination of service for
cause shall be conducted in accordance with the rules herein as may
from time to time be amended by the Board of Trustees, and shall
be initiated by service upon the person involved of a written notice
setting forth clearly and directly all charges preferred against him or
her and informing him or her of his or her rights under this section.
The person charged shall be entitled to a hearing before a hearing
panel of the Grossman School of Medicine Tenure and Tenure-
Track Faculty Disciplinary Committee. A full stenographic record
of the hearing shall be given to the parties concerned.
PPTM #3 (comment & question). This language (in 1b) is consistent with the Handbook as it applies to all schools—it is the President (and not the Provost) who is the ultimate decider. Would there be merit in suggesting (not just for GSOM) that as termination for cause is the most sensitive personnel action within the academic culture, that there be some expectation that the Provost review the dossier before passing it (expeditiously) to the President for the final determination?

b) [Appeal to the University President] Upon the request of either the faculty member charged or the charging party, the record, findings, conclusions, and proposed sanctions of the hearing panel of the Tenure and Tenure-Track Faculty Disciplinary Committee shall be forwarded to the University President for review and final determination. In the absence of such request, the findings, conclusions, and proposed sanctions of the hearing panel shall be final.

c) [Rules bind all parties] The rules regulating proceedings to terminate service for cause shall be binding upon all parties.

Several concerns about section A. II. 1. d:

PPTM #4.
- The authorization to give the dean authority “whenever in his or her judgment” sees a threat to the well-being of the individual or to the school could be interpreted as giving license to arbitrary dissatisfaction with the faculty member. To avoid an open-ended use of authority, we recommend an affirmation/expectation about the availability of substantial preliminary evidence that has informed the dean’s judgment: For ex: “...whenever upon an examination of a substantial body of compelling evidence, in his or her judgment, continuance....”

PPTM #5
- The word “reputation” is an addition to the language of the Handbook. Worries about damage to institutional reputation might be a valid consideration in some cases, especially if the egregious misconduct that has triggered the process of seeking to withhold tenure and dismiss, has become public knowledge or, for example, it risks compromising relations with a major funding agency supporting other GSOM researchers. On the other hand, is there a risk that citing potential damage to reputation as a substantive cause for dismissal in itself might also be highly subjective—and thus potentially arbitrary? Again, perhaps language that is more explicit about what is intended by way of “damage to reputation” could be strengthened with a hypothetical example of what “damage to reputation” might entail.
PPTM #6.
The discussion of the bases of salary reduction is a substantial addition to the current policy. The language of the Handbook: "Unless legal considerations forbid, any such suspension shall be with full base pay. At any time during the pendency of termination proceedings, the President and Chancellor may lift or modify any suspension in the interest of substantial justice." This GSOM alternative may be a reaction to frustrating previous experiences with salary costs during prolonged deliberative processes, but the details herein are notably far more specific about the bases for withholding compensation than the existing policy—and yet might also be too limited.

In this case, would it be advisable to have a more general statement, which puts the respect for “substantial justice” in play both for lifting or modifying a sanction—as well as increasing a sanction by imposing allowable reductions of compensation consistent with the law? Something like “At any time during the pendency of termination proceedings, the President and Chancellor of the University may lift or modify any suspension in the interest of substantial justice, or conversely when sanctioned by law impose some element of reduction in compensation beyond base salary.”

Moreover, does not the punitive focus on reducing compensation in the policy (notwithstanding how much the circumstances might justify reducing compensation until the process is completed) need also to be balanced against some anticipation that the accusations against the faculty member might not be conclusive? On the supposition that the accused will be considered innocent until the charges of adequate cause are evaluated and upheld, it might be prudent to consider putting whatever part of compensation is being withheld into a kind of escrow account during the duration of the deliberative process. Should the accusations be corroborated and loss of tenure and subsequent dismissal are supported, those funds then return to the School. Should the charges not be sustained, the withheld compensation would be paid to the faculty member.

Of course the proceedings for disciplinary action would not be undertaken without compelling evidence at the outset. But some more consideration for the due process “rights” of the accused throughout the proceedings would strengthen the University’s ability to sustain a decision to dismiss.

[Summary suspension] Summary suspension pending termination proceedings is an extraordinary remedy, but nothing in this statement shall be interpreted as precluding such action by the Dean of the School, with the assent of the President whenever, in his or her
judgment, continuance of the person in service threatens substantial harm to himself or herself, to others, or to the welfare or reputation of the University or the Grossman School of Medicine. During the period of such suspension, the faculty member's pay shall be adjusted to, and the faculty member shall be paid, the base salary commensurate with the faculty member's position, except in a case where the faculty member is incarcerated or under prosecution for a criminal act or is employed by another employer with equivalent compensation during the period of any such suspension, in which case the suspension shall be without salary or compensation. At any time during the pendency of termination proceedings, the President may lift or modify any suspension in the interest of substantial justice.

**PPTM #7:** Language. In a civil or criminal trial, the outcome of conviction or acquittal is not pre-determined—but the process is initiated because of reasonable supposition of the likelihood of guilt. A trial is about an alleged crime, not the punishment that would follow conviction.

If the analogy holds, shouldn’t the proceedings begin with the effort to establish adequate cause for dismissal, not with a statement of a predicted outcome? “Dismissal Proceedings” implies that the conclusion has been pre-determined. Punishment comes after the allegations have been corroborated and no other course of remediation is available---and the loss of tenure and of employment are justified. At the least, the conclusion might seem less foregone if the policy retained language of the Faculty Handbook: “Initiation of Disciplinary Proceedings.”

**PPTM technical comment #A.** Numeration. The numbering of sections in the documents is irregular, not following the usual order of I.A.1.a.i, etc., but A.I.I.a. As for the section below, the last number in the sequence being used heretofore was an un-italicized Roman Numeral “I.” As there is no preceding Arabic “1” previous to this, should what follows then be Roman numeral “II”? (Whatever revisions may occur in the policies, the sequence numbering should be normalized and internally consistent throughout.)
2. **Initiation of Dismissal Proceedings**

**PPTM #8.** Same concern as #4 above about the language—“Whenever the Dean or the Vice Dean...” being too open-ended.

a) Whenever the Dean or the Vice Dean for Education, Faculty, and Academic Affairs of the Grossman School of Medicine (the "charging party"), with the assent of the President, deems that such action is warranted, the charging party shall initiate proceedings to terminate for cause the service of a tenured faculty member. The charging party shall formulate, or cause to be formulated, the charges in writing. A copy of such charges, together with notice of proceedings for termination of his or her service for cause, shall be e-mailed or mailed by registered mail to the faculty member involved (the "respondent").

