

**RESPONSIBILITIES OF THE ACADEMIC RIGHTS AND RESPONSIBILITIES COMMITTEE
AND
PROCEDURES FOR HANDLING MATTERS OF ACADEMIC FREEDOM AND TENURE,
GRIEVANCE, AND PROFESSIONAL CONDUCT
University of Nebraska-Lincoln
Approved by the Board of Regents on December 3, 2021**

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1. INTRODUCTION

1.1 Responsibilities of the Academic Rights and Responsibilities Committee. The Academic Rights and Responsibilities Committee (ARRC) and its responsibilities are created by the UNL Faculty Senate, are described in its Syllabus of Campus-Wide Committees, and are approved by the University of Nebraska Board of Regents. Its Foundational Instruction, set forth in Section 3.1.5 of the UNL Bylaws, gives the ARRC both informational and quasi-judicial responsibilities.

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

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

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

1.2 Relationship of ARRC and ARRC Procedures to Special Committees and Codes of Procedures for Special Committees. Chapter 4 of the Regents’ Bylaws authorizes the faculty governing agency of each major administrative unit to create a faculty Grievance Committee, a faculty Committee on Academic Freedom and Tenure, and a faculty Professional Conduct Committee. The UNL Faculty Senate, with the approval of the University of Nebraska Board of Regents, has vested that authority in Special Committees established under the aegis of the ARRC. A description of the committees can be found in the Syllabus of Campus-Wide Committees of the Faculty Senate, available from the Faculty Senate Office and on the Faculty Senate website.

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

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

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

1.2.2 Code of Procedures for Special AFT-B Committees, applicable to Special Academic Freedom and Tenure Committees considering complaints in which the President or the Board of Regents

seeks to terminate a faculty member's Continuous Appointment or a faculty member's Special or Specific-Term Appointment prior to its termination date;

- 1.2.3 Code of Procedures for Special PC Committees**, applicable to Special Professional Conduct Committees investigating complaints charging a member of the professional staff with professional misconduct other than misconduct as defined by Federal Misconduct in Science Regulations, complaints against UNL as an institution seeking institutional action as a remedy to alleged discrimination, and complaints alleging that the complaining member of the professional staff has been wrongly accused of professional misconduct;
- 1.2.4 Code of Procedures for Special Grievance Committees**, applicable to Special Grievance Committees considering complaints by a faculty member alleging a grievance not governed by any of the Codes of Procedures identified in Sections 1.2.1 to 1.2.3.
- 1.2.5 Allegation of Professional Misconduct in Science** should be submitted to the Office of the Vice Chancellor for Research and Economic Development. Charges of research misconduct are governed by the "University of Nebraska-Lincoln Policy on Procedures for Responding to Allegations of Research Misconduct" approved by the University of Nebraska Board of Regents, December 2, 2010.

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

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

All of these documents in their current form are available from the Faculty Senate Office and on the Faculty Senate website. For information and advice concerning these procedures, contact the Chair of the ARRC.

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

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

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

2. DEFINITIONS

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

2.1 Chancellor shall mean the Chancellor of UNL.

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

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

2.4 IEC shall mean the UNL Office of Institutional Equity and Compliance.

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

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

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

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

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

2.10 Professional Staff shall mean all UNL personnel defined as professional staff by Regents' Bylaw 3.1.1.

2.11 Academic Staff Member shall be any individual holding an academic appointment. These appointments include faculty members holding the academic rank of assistant instructor and above, or other formally approved ranks, as referenced in Section 3.1.1.1 of Regents' Bylaws, as well as other academic staff members with the rank of postdoctoral research associate, research associate, research assistant, graduate assistant, graduate teaching assistant, or teaching fellow as referenced in Section 3.1.1.2 of Regents' Bylaws).

