Summary Memo of Changes to Chapter 8
FEBRUARY 20, 2022
From the Faculty Handbook Committee

We want to thank our faculty colleagues across schools, but particularly in Business and Law, who invested significant time and effort reviewing the proposed and circulated Chapter 8 of the new Faculty Handbook and communicated their concerns to us back in the pre-COVID world of 2019. It has taken us this long to regroup, but we are eager to take up the work of completing the faculty handbook rewrite with alacrity.

Back in 2019, we met with several groups and came away with a comprehensive understanding of what some of the major issues were in what we had originally proposed, namely concerns with overly broad language and the removal of direct cross-examination in termination hearings.

We have also conducted an analysis of what other peer schools do in these types of situations (Stanford, Vanderbilt, Emory, Rice, USC, the University of Miami).

As a result, we have significantly changed the policies and procedures outlined in Chapter 8 for disciplinary actions and dismissals. We believe these changes address most of the concerns expressed by colleagues during our discussions and are consistent with the policies other institutions have in place.

Highlights:
1. The list of ethical principles that was originally in the early part of the Chapter has been removed. As many argued, these were aspirational goals and not proper standards of behavior.

   This material will be included in an introduction or preamble to the Faculty Handbook, so the principles will remain, as they remain important; however, significantly, they will no longer be coupled with the handbook sections on discipline.

2. Section 8.4 (Adequate Cause for Dismissal): added gross incompetence.

3. Section 8.5.2. I: Changed the burden of proof for dismissal to clear and convincing evidence (from preponderance).

4. Section 8.5.2.F: Allowing direct cross-examination, subject to FTFR’s discretion. This language now largely mirrors our current handbook language, however new language has been added that enables the FTFR chair to change to indirect questioning (via FTFR) in a circumstance where direct questioning become “harassing, redundant, or burdensome.”
We believe this strikes the right balance with cross-examination being standard and an integral part of the hearing, but also allowing the FTFR Chair the option of indirect questioning as well.

5. We are a university, and this process is governed by faculty. We recognize that in these cases both parties will want to have legal counsel, therefore, all parties may have legal counsel at any time including during the hearing. At the same time, we believe that that legal counsel (for either side of a dispute) should not dominate or control the hearings. Therefore, in general, the attorneys may not speak directly during the proceedings, and ultimately, FTFR will determine the relevance of information proffered during the hearing.