**PPTM technical comment #B.** Re § 2.b. Given that turnaround time for various steps of the process must be respected by different parties, here and elsewhere when a certain number of days are specified, it might be prudent to affirm whether calendar days or working days are intended. Imagine that charges are served on Friday, December 21, 2020: Would the respondent be in compliance only if answers are forwarded by January 10, 2021—or would weekends and the December 25 and January 1 holidays not be counted, allowing the respondent to be in compliance by submitting answers by January 20? Not a trivial ambiguity. Recommend clarification of intent at some point in the document.

b) The respondent shall serve a written answer upon the charging party within twenty (20) days after service of the charges and notice upon him or her admitting or denying each of the allegations contained in the charges and setting forth any defenses to the charges. The time for service of the answer may be extended by the charging party in the interests of substantial justice.

**PPTM #9:** The proposed policies in § c) below seek to replace the *Faculty Handbook's* guidance about the Tenure Appeals Committee that would normally be charged to evaluate and make recommendations about the determination that separation for cause is justified.

So particular attention here is essential.

- **Representation.** It is common practice to assure that committees constituted to deliberate on matters of promotion (for Clinical and T-faculty) or consideration for tenure (for T-faculty), the relevant faculty body would be expected to select/vote for one or more representatives, who are NOT appointed by the Dean. In the event of likely contestation by an 'accused' faculty member—whatever rights to appeal or
grieve are guaranteed—constituting membership from GSOM to include ONLY faculty members who hold administrative positions under the Dean is problematic. Could this oversight be remedied to suggest that at least two more T-faculty members on the Disciplinary Committee should be elected by their peers and be independent of holding academic administrative responsibilities? That would be consistent with principles of shared governance and mitigate the appearance of bias, in balancing representation of faculty members with administrative titles appointed by the dean with those chosen by their peers.

• **Inclusion of participation of faculty from other Schools.** It is salutary that GSOM seeks input from other schools—in partial emulation of the university-wide net cast by the selection of the Tenure Appeals Committee. But, while there’s a transparent logic in including representation from the other Health Science schools where faculty are involved in research and clinical practice, and balancing an aspiration for greater efficiency (because fewer schools would be involved), is there a middle-ground?

T-research faculty in the sciences in FAS, Tandon, or select departments from other schools who are heavily dependent on grant-funding from government agencies and major foundations, might also be well-positioned to understand the gravity of evidence that concern data manipulation, fraudulent reporting, disregard for human subject research protocols, etc. Possible Hearing Panel representation from the School of Law might be particularly helpful as well.

Although there may be compelling arguments to simplify the process used in constituting the Tenure Appeals Committee by avoiding the requirement to call upon ALL schools, it remains self-evident that welcoming a somewhat larger but qualified pool to draw upon could make it easier to constitute a viable committee—and help guard against perceived or actual bias.

• **Lastly:** Obviously dealing with such cases involves a prudent impulse for damage control, and assuring an equitable process—one that is as confidential as is humanly possible. This said, are there practices at other universities known to GSOM that in dealing with such matters, include an “external” faculty member from another institution in the disciplinary/hearing panel?

c) Upon receipt of the answer of the respondent, unless the respondent resigns their tenured faculty appointment, the charging party shall convene the Tenured and Tenure-Track Faculty Disciplinary Committee. The Committee shall be composed of five members, each a tenured faculty member, consisting of President of the Faculty Council, the Chair of the Grossman School of Medicine Appointments, Promotion and Tenure Committee, the Chair of the Professional Conduct Committee of NYU Langone Hospitals, the
School of Nursing's longest-serving Senator on the Tenured/Tenure Track Faculty Senators Council, and the School of Dentistry's longest-serving Senator on the Tenured/Tenure Track Faculty Senators Council. In the event any of the faculty members holding these designated positions are non-tenured, the Executive Committee of the Faculty Council shall select a tenured member of the body represented by such non-tenured faculty member (except that, in the case of the Faculty Council, it shall be the most recent past President of the Faculty Council who was tenured).

**PPTM technical comment #C.** Our committee is unable to comprehend the procedure being stipulated in the highlighted passage above. Recommend a rewrite.

After appointment, in the event of a Committee member’s conflict of interest or inability to serve, the other Committee members will designate a tenured senior faculty member of the body represented by such Committee member to serve on the Committee in such member's place. No member of the Tenured and Tenure-Track Faculty Disciplinary Committee from the same department as the respondent may serve as a member of the Committee during tenure revocation proceedings.

d) The charging party shall forward to the Tenured and Tenure-Track Faculty Disciplinary Committee copies of the written charges and of the answer to such charges. If the respondent fails to serve a written answer within twenty (20) days, or any extension of such time, the charging party shall nevertheless forward the charges to the Tenured and Tenure-Track Faculty Disciplinary Committee with a statement showing that no answer has been served by the respondent.

e) Within twenty (20) days after submission of the charges and answer, or of the charges alone, as the case may be, to the Tenured and Tenure-Track Faculty Disciplinary Committee, the committee shall set a time for the commencement of a hearing, which shall not be more than thirty (30) days thereafter unless further time is granted by the Committee upon request of either party. The Tenured and Tenure-Track Faculty Disciplinary
Committee shall serve as the hearing panel.

3. **Conduct of Hearings before the Hearing Panel**

a) A hearing officer who is an attorney shall preside over the hearing on the charges. The charging party and the respondent shall select a hearing officer from a list of 10 qualified attorneys compiled by the American Arbitration Association to conduct the proceedings. The charging party and respondent may each strike up to five names from the list and each shall rank, in order of preference, the names of those whom they have not stricken. The Association shall then designate as the hearing officer the available person with the highest degree of joint preference of the parties. Should more than one available person have an equally high joint preference, the Association shall select the hearing officer by lot from those with the highest joint preference.

b) A calendar of hearing dates in a proceeding for dismissal shall be fixed by the hearing panel after consultation with the parties to the proceeding and the hearing officer; the calendar shall be read into the record on the opening day of the hearing; it shall be adhered to unless the hearing panel orders exceptions for due cause. Whenever the interests of substantial justice appear to so require, the hearing panel may direct either or both parties to submit a summary of the evidence, a first list of witnesses to be called, or both. If the statement of the charges, or the answer thereto, appears to the hearing panel to be indefinite or obscure, the hearing panel may require a more definite statement. Where the respondent has failed to serve an answer to the charges and where it further appears that the respondent is unable to understand the charges and to participate meaningfully in the proceeding, the panel shall obtain the services of a qualified person to represent the respondent, at the respondent's expense. In the absence of such circumstances or other good cause, upon the failure of the respondent
to serve an answer prior to the commencement of a hearing or to appear at the hearing, the panel may, in its discretion, preclude the subsequent assertion of any defense or the introduction of evidence on behalf of the respondent.

c) The hearing officer shall preside over the hearing and rule on all procedural matters, including the admissibility of evidence, subject to the right of each party to appeal to the hearing panel. Upon such appeal, the decision of a majority of the panel members shall control. The panel shall have the power to enlarge the time appointed in these procedures for doing any act or taking any proceedings, where the interests of substantial justice appear to so require.

d) The hearings shall not be restricted by the rules of procedure or of the admissibility of evidence which prevail in the courts of law. Subject to the provisions of section (c) above, each member of the hearing panel may inquire into whatever is believed relevant to the inquiry. Whenever the proceedings originate from a finding of scientific or research misconduct in accordance with the separate rules governing such proceedings, the hearing panel shall deem the report of the earlier committee to constitute the facts as to the existence of such misconduct.

e) The respondent and the charging party may be assisted by counsel of his or her choice throughout the proceedings. Counsel for both sides shall cooperate at all times with the panel and the hearing officer.

f) A request by either party to present witnesses shall be made to the hearing panel, which may limit the hearing of witnesses at its discretion. If witnesses are called, each party shall have the right of cross-examination. Each party may introduce exhibits, which shall constitute part of the record of the case.

g) A stenographic record shall be made of all proceedings at the
hearing. On order of the hearing officer, procedural matters may be discussed in executive session, the minutes of which need not be included in the transcript of the record of the hearing. The transcript shall be available to all parties to the hearing.

h) Each party shall have equal opportunity at the final session of the hearing for the summation of the case, either in person or by counsel, but no new evidence or testimony may be introduced during such summation.