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

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

3. THE ARRC AND THE ARR PANEL

3.1 Membership of the ARRC. The ARRC shall be composed of five tenured faculty members elected for staggered three-year terms by and from the Academic Assembly,¹ and if appointed by the President of

¹ Rules governing eligibility and representation are set forth in the Syllabus of Campus-Wide Committees of the Faculty Senate.

the Faculty Senate in accordance with the Syllabus of Campus-Wide Committees, a non-voting liaison member. At the time of their election, no two members of the Committee shall have a primary academic appointment in the same college or division of UNL. No member of the faculty who holds any administrative appointment (including that of department chair or head or equivalent) shall be eligible to serve as a member of the Committee during the term of such administrative appointment. Committee members may succeed themselves. The Chair and Vice-Chair of the ARRC shall be elected annually by the ARRC.

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

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

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

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

3.1.3.2 answers directly to a party; or

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

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

3.1.3.5 has provided counsel or assistance to a party relating to the case; or

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

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

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

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

3.3 Membership of Special Committees.

3.3.1 The Chair of the ARRC is charged with selecting the members of any Special Committees that are convened. The members of these committees are chosen from the Academic Rights and Responsibilities (ARR) Panel. To the extent possible, assignment to Special Committees shall be based on a fair distribution of ARR Panel members by college, discipline, ethnicity, gender, and experience, taking

account of recent service on past Special Committees. The Chair of the ARRC will determine which ARR Panel members are in their final year of service and communicate that information to the Faculty Senate Coordinator so that the Faculty Senate Committee on Committees can arrange an election for the succeeding year that will return an ARR Panel sufficiently diverse to ensure that Special Committees will be broadly representative of the faculty.

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

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

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

3.4 Other Functions of ARR Panel Members. ARR Panel members may be appointed by the ARRC to perform the following functions:

3.4.1 to serve as Special Conciliators or ARRC observers; or

3.4.2 to serve as a resource when persons seeking relief under these procedures need advice or help in focusing issues or drafting formal complaints.

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

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

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

3.7.1 convening and presiding over meetings of the ARRC;

3.7.2 serving as contact person and spokesperson for the ARRC;

3.7.3 employing informal methods of dispute resolution under Section 4.1;

3.7.4 reporting results of ARRC and Special Committee elections, and reporting ARRC and Special Committee vacancies requiring replacements under Section 3.1.3 or Section 3.3.4, to the President of the Faculty Senate;

3.7.5 maintaining committee files and protecting confidential material;

3.7.6 reporting to the Committee on Committees which members of the ARRC Panel will be leaving the Panel, and working with the Committee on Committees on behalf of the ARRC to identify

prospective nominees for the ARR Panel who would satisfy the membership criteria set out in Section 3.3.1;

3.7.7 ensuring that Special Committees are properly instructed about hearing procedures at the beginning of a case;

3.7.8 appointing substitutes to serve on Special Committees when vacancies occur, as provided in Section 3.3.4;

3.7.9 advising persons alleging misconduct in science to make the allegation to the Vice Chancellor for Research and Economic Development. Select and appoint an ARRC Observer if a party to an inquiry into an incidence of scientific misconduct expresses a desire to have an ARRC Observer. The Chair of the ARRC also is a voting member of the Conflict of Interest in Research Committee (CIRC) in the Office of the Vice Chancellor for Research and Economic Development;

3.7.10 ensuring that the ARRC conducts the follow up activities specified in Section 8;

3.7.11 ensuring that the Faculty Senate Office and Faculty Senate website have available complete and current copies of the ARRC Procedures and the Codes of Procedures for the various Special Committees;

3.7.12 keeping accurate records of expenditures for activities of the ARRC and arranging for reimbursements from the Chancellor's office; and

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

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

3.8.1 is a member of the UNL Professional Staff (Regents Bylaw 3.1.1) and eligible for election to the UNL Faculty Senate (UNL Bylaw 3.1.4);

3.8.2 does not serve in the same department or equivalent unit with any party, witness, or Special Committee member;

3.8.3 has no other relationship with a member of the Special Committee that might create, or reasonably appear to create, a conflict of interest for that Special Committee member;

3.8.4 does not answer directly to a party or a witness;

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

3.8.6 does not have, and does not reasonably appear to have, a personal interest in the case or in its outcome;

3.8.7 has not provided counsel or assistance to either party relating to the complaint; and

3.8.8 has no other relationship with a party, organization, or a witness that might interfere with the investigative process or prevent the person from impartially carrying out the duties of Observer.