PPTM #10. Re § 3.i (below): Clarification needed regarding the size of the committee. Is this an oversight or is something else intended? There are five (5) members of the proposed hearing panel, not three (3) as the opening sentence states. On the other hand, there are three members from GSOM. (Not taking into account the question raised in PPTM #9 above about the benefits of enlarging the panel.)

Therefore, is the “three” below just a typo, when “five” was intended? Or does the proposed rule here intend that the three GSOM reps must be present?

And there’s a related concern about the nature of the vote. If the hearing panel is limited to five members, three of whom are from GSOM, that would assure the medical school of the possibility of achieving a majority in every vote. This mathematical certainty is thus an additional argument for enlarging the panel further so that a majority vote could only be achieved with support from representatives from other schools—or for requiring a unanimous vote from a smaller number of members.

i) All three members of the hearing panel shall be present at the hearing. If, after the commencement of the hearing, a member of the panel becomes unable to continue to serve, he or she shall be excused from further service, and the member's designee (a tenured senior faculty member of the body they represent) shall serve in his or her place. Prior to serving on the panel, the member's designee must have read the hearing transcript and all charges and other pleadings filed in connection with the hearing and certify to having done so. Should a member of the panel repeatedly fail to carry out his or her obligations as a member of the panel, upon a unanimous vote of the remaining members of the panel, he or she may be discharged from further service and replaced by a tenured senior faculty member of the body represented by the replaced member, such replacement member to be elected by the remaining panel members.

j) Upon completion of the hearing, the panel shall deliberate and
issue its decision in a written report. The deliberations shall be conducted in executive session and shall be attended only by the members of the hearing panel. The decision of the panel must be based upon the evidence presented, and no recommendation of dismissal shall be made based solely upon the failure of the person involved to answer the charges or appear at the hearing. The decision of the panel must be supported by a majority of its members.

PPTM #11. Re §3. k.(below): Clarity. To a non-lawyer, the language of this section is not clear. It is likely that a substantial body of information against the accused faculty member will be provided in confidence. However, what is being protected? Confidentiality—or its breach? Does this paragraph intend to protect participants who “leak” information about the hearings that gets published? Or about their ability to access confidential information? Moreover, does the ‘charged’ faculty member have immunity as well—since he or she is a member of the faculty and a witness in his/her self-defense? Respectfully suggest that section 3.k, should be re-written to avoid ambiguity of intent and vulnerability of application.

k) [Hearing Immunity]. The members of the Board of Trustees, the President and Provost of the University and other officers of administration, the members of the Tenured and Tenure-Track Faculty Disciplinary Committee, the Vice Dean, the Dean and members of the faculty, and all witnesses and other participants in any hearing shall be absolutely privileged as to statements or publications made in connection with the hearings, and shall have complete immunity for any decision, statement of fact, or comment relating thereto.

4. Decision and Report of the Hearing Panel

a) The hearing panel's decision shall resolve the matter, unless the matter is appealed, as set forth in section (d) below. The report containing the hearing panel's decision shall be in writing and shall consist of: (1) a transcript of the record of the hearing and the exhibits offered or introduced into evidence by the parties; (2) such findings, conclusions and any proposed sanctions as the panel shall make, including a statement of the facts deemed essential to the findings; (3) a memorandum setting forth the reasons for any recommendations; and (4) any memorandum submitted by any dissenting member of the panel, at his or her own discretion, with reference to his or her opinion as to the matters in controversy.
b) Each finding, conclusion, and recommendation shall be reported with the numerical vote of the members of the panel, but not with the names of the members who voted for or against the same.

c) Complete copies of items (2), (3), and (4) in section (a) above shall be transmitted to the parties to the hearing and to the University President.

5. **Appeal to the President**

a) Either party may appeal the hearing panel's decision in writing to the University President, who may seek consultation at his or her own discretion. The bases for appeal are limited to the following: (1) findings in support of one or more of the charges are not supported by substantial evidence in the record as a whole, or (2) hearing was not conducted fairly or was not conducted in substantial compliance with the governing rules, or (3) the sanction is disproportionate to the infraction. The appeal request should set forth the basis for the party's appeal, and any arguments in support of a reversal of the hearing panel's decision.

b) Upon appeal, after reviewing the report and decision of the hearing panel, and any documentation submitted in support of the appeal, the President shall issue a written decision, which shall be considered final.

c) [Appeal of Decision to Dismiss for Cause]. On appeal of the hearing panel's decision to dismiss the faculty member for cause, the President shall uphold the hearing panel's decision unless the President determines either: (i) that the findings against the faculty member on one or more of the charges are not supported by substantial evidence in the record as a whole; (ii) that the hearing was not conducted fairly and in substantial compliance with the rules set forth above for the conduct of such hearings; or (iii) that the sanction of dismissal is not appropriate. If the President determines either (i), (ii), or (iii), the President shall have the option to either: a) dismiss the charges; b) remand the case for a new hearing before the same or a new hearing panel; or c) reduce the sanction.
PPTM #11. Re § 5.c.iii.b above and 5.d (below). Problematic ambiguity in the language. Given that two of three of the hypothetical reasons for the President to empanel a new hearing panel are related to perceived irregularities in the process, in the event the President agrees that the hearing may not have been conducted fairly or was not in compliance with the governing rules, would it not appear irresponsible to call for a new hearing before the same panel?

d) [Appeal of Decision Not to Dismiss for Cause]. On appeal of the hearing panel's decision not to dismiss the faculty member for cause, the President shall make the final determination with respect to the appropriate sanction to be imposed, including any decision to dismiss the faculty member or increase any sanction recommended by the hearing panel. If the President determines either that the hearing panel's findings are not supported by substantial evidence in the record as a whole, that the hearing was not conducted fairly, or was not conducted in substantial compliance with the governing rules to the detriment of the charging party, the President shall have the option, but shall not be required, to remand the case for a new hearing before the same or a new hearing panel.

e) If the President's decision is to terminate the service of the tenured faculty member, it shall be subject to approval by the Board of Trustees. The final disposition of the case shall be made public only after the faculty member has been officially informed of the decision of the President. Until that time no information concerning the hearings shall be disclosed to the public.

B. Tenure-Track Faculty

Notwithstanding provisions set forth in Title II, Section XI of the Faculty Handbook by which a non-tenured tenure track faculty member may be removed upon sufficient notice where it is unlikely that tenure will be achieved, a tenure-track faculty member may be removed for "Adequate Cause" (as defined in Title I.VI.2 of the University Handbook), in which case the proceedings set forth below shall apply.
I  Proceedings to Terminate for Cause a Non-Tenured Tenure-Track Appointment

**PPTM #12.** Re § B.I.a. (below). [Recalls PPTM #4 (above)]. As written, the highlighted language is too open-ended and could be an invitation to arbitrary action. Some reference to due-diligence and finding compelling grounds should precede "whenever".

a. **Whenever the faculty member's Department Chair (the "charging party") deems that such action is warranted, the charging party shall initiate proceedings to terminate for cause the service of a non-tenured tenure track faculty member.**

b. The charging party shall draft a memorandum setting forth the basis for removing the faculty member and forwards to the Vice Dean for Education, Faculty, and Academic Affairs of the Grossman School of Medicine (the "responsible administrator"). Upon authorization by the responsible administrator, a copy of such memorandum, together with notice of proceedings for termination of his or her service for cause, shall be e-mailed or mailed by registered mail to the faculty member involved (the "respondent").

c. The respondent shall serve a written response to the charging party and to the responsible administrator within twenty (20) days after receipt of the charging party's memorandum. The time for service of the answer may be extended by the responsible administrator in the interests of substantial justice.

**PPTM technical comment #D, re § B.I.d below.** We cannot find the referenced section in this document. Need to remedy.

d. The responsible administrator shall forward to the Tenured and Tenure-Track Faculty Disciplinary Committee (as described in **Section III.2(d) above**) a copy of the memoranda from each party. If the respondent fails to serve a written response within twenty (20) days, or any extension of such time, the responsible administrator shall nevertheless forward the charging party's memorandum to the Committee with a statement showing that no response has been served by the respondent.

e. Both the charging party and the respondent will have the opportunity to appear before the Committee to present an oral
summary of the arguments in support of their position. The respondent and the charging party may be assisted by counsel of his or her choice. Counsel for each party shall cooperate at all times with the panel.

f. A request by either party to present witnesses shall be made to the hearing panel, which may limit the hearing of witnesses at its discretion. If witnesses are called, each party shall have the right of cross-examination. Each party may introduce exhibits, which shall constitute part of the record of the case.

g. Each member of the Committee may inquire into whatever is believed relevant to the inquiry. Following the oral summaries, the Committee shall deliberate and deliver its decision, in writing, to both parties and to the responsible administrator. The Committee's decision shall consist of: (1) such findings, conclusions and any proposed sanctions as the panel shall make, including a statement of the facts deemed essential to the findings; (2) a memorandum submitted by any dissenting member of the panel, at his or her own discretion, with reference to his or her opinion as to the findings, conclusions, and any proposed sanctions.

h. Either party can appeal the Committee's decision to the Dean. The bases for appeal are limited to the following: (1) findings are not supported by substantial evidence in the record as a whole, or (2) the sanction is disproportionate to the infraction.

PPTM #14. Re § B. II. i. (below). Concerns about due process. Seems that the accused faculty member has no basis of defending him/herself except through counsel, has no means of appeal, or access to a grievance process, and that there is no “hearing panel” as such. Is this a misreading? A vulnerability?

Since the Faculty Handbook is silent on dismissal for cause for a tenure-track faculty member, it offers no guidance as such.

i. After reviewing the report of the Committee, the Dean shall issue a written decision to the parties, which shall be considered final. If "cause" is found, the faculty member shall no longer be eligible for tenure at the School and may be terminated without further notice.
PPTM #15. Re: §C (below). The opening statement to section C may be the most worrisome language in the policy document as written. Its formulation could be construed as an invitation for peremptory dismissal for minor missteps that might be easily remediable.

Of course, disciplinary action is warranted in light of truly egregious misconduct or recurrent patterns of problematic behavior/performance.

But is it not dangerous or even potentially abusive to be able to invoke failure to “abide by any rule or regulation” of the GSOM as the basis for initiating disciplinary action?

Consider these conjectural concerns: Couldn’t such a broad authorization be used to seek to sanction a faculty member for the exercise of academic freedom and/or of sound professional judgment, in the event she or he might challenge a policy, a practice, or an internal regulation on entirely professional and reasonable grounds? Or if she or he were unable to comply with—for example, the expectation of attending a certain number of meetings--because of documented health or family circumstances?

Similarly, it is easy to imagine how perceived non-compliance with “professional standards” could be subject to ambiguity of interpretation—and arbitrary charges. Is there an existing policy document known to all faculty where these GSOM-specific standards are spelled out in an institutional code of conduct, for example? (If so, this particular concern would be unwarranted—and the lack of specificity in the document here could be resolved simply by referencing where the statement of those standards can be accessed.)

It is expected of course that any proposed disciplinary policy would be applied judiciously--and in the expectation that the need for deploying it would be rare.

That’s why it is especially important that the first part of the framework paragraph below--which establishes the justification for a broad range of disciplinary sanctions--be re-written. The last lines of the paragraph (from “engaged in an activity...”) are straightforward and unexceptionable. But we respectfully submit that what precedes them needs to be re-worked to avoid being so open-ended as to seem to give license for abuse and inadvertently seed a climate of mistrust

C. Other Disciplinary Proceedings for Tenured or Tenure-Track Faculty

The following procedure applies when a tenured or tenure track faculty is alleged to have violated or failed to abide by any rule or regulation of the Grossman School of Medicine, engaged in behavior or conduct that does not meet the professional standards of the School, engaged in an activity that is a threat to the welfare or safety of anyone in the medical center community, or violated any local,
state, or federal law, for which the discipline sought is not termination.

a. After an internal investigation confirms evidence of a basis for such action, the Chair of the faculty member's department shall make a recommendation to the Vice Dean for Education, Faculty, and Academic Affairs of the Grossman School of Medicine for disciplinary action. Disciplinary action under this section shall include, but is not limited to, the following:

1) Reprimand
2) Censure
3) Removal of Privileges
4) Suspension
5) Monetary fine

b. If the Vice Dean approves disciplinary action, the Vice Dean will notify the Chair, who will notify the faculty member in writing.

PPTM technical comment #E re § C.c. below. Unclear reference. Since the Vice Dean is also a dean, on the assumption that the faculty member’s right to appeal cannot be to the person who approved the disciplinary action, the text should be explicit that the “Dean of the School” is intended.

PPTM technical comment #F refers to the highlighted clause below. Where can these policies or procedures be found? It is customary to refer to specific school by-laws, grievance policies, etc., so that the expectations are transparent and the governing frameworks are identified. (And usually included or cited via an accessible hyperlink when a new proposal is being advanced for consideration.)

c. The faculty member has the right to appeal the decision in writing to the Dean on the following grounds: (I) the decision was not supported by substantial evidence on the record, or (2) the investigation was not conducted fairly or in accordance with the applicable policy and/or procedures; or (3) the sanction is disproportionate to the infraction.