3.8.9 The Role of the ARRC Observer in AFT, Professional Misconduct, and Grievance Cases:

The ARRC Observer is expected to attend the pre-hearing conference and the hearing conducted under the procedures described in the ARRC documents for AFT, Professional Misconduct, and Grievance cases. The ARRC Observer should introduce himself or herself at the time of the pre-hearing conference and the hearing and explain that the role of the ARRC Observer is to act as a neutral observer of the proceedings and to report any irregularities or concerns to the chair of the ARRC. The ARRC Observer is not expected to participate in the discussions at the pre-hearing conference and hearing except as they pertain to scheduling or other non-substantive issues.

During the hearing, the ARRC Observer will sit in the audience behind the two parties. The Chair of the Special Committee will include the ARRC Observer in the distribution of material and communications (including email messages) relevant to the proceedings prior to the commencement of the Special Committee deliberations. The ARRC Observer will observe all

confidentiality requirements as stipulated in the ARRC procedures.

3.8.10 The Role of the ARRC Observer in Inquiries Concerning Scientific Misconduct:

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

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

3.10 ARRC Attorney.

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

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

4. PROCEDURES FOR INITIATING ACTIONS BY THE ARRC

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

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

When initially approached by a complainant under these procedures, the Chair of the ARRC first shall determine whether the allegations potentially are governed by Federal Misconduct in Science Regulations,² and if so, shall refer the complainant to the Vice Chancellor for Research and Economic Development.

² Initial allegations of misconduct potentially governed by Federal Misconduct in Science Regulations should be made to the Vice Chancellor for Research and Economic Development. If someone instead approaches the Chair of the ARRC with allegations potentially governed by Federal Misconduct in Science Regulations, the Chair of the ARRC shall consult with the Vice Chancellor for Research and Economic Development to determine whether Federal Misconduct in Science Regulations apply. If they do apply, the Chair of the ARRC shall refer the person making the allegations to the Vice Chancellor for Research and Economic Development. The Vice Chancellor for Research and Economic Development is then obligated to conduct an inquiry in accordance with the "University of Nebraska-Lincoln Policy and Procedures for Responding to Allegations of Research Misconduct." The university policies and procedures concerning

4.1 Informal Efforts to Resolve Disputes.

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

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

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

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

4.1.1.4 Where applicable, the complainant may pursue the informal and formal procedures set forth in the relevant UNL policies pertaining to unlawful discrimination, sexual harassment, or other prohibited behavior;

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

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

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

4.1.2 Any other action under these procedures shall be suspended pending the outcome of any conciliation or mediation efforts undertaken under 4.1.1.1, 4.1.1.2, 4.1.1.3, or 4.1.1.6. However, the complainant may pursue the informal and formal procedures set forth in the relevant UNL policies pertaining to unlawful discrimination, sexual harassment, or other prohibited behavior either before or concurrently with any action under these procedures.

4.2 Formal Written Complaints

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

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

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

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

research misconduct are available from the Office of the Vice Chancellor for Research and Economic Development and are posted on the Faculty Senate website.