PPTM #16. Re § C.d. (below). A question not about what is written, but an anticipation for the need for something not apparently considered. What if it’s the Dean him/herself who initiates the charges? The policy must therefore also anticipate who adjudicates in such cases, because the same individual cannot be the accuser/prosecutor and the judge. (Other schools have named the Provost as the arbiter in anticipating this eventuality.)

d. Upon review of the record and the appeal request, the Dean shall issue a decision, which shall be considered final.
October 8, 2020

(via electronic signature darcey.merritt@nyu.edu)
Professor Darcey Merritt
Chair, Tenured/Tenure Track Faculty Senators Council (T-TFSC)

Re: Proposal from Grossman School of Medicine (GSOM)

Dear Professor Merritt,

In accordance with the Principles of Joint Shared Governance, attached is a resolution of the GSOM Advisory Board recommending that the University Board of Trustees approve certain changes to the faculty disciplinary procedures to be applicable solely to GSOM. The Board of Trustees has referred this to the President for consultation with the T-TFSC.

After consultation with the GSOM Faculty Council, the faculty voted 36 – 4 to approve these changes. There is no change proposed to the substantive definition of “adequate cause” in the University’s Statement on Academic Freedom and Tenure. Several procedural changes are recommended, a principal one being that the GSOM faculty disciplinary committee shall consist of faculty from GSOM, the College of Dentistry and the Rory Myers College of Nursing. Appeals would be to the University President.

We would appreciate any comments or input by the T-TFSC by November 13, 2020. Thank you.

Very truly yours,

Terrance J. Nolan
RESOLUTION OF THE BOARD OF TRUSTEES OF
NYU GROSSMAN SCHOOL OF MEDICINE ADVISORY BOARD

Recommend Amendment to NYU Faculty Handbook

September 22 2020

WHEREAS, faculty members of NYU Grossman School of Medicine ("GSOM") are governed by policies set forth in the New York University Faculty Handbook; and

WHEREAS, in recognition of the types and import of misconduct issues specific to the GSOM, GSOM leadership recommends that provisions of the Faculty Handbook with respect to disciplinary and termination procedures for tenured and tenure-track faculty be amended as applicable to faculty of GSOM, as set forth in the proposed amendment attached hereto, and

WHEREAS, the GSOM Faculty Council has approved the proposed amendment.

NOW, THEREFORE, be it hereby:

RESOLVED, that the Advisory Board hereby recommends that the Board of Trustees of New York University approve the proposed amendment to the NYU Faculty Handbook, solely applicable to the NYU Grossman School of Medicine.
NYU GROSSMAN SCHOOL OF MEDICINE
PROPOSED AMENDMENT TO THE
NEW YORK UNIVERSITY FACULTY HANDBOOK

DISCIPLINARY RULES AND PROCEEDINGS FOR TENURED AND TENURE TRACK FACULTY
FOR THE GROSSMAN SCHOOL OF MEDICINE

[The procedures outlined below are intended to supersede the procedures set forth in Titles I (VI), III and IV of the New York University Faculty Handbook establishing the disciplinary rules and proceedings applicable to tenured and tenure-track faculty members at the Grossman School of Medicine]

A. Tenured Faculty

I. Termination of a Tenured Appointment

A tenured faculty member's employment and faculty appointment in the Grossman School of Medicine may be terminated for "Adequate Cause" as defined in Title I.VI.2 of the New York University Faculty Handbook.

II. Proceedings for Termination of a Tenured Appointment


a) [Rules; notice; record] Proceedings for termination of service for cause shall be conducted in accordance with the rules herein as may from time to time be amended by the Board of Trustees, and shall be initiated by service upon the person involved of a written notice setting forth clearly and directly all charges preferred against him or her and informing him or her of his or her rights under this section. The person charged shall be entitled to a hearing before a hearing panel of the Grossman School of Medicine Tenure and Tenure-Track Faculty Disciplinary Committee. A full stenographic record of the hearing shall be given to the parties concerned.

b) [Appeal to the University President] Upon the request of either the faculty member charged or the charging party, the record, findings, conclusions, and proposed sanctions of the hearing panel of the Tenure and Tenure-Track Faculty Disciplinary Committee shall be forwarded to the University President for review and final determination. In the absence of such request, the findings, conclusions, and proposed sanctions of the hearing panel shall be final.

c) [Rules bind all parties] The rules regulating proceedings to terminate service for cause shall be binding upon all parties.

d) [Summary suspension] Summary suspension pending termination proceedings is an extraordinary remedy, but nothing in this statement shall be interpreted as precluding such action by the Dean of the School, with the assent of the President whenever, in his or her judgment, continuance of the person in service threatens substantial harm to himself or herself, to others, or to the welfare or reputation of the University or the Grossman School of Medicine. During the period of such suspension, the faculty member's pay shall be adjusted to, and the faculty member
shall be paid, the base salary commensurate with the faculty member’s position, except in a case where the faculty member is incarcerated or under prosecution for a criminal act or is employed by another employer with equivalent compensation during the period of any such suspension, in which case the suspension shall be without salary or compensation. At any time during the pendency of termination proceedings, the President may lift or modify any suspension in the interest of substantial justice.

2. Initiation of Dismissal Proceedings

a) Whenever the Dean or the Vice Dean for Education, Faculty, and Academic Affairs of the Grossman School of Medicine (the “charging party”), with the assent of the President, deems that such action is warranted, the charging party shall initiate proceedings to terminate for cause the service of a tenured faculty member. The charging party shall formulate, or cause to be formulated, the charges in writing. A copy of such charges, together with notice of proceedings for termination of his or her service for cause, shall be e-mailed or mailed by registered mail to the faculty member involved (the “respondent”).

b) The respondent shall serve a written answer upon the charging party within twenty (20) days after service of the charges and notice upon him or her admitting or denying each of the allegations contained in the charges and setting forth any defenses to the charges. The time for service of the answer may be extended by the charging party in the interests of substantial justice.

c) Upon receipt of the answer of the respondent, unless the respondent resigns their tenured faculty appointment, the charging party shall convene the Tenured and Tenure-Track Faculty Disciplinary Committee. The Committee shall be composed of five members, each a tenured faculty member, consisting of President of the Faculty Council, the Chair of the Grossman School of Medicine Appointments, Promotion and Tenure Committee, the Chair of the Professional Conduct Committee of NYU Langone Hospitals, the School of Nursing’s longest-serving Senator on the Tenured/Tenure Track Faculty Senators Council, and the School of Dentistry’s longest-serving Senator on the Tenured/Tenure Track Faculty Senators Council. In the event any of the faculty members holding these designated positions are non-tenured, the Executive Committee of the Faculty Council shall select a tenured member of the body represented by such non-tenured faculty member (except that, in the case of the Faculty Council, it shall be the most recent past President of the Faculty Council who was tenured). After appointment, in the event of a Committee members’ conflict of interest or inability to serve, the other Committee members will designate a tenured senior faculty member of the body represented by such Committee member to serve on the Committee in such member’s place. No member of the Tenured and Tenure-Track Faculty Disciplinary Committee from the same department as the respondent may serve as a member of the Committee during tenure revocation proceedings.