- 4.2.1.4 A clear and concise statement identifying the relevant standards the complainant thinks should be used to evaluate the complaint;
- 4.2.1.5 A clear and concise statement identifying how the complainant thinks the relevant standards have been violated;
- 4.2.1.6 A clear and concise statement of the remedy, sanction, or other personal relief or institutional change the complainant seeks, and from whom;
- 4.2.1.7 A clear and concise statement of the type of Special Committee the complainant thinks to be appropriate; and

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

- 4.2.2.1 A Formal Written Complaint filed with the Chair of the ARRC by a member of the professional staff under Regents' Bylaw 4.15.2(a) alleging that action taken, or threatened, violates the complainant's academic freedom or academic tenure (AFT-A);
- 4.2.2.2 A Formal Written Complaint filed with the Chair of the ARRC by the President or by the Board of Regents under Regents' Bylaw 4.15.2(b) seeking to terminate the appointment of a faculty member or as authorized in Regents' Bylaw 4.7.4.1 imposing an administrative leave of absence through the end of an academic specific-term or special appointment period (AFT-B);
- 4.2.2.3 A Formal Written Complaint filed with the Chair of the ARRC under Regents' Bylaw 4.16 charging a member of the professional staff with professional misconduct (PC);
- 4.2.2.4 A Formal Written Complaint filed with the Chair of the ARRC by a member of the professional staff charging that the complainant has been wrongly accused of professional misconduct (PC);
- 4.2.2.5 Allegations of illegal discrimination and sexual misconduct should be submitted to the Office of Institutional Equity and Compliance (IEC). Charges of illegal discrimination and sexual misconduct are generally initially governed by the IEC. The IEC may forward an unlawful discrimination or sexual misconduct complaint against a professional staff member to the ARRC under Regents' Bylaw 4.16 (PC). If a faculty member who is party to a case of illegal discrimination and sexual misconduct feels that the IEC has misinterpreted the relevant statutes or reached an inappropriate conclusion, that faculty member may file a complaint with the ARRC under Regents' Bylaw 4.14 (Grievance).
- 4.2.2.6 A Formal Written Complaint filed with the Chair of the ARRC against UNL as an institution seeking institutional action as a remedy to alleged discrimination (PC);
- 4.2.2.7 A Formal Written Complaint against UNL as an institution which has been filed with the IEC and forwarded by that office to the Chair of the ARRC, seeking institutional action as a remedy to alleged discrimination (PC).
- 4.2.2.8 A Formal Written Complaint filed with the Chair of the ARRC under Regents' Bylaw 4.14 by a faculty member alleging any other grievance (Grievance).

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

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

4.3.2 If the Formal Written Complaint includes an allegation that action taken, or threatened, violates the complainant's academic freedom or academic tenure under Regents' Bylaw 4.15.2(a), the Formal

Written Complaint shall be assigned to a Special AFT-A Committee and the Code of Procedures for AFT-A shall be applicable;

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

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

4.5 Deadlines for ARRC Action on Formal Written Complaints.

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

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

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

4.5.2.2 without waiting for the results of the IEC preliminary investigation, decide whether to convene a Special Committee as provided in Section 4.6. In deciding whether to convene a Special Committee, the ARRC shall not consider the results of any IEC preliminary investigation; if the ARRC decides to convene a Special Committee, the results of any IEC investigation may be considered by the Special Committee.

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

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

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

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

4.6.1 satisfies the Mandatory Elements requirements of Section 4.2.1; and

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

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

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

4.6.4.1 occurred within one year from the event(s) forming the basis of the Formal Written Complaint or

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

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

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

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

4.7.3 does not state a claim which, if proven, could be sufficient to warrant a recommendation of relief or institutional change by an ARRC Special Committee; or

4.7.4 does not state a claim based in whole or in part on an alleged act or failure to act by a respondent that either

4.7.4.1 occurred within one year from the event(s) forming the basis of the formal written complaint, or

4.7.4.2 could not with reasonable diligence have been discovered by a complainant within one year from the event(s) forming the basis of the formal written complaint,

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

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

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

4.10 Finality of ARRC Decisions not to Convene a Special Committee. If no complainant files an amended Formal Written Complaint or requests reconsideration, or if the ARRC decides not to convene a Special Committee after considering an amended Formal Written Complaint or a request for reconsideration, the decision not to convene a Special Committee shall be final.