d) The charging party shall forward to the Tenured and Tenure-Track Faculty Disciplinary Committee copies of the written charges and of the answer to such charges. If the respondent fails to serve a written answer within twenty (20) days, or any extension of such time, the charging party shall nevertheless forward the charges to the Tenured and Tenure-Track Faculty Disciplinary Committee with a statement showing that no answer has been served by the respondent.
e) Within twenty (20) days after submission of the charges and answer, or of the charges alone, as the case may be, to the Tenured and Tenure-Track Faculty Disciplinary Committee, the committee shall set a time for the commencement of a hearing, which shall not be more than thirty (30) days thereafter unless further time is granted by the Committee upon request of either party. The Tenured and Tenure-Track Faculty Disciplinary Committee shall serve as the hearing panel.

3. Conduct of Hearings before the Hearing Panel

a) A hearing officer who is an attorney shall preside over the hearing on the charges. The charging party and the respondent shall select a hearing officer from a list of 10 qualified attorneys compiled by the American Arbitration Association to conduct the proceedings. The charging party and respondent may each strike up to five names from the list and each shall rank, in order of preference, the names of those whom they have not stricken. The Association shall then designate as the hearing officer the available person with the highest degree of joint preference of the parties. Should more than one available person have an equally high joint preference, the Association shall select the hearing officer by lot from those with the highest joint preference.

b) A calendar of hearing dates in a proceeding for dismissal shall be fixed by the hearing panel after consultation with the parties to the proceeding and the hearing officer; the calendar shall be read into the record on the opening day of the hearing; it shall be adhered to unless the hearing panel orders exceptions for due cause. Whenever the interests of substantial justice appear to so require, the hearing panel may direct either or both parties to submit a summary of the evidence, a list of witnesses to be called, or both. If the statement of the charges, or the answer thereto, appears to the hearing panel to be indefinite or obscure, the hearing panel may require a more definite statement. Where the respondent has failed to serve an answer to the charges and where it further appears that the respondent is unable to understand the charges and to participate meaningfully in the proceeding, the panel shall obtain the services of a qualified person to represent the respondent, at the respondent’s expense. In the absence of such circumstances or other good cause, upon the failure of the respondent to serve an answer prior to the commencement of a hearing or to appear at the hearing, the panel may, in its discretion, preclude the subsequent assertion of any defense or the introduction of evidence on behalf of the respondent.

c) The hearing officer shall preside over the hearing and rule on all procedural matters, including the admissibility of evidence, subject to the right of each party to appeal to the hearing panel. Upon such appeal, the decision of a majority of the panel members shall control. The panel shall have the power to enlarge the time appointed in these procedures for doing any act or taking any proceedings, where the interests of substantial justice appear to so require.

d) The hearings shall not be restricted by the rules of procedure or of the admissibility of evidence which prevail in the courts of law. Subject to the provisions of section (c) above, each member of the hearing panel may inquire into whatever is believed relevant to the inquiry. Whenever the proceedings originate from a finding of scientific or research misconduct in accordance with the separate rules governing such proceedings, the hearing panel shall deem the report of the earlier committee to constitute the facts as to the existence of such misconduct.
e) The respondent and the charging party may be assisted by counsel of his or her choice throughout the proceedings. Counsel for both sides shall cooperate at all times with the panel and the hearing officer.

f) A request by either party to present witnesses shall be made to the hearing panel, which may limit the hearing of witnesses at its discretion. If witnesses are called, each party shall have the right of cross-examination. Each party may introduce exhibits, which shall constitute part of the record of the case.

g) A stenographic record shall be made of all proceedings at the hearing. On order of the hearing officer, procedural matters may be discussed in executive session, the minutes of which need not be included in the transcript of the record of the hearing. The transcript shall be available to all parties to the hearing.

h) Each party shall have equal opportunity at the final session of the hearing for the summation of the case, either in person or by counsel, but no new evidence or testimony may be introduced during such summation.

i) All three members of the hearing panel shall be present at the hearing. If, after the commencement of the hearing, a member of the panel becomes unable to continue to serve, he or she shall be excused from further service, and the member’s designee (a tenured senior faculty member of the body they represent) shall serve in his or her place. Prior to serving on the panel, the member’s designee must have read the hearing transcript and all charges and other pleadings filed in connection with the hearing and certify to having done so. Should a member of the panel repeatedly fail to carry out his or her obligations as a member of the panel, upon a unanimous vote of the remaining members of the panel, he or she may be discharged from further service and replaced by a tenured senior faculty member of the body represented by the replaced member, such replacement member to be elected by the remaining panel members.

j) Upon completion of the hearing, the panel shall deliberate and issue its decision in a written report. The deliberations shall be conducted in executive session and shall be attended only by the members of the hearing panel. The decision of the panel must be based upon the evidence presented, and no recommendation of dismissal shall be made based solely upon the failure of the person involved to answer the charges or appear at the hearing. The decision of the panel must be supported by a majority of its members.

k) [Hearing Immunity]. The members of the Board of Trustees, the President and Provost of the University and other officers of administration, the members of the Tenured and Tenure-Track Faculty Disciplinary Committee, the Vice Dean, the Dean and members of the faculty, and all witnesses and other participants in any hearing shall be absolutely privileged as to statements or publications made in connection with the hearings, and shall have complete immunity for any decision, statement of fact, or comment relating thereto.

4. Decision and Report of the Hearing Panel

a) The hearing panel’s decision shall resolve the matter, unless the matter is appealed, as set forth in section (d) below. The report containing the hearing panel’s decision shall be in writing and shall
consist of: (1) a transcript of the record of the hearing and the exhibits offered or introduced into evidence by the parties; (2) such findings, conclusions and any proposed sanctions as the panel shall make, including a statement of the facts deemed essential to the findings; (3) a memorandum setting forth the reasons for any recommendations; and (4) any memorandum submitted by any dissenting member of the panel, at his or her own discretion, with reference to his or her opinion as to the matters in controversy.

b) Each finding, conclusion, and recommendation shall be reported with the numerical vote of the members of the panel but not with the names of the members who voted for or against the same.

c) Complete copies of items (2), (3), and (4) in section (a) above shall be transmitted to the parties to the hearing and to the University President.