5. CONVENING SPECIAL COMMITTEES

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

5.1.1 ascertain whether the potential members of the Special Committee satisfy the membership requirements for a Special Committee of that type,

5.1.2 ascertain whether potential members of the Special Committee from the ARR Panel are available to serve and whether their participation would present a conflict of interest,

5.1.3 convene the Special Committee, provide the applicable Code of Procedures to the members of the Special Committee and to the ARRC Observer, if any, discuss the applicable Code of Procedures

with the Special Committee, preside over the election of the Chair of the Special Committee, and, without further commentary or discussion, present the complaint to the Special Committee;

5.1.4 forward names as follows:

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

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

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

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

6. ADHERENCE TO PROCEDURES

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

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

7. ROLE OF ARRC IN ADMINISTRATIVE LEAVES OF ABSENCE AND SPEAKER CANCELLATIONS

7.1 Any suspension or administrative leave of absence of an academic staff member by an administrative officer not resulting from the outcome of a Special Committee hearing must be reviewed by the ARRC as specified under UNL Bylaw 3.1.5.2 (c) in “Other Responsibilities of the ARRC”. What constitutes an administrative leave and under what circumstances an administrative leave of absence may be applied are outlined in Regents’ Bylaw 4.7 (“Administrative Leave of Absence”). The role of the ARRC is to oversee and assess the validity of an imposed administrative leave of absence on an academic staff member by an administrative officer. The procedures for the ARRC to follow for reviewing an

administrative leave of absence are specified under Regents Bylaw 4.7.2 (“Procedures for Imposing Leave”).

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

Any suspension or administrative leave of absence through the end of a contract or one that is indefinite is a termination and will be treated as such by the administration filing an AFT-B complaint with the ARRC. Therefore, the administrative officer must inform the ARRC if the academic staff member’s contract could expire during the potential duration of the leave. Regents’ Bylaw 4.7.4 (“Reinstatement”) allows for the initial leave to last for 90 days as well as an additional 90-day extension of the leave. A leave may not extend beyond 180 days unless the administration files an AFT-B or PC complaint against the person put on leave. If the person’s contract will end during any part of this extended timeframe, then the administration is required to file an AFT-B complaint seeking termination for cause of the person placed on leave as specified in Regents’ Bylaw 4.7.4.1 (“Expiration of Appointment While on Leave”). If the individual would like to waive their right to a termination hearing, then they may do so in writing to the Chancellor and the Chair of the ARRC.

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

8. FOLLOW UP BY THE ARRC

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

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

The Chancellor (or President) shall decide upon Special Committee recommendations on the basis of the evidence submitted to the Special Committee and the report of the Special Committee. Unless clearly erroneous, the findings of fact made by the Special Committee shall be accepted. The Chancellor (or President) shall give the Special Committee's findings and conclusions due consideration, and shall take into

account the fact that the Special Committee is a representative committee of the faculty and had the opportunity to see and hear the witnesses who testified personally before the Special Committee.

Copies of the Chancellor's (or President's) written response shall be sent to the parties concerned, the Special Committee, and to the Faculty Senate President. If the response rejects or changes the recommendations made by the Special Committee, the ARRC shall inform the President of the Faculty Senate who shall provide each member of the Senate Executive Committee with a copy of the Final Report and of the response and shall put the matter on the agenda of the next Senate Executive Committee meeting for whatever action the Senate Executive Committee may deem appropriate. Members of the Senate Executive Committee will observe the confidentiality requirements described in Section 3.6, 3.8.9, and 3.8.10 of the procedures.

8.2 ARRC Review of Implementation of Recommendations. The ARRC shall determine the extent to which recommendations of all Special Committees have been implemented and shall report its findings to the President of the Faculty Senate and in its annual report to the Senate.

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