5. Appeal to the President

a) Either party may appeal the hearing panel’s decision in writing to the University President, who may seek consultation at his or her own discretion. The bases for appeal are limited to the following: (1) findings in support of one or more of the charges are not supported by substantial evidence in the record as a whole, or (2) hearing was not conducted fairly or was not conducted in substantial compliance with the governing rules, or (3) the sanction is disproportionate to the infraction. The appeal request should set forth the basis for the party’s appeal, and any arguments in support of a reversal of the hearing panel’s decision.

b) Upon appeal, after reviewing the report and decision of the hearing panel, and any documentation submitted in support of the appeal, the President shall issue a written decision, which shall be considered final.

c) [Appeal of Decision to Dismiss for Cause]. On appeal of the hearing panel’s decision to dismiss the faculty member for cause, the President shall uphold the hearing panel’s decision unless the President determines either: (i) that the findings against the faculty member on one or more of the charges are not supported by substantial evidence in the record as a whole; (ii) that the hearing was not conducted fairly and in substantial compliance with the rules set forth above for the conduct of such hearings; or (iii) that the sanction of dismissal is not appropriate. If the President determines either (i), (ii), or (iii), the President shall have the option to either: a) dismiss the charges; b) remand the case for a new hearing before the same or a new hearing panel; or c) reduce the sanction.

d) [Appeal of Decision Not to Dismiss for Cause]. On appeal of the hearing panel’s decision not to dismiss the faculty member for cause, the President shall make the final determination with respect to the appropriate sanction to be imposed, including any decision to dismiss the faculty member or increase any sanction recommended by the hearing panel. If the President determines either that the hearing panel’s findings are not supported by substantial evidence in the record as a whole, that the hearing was not conducted fairly, or was not conducted in substantial compliance with the governing rules to the detriment of the charging party, the President shall have the option, but shall not be required, to remand the case for a new hearing before the same or a new hearing panel.

e) If the President’s decision is to terminate the service of the tenured faculty member, it shall be subject to approval by the Board of Trustees. The final disposition of the case shall be made
public only after the faculty member has been officially informed of the decision of the President. Until that time no information concerning the hearings shall be disclosed to the public.

B. Tenure-Track Faculty

Notwithstanding provisions set forth in Title II, Section XI of the Faculty Handbook by which a non-tenured tenure track faculty member may be removed upon sufficient notice where it is unlikely that tenure will be achieved, a tenure-track faculty member may be removed for "Adequate Cause" (as defined in Title I.VI.2 of the University Handbook), in which case the proceedings set forth below shall apply.

I. Proceedings to Terminate for Cause a Non-Tenured Tenure-Track Appointment

a. Whenever the faculty member's Department Chair (the "charging party") deems that such action is warranted, the charging party shall initiate proceedings to terminate for cause the service of a non-tenured tenure track faculty member.

b. The charging party shall draft a memorandum setting forth the basis for removing the faculty member and forwards to the Vice Dean for Education, Faculty, and Academic Affairs of the Grossman School of Medicine (the "responsible administrator"). Upon authorization by the responsible administrator, a copy of such memorandum, together with notice of proceedings for termination of his or her service for cause, shall be e-mailed or mailed by registered mail to the faculty member involved (the "respondent").

c. The respondent shall serve a written response to the charging party and to the responsible administrator within twenty (20) days after receipt of the charging party's memorandum. The time for service of the answer may be extended by the responsible administrator in the interests of substantial justice.

d. The responsible administrator shall forward to the Tenured and Tenure-Track Faculty Disciplinary Committee (as described in Section III.2(d) above) a copy of the memoranda from each party. If the respondent fails to serve a written response within twenty (20) days, or any extension of such time, the responsible administrator shall nevertheless forward the charging party's memorandum to the Committee with a statement showing that no response has been served by the respondent.

e. Both the charging party and the respondent will have the opportunity to appear before the Committee to present an oral summary of the arguments in support of their position. The respondent and the charging party may be assisted by counsel of his or her choice. Counsel for each party shall cooperate at all times with the panel.

f. A request by either party to present witnesses shall be made to the hearing panel, which may limit the hearing of witnesses at its discretion. If witnesses are called, each party shall have the right of cross-examination. Each party may introduce exhibits, which shall constitute part of the record of the case.
g. Each member of the Committee may inquire into whatever is believed relevant to the inquiry. Following the oral summaries, the Committee shall deliberate and deliver its decision, in writing, to both parties and to the responsible administrator. The Committee’s decision shall consist of: (1) such findings, conclusions and any proposed sanctions as the panel shall make, including a statement of the facts deemed essential to the findings; (2) a memorandum submitted by any dissenting member of the panel, at his or her own discretion, with reference to his or her opinion as to the findings, conclusions, and any proposed sanctions.

h. Either party can appeal the Committee’s decision to the Dean. The bases for appeal are limited to the following: (1) findings are not supported by substantial evidence in the record as a whole, or (2) the sanction is disproportionate to the infraction.

i. After reviewing the report of the Committee, the Dean shall issue a written decision to the parties, which shall be considered final. If “cause” is found, the faculty member shall no longer be eligible for tenure at the School and may be terminated without further notice.

C. Other Disciplinary Proceedings for Tenured or Tenure-Track Faculty

The following procedure applies when a tenured or tenure track faculty is alleged to have violated or failed to abide by any rule or regulation of the Grossman School of Medicine, engaged in behavior or conduct that does not meet the professional standards of the School, engaged in an activity that is a threat to the welfare or safety of anyone in the medical center community, or violated any local, state, or federal law, for which the discipline sought is not termination.

a. After an internal investigation confirms evidence of a basis for such action, the Chair of the faculty member’s department shall make a recommendation to the Vice Dean for Education, Faculty, and Academic Affairs of the Grossman School of Medicine for disciplinary action. Disciplinary action under this section shall include, but is not limited to, the following:

1) Reprimand
2) Censure
3) Removal of Privileges
4) Suspension
5) Monetary fine

b. If the Vice Dean approves disciplinary action, the Vice Dean will notify the Chair, who will notify the faculty member in writing.

c. The faculty member has the right to appeal the decision in writing to the Dean on the following grounds: (1) the decision was not supported by substantial evidence on the record, or (2) the investigation was not conducted fairly or in accordance with the applicable policy and/or procedures; or (3) the sanction is disproportionate to the infraction.

d. Upon review of the record and the appeal request, the Dean shall issue a decision, which shall be considered final.
Resolution to Adopt a Green Open Access Policy

WHEREAS the Faculty of New York University is committed to disseminating the fruits of its research and scholarship as widely as possible, and

WHEREAS, in addition to the public benefit of such dissemination, this commitment is intended to serve faculty interests by promoting greater reach and impact for articles, simplifying authors’ retention of distribution rights, and aiding preservation, and

WHEREAS NYU lags significantly in terms of its peer institutions, whose faculties have adopted such policies as early as 2005,

THEREFORE, BE IT RESOLVED that, in keeping with these commitments, the Faculty adopt the proposed policy on Open Access for Research.
NYU Policy on Open Access for Research (Draft)¹

The Faculty of New York University is committed to disseminating the fruits of its research and scholarship as widely as possible. In addition to the public benefit of such dissemination, this commitment is intended to serve faculty interests by promoting greater reach and impact for articles, simplifying authors’ retention of distribution rights, and aiding preservation. In keeping with these commitments, the Faculty adopt the following policy on Open Access for Research.

Under this policy, each Faculty member will grant to New York University permission to make available their scholarly articles and to reproduce and distribute those articles for the purpose of open dissemination. In legal terms, each Faculty member will grant to New York University a non-exclusive, irrevocable, royalty-free, worldwide license to exercise any and all rights under copyright relating to each of their scholarly articles, in any medium, and to authorize others to do so, provided that the articles are not sold. The NYU faculty author will remain the copyright owner unless that author chooses to transfer the copyright to a publisher.

The policy will apply to all scholarly articles authored or co-authored while the person is a member of the Faculty, except for any articles completed before the adoption of this policy and any articles for which the Faculty member entered into an incompatible licensing or assignment agreement before the adoption of this policy.

A policy designate may waive application of the license for a particular article or delay access for a specified period of time upon written request by a Faculty member. To assist the University in

¹ This draft policy draws heavily on the recommendations of the Berkman Klein Center for Internet & Society at Harvard University’s Good practices for university open-access policies which has been endorsed by numerous projects and organizations, including:

- Association of Research Libraries (ARL)
- Australasian Open Access Support Group (AOASG)
- Coalition of Open Access Policy Institutions (COAPI)
- Confederation of Open Access Repositories (COAR)
- Electronic Information for Libraries (EIFL)
- Enabling Open Scholarship (EOS)
- Harvard Open Access Project (HOAP)
- Library and Information Association of South Africa (LIASA)
- Mediterranean Open Access Network (MedOANet)
- Oberlin Group
- Open Access Directory (OAD)
- Open Access Policy Alignment Strategies for European Union Research (PASTEUR4OA)
- Open Access Scholarly Information Sourcebook (OASIS)
- Right to Research Coalition (R2RC)
- Scholarly Publishing and Academic Resources Coalition (SPARC)
- SPARC Europe
- UK Open Access Implementation Group (OAIG).
distributing the scholarly articles, each faculty member will make available, as of the date of publication or upon request, an electronic copy of the final author's version of the article at no charge to a designated representative of the Libraries in an appropriate format (such as PDF) specified by the University Libraries. The University Libraries will make the article available to the public in NYU’s open-access repository. In cases where the NYU license has been waived or an embargo period has been mutually agreed, the article may be archived in a NYU repository without open access, either limited to NYU-only access or no access at all, for the period of the embargo or permanently, depending on the waiver.

The Office of the Provost, in consultation with the Executive Committee of the Faculty Senate, will be responsible for interpreting this policy, resolving disputes concerning its interpretation and application, and recommending changes to the Faculty from time to time.

The policy and service model will be reviewed on a regular, periodic basis and a report presented to the Faculty via the Senate.

For more information on the implementation of this policy, contact the Director of Scholarly Communications and Information Policy at NYU Libraries.
T-FSC Educational Policy and Faculty Student Relations Committee Report

The T-FSC Educational Policy and Faculty Student Relations Committee met this semester with student representatives from SGA. Several interesting issues arose from this informal agenda-free conversation. Most significant, and immediately reported to the Provost, is the fact that students are unaware that SETs (student evaluations of teachers) can only be viewed by faculty after submitting grades. Fearing repercussions, the students explained that this may be one contributing factor to the low response rate of SETs. We urged the Provost to ramp up the communication surrounding this process.

Both committees agreed that a worthwhile effort for a spring semester agenda is to tackle the question of remote learning post pandemic.
Report to: T-FSC and its Executive Committee for T-FSC meeting of Dec. 17, 2020
From: T-FSC Committee on the GNU (Global Network University) on its activity.

The T-FSC Committee on the Global Network University met on the late evening of Wednesday, Dec. 2.

At this meeting Prof. Alexander Geppert of NYU-Shanghai was unanimously elected Co-Chair of the Committee for this academic year.

The Committee reviewed several of the challenges consequent upon the pandemic with which the GNU network has been dealing. Some locales, particularly NYU-Shanghai, have served as an invaluable academic base for NYU students for whom returning this academic year to the States would have presented insuperable difficulties.

Some Committee members expressed interest in hearing about whether there had been any thought of considering contract faculty recently discharged from NYU-Paris for positions generated elsewhere in the GNU, e.g., in Shanghai where additional contract faculty had to be quickly hired. Some difficulties in that were discussed.

Difficulties encountered by faculty in some meetings through Zoom were discussed but the majority of the attendees said they felt this involved some issues with legal and technical aspects best considered by some other T-FSC Committees or by the Executive Committee.

Sylvain, Cappell and Alexander Geppert, Co-Chairs of T-FSC GNU Committee
December 13, 2020

To:  T-FSC

Fm:  Robert Lapiner & Judith Zelikoff, Co-Chairs

CC:   Alex Jassen; Francisco de Leon; Nicola Partridge; Gwendolyn Quinn; Janet Van Cleave

Re:   Final Fall Semester Report of the Personnel Policies & Tenure Modifications Committee

The PP&TM Committee has been busy this semester.

- Since our last meeting, the committee as a whole met on November 19 to complete our review of the NYU Abu Dhabi Guidelines for Promotion and Tenure—that we had started in October. Because of the challenging time-zones that separate our campuses, we couldn’t arrange to have our NYU AD Senators join our meeting; so the co-chairs met with them separately shortly thereafter to benefit from their insights about the context of the development of the guidelines, and to seek input and clarifications about areas where our committee had questions.

  That consultation enabled us to prepare the document with our collective observations and recommendations, that has been put on the agenda of our December 17 meeting for discussion—and Council support.

- At our last meeting of the semester, on December 3, PP&TM members completed our collective preliminary review of policies governing the Appointment and Promotion of Continuing Contract Faculty at the School of Global Public Health. It has become customary when C-Faculty policies are under consideration to seek to meet with our counterpart committee of the C-FSC. As the calendars weren’t amenable to a joint meeting this semester, on December 10th the co-chairs met separately with the chair of the C-FSC committee and a C-faculty representative from SGPH to examine our two committees’ respective concerns and observations.

  We are determined to complete our review early in the next semester, after the Committee will have had the benefit of conferring as soon as practical with our own SGPH Senator. Where possible, we will seek to align our suggestions with those of our C-faculty colleagues when they converge.

- Between these two sets of activities of the PP&TM as a whole, the co-chairs learned of the feedback provided by the office of General Counsel to our Executive Committee, in response to the T-FSC’s formal submission of the review of the School of Medicine’s three proposed policies. (The most significant being the one conceived to supersede the Faculty Handbook, regarding the process of elimination of tenure and dismissal for cause—a proposal to apply only to the GSOM.) The response was circumspect, as expected; regrettably, it also identified an aspect of one of our arguments where our reliance on certain data proved to be in error. After further investigation, we ascertained the corrected information and informed the Executive Committee that the critique was warranted—but reiterated the importance of drawing attention to the fact that the most substantive concerns (and recommendations) that had been made had gone unacknowledged in the response. We are hoping that the Executive Committee will have received further clarification about these issues before we convene this week.