The Committee on Responsibilities and Standing of Academic Faculty submits the following:

MOVED, THAT Section E. 15 OF THE ACADEMIC FACULTY AND ADMINISTRATIVE PROFESSIONAL MANUAL BE REVISED AS Follows:

E.15 Disciplinary Action for Tenured Faculty (last revised February 3, 2022)

The procedures set forth in this section of the Manual govern disciplinary action other than a Letter of Reprimand (see Section D.4.2) for tenured faculty members, including revocation of tenure and termination of appointment. These actions may occur in connection with either behavior or performance of professional duties. Disciplinary action other than a Letter of Reprimand for a tenured faculty member (hereinafter termed the “Tenured Faculty Member”) must follow the procedures outlined in this section of the Manual. These procedures shall be used in a manner that is consistent with the protection of academic freedom (see Section E.8) and confidentiality of all participants in such actions to the extent permitted by law. These procedures must not be used in an unfair, unreasonable, arbitrary, capricious, or discriminatory manner. Participants shall conduct themselves in accordance with the Code of Ethical Behavior (see Section D.9).

Any member of the University community who knowingly makes false statements as a part of these proceedings shall be subject to disciplinary action appropriate to their position within the University.

The University Grievance Officer (UGO) shall be charged with assuring the integrity of the E.15 processes, including discussions to achieve a mutually agreeable resolution at any stage of the process, coordinating committee
appointments and duties, and certifying that appropriate individuals participate in
the process. At the discretion of the UGO, any of the time limits in Section E.15
may be extended for reasonable periods. Such extensions shall be reported
immediately to all parties concerned.

Either of the following conditions may lead to formal disciplinary action:

a. Substantial neglect of assigned duties that prevents the Tenured Faculty
Member from fulfilling their obligation to the University as stated in Section E.5.2
and impacts the department, college, or University; or actions that substantially
impair the duties or responsibilities of others.

b. Behavior of the Tenured Faculty Member that (1) presents significant risk to the
safety or security of members of the University community (e.g., violence) and/or
(2) represents a serious violation of ethics (see Section D.9) and/or University
policy (including, but not limited to, unlawful discrimination, research misconduct,
harassment, bullying, retaliation, or misappropriation of funds).

There are two (2) avenues for discipline:

i. Acceptance of disciplinary action by the Tenured Faculty Member. The Tenured
Faculty Member may agree to accept formal disciplinary action without a Hearing.
In this case, there must be a written document stating that disciplinary action is
being taken and detailing the disciplinary action and any agreements made. This
document must be signed by both the Tenured Faculty Member and the Academic
Supervisor to indicate their mutual agreement regarding the disciplinary action.
The agreement by the Tenured Faculty Member to accept this action does not
imply admission of responsibility for the charge. This action requires the approval
of the Provost. If the Provost, after consultation with the UGO, determines that the
disciplinary action is not appropriate, the Provost shall direct that the matter be
referred to the formal Hearing Process. This document stating the disciplinary
action, if rejected, may not be used in the resulting Hearing.
ii. Disciplinary Action resulting from a formal Hearing. The University may impose disciplinary action against the Tenured Faculty Member. Possible disciplinary actions resulting from a formal Hearing include, but are not limited to, one or more of the following: letter of reprimand, reassignment of duties, mandatory education or training, monitoring, reduction in pay, suspension with or without pay, revocation of tenure, and termination of employment. Since faculty rank is an academic credential, reduction in rank may not be used as a disciplinary action unless the rank was obtained through fraudulent means. Some disciplinary actions may be for a specified period of time or until some condition is met, and some may be for an indefinite period of time, subject to later review. It is also possible that the Hearing will not result in any disciplinary action.

E.15.1 Initiating the Process

The disciplinary process shall be initiated when a written and signed statement (hereinafter termed the “Statement”), which specifies with reasonable particularity the alleged grounds for disciplinary action, is filed with the UGO by one or more of the following individuals: the academic supervisor, the college dean, or the Provost. Anyone may write the Statement, but one or more of the individuals listed in the previous sentence shall file it with the UGO in order to initiate the disciplinary process. Upon receipt of the Statement, the UGO shall notify the person(s) who filed the Statement that the disciplinary process has been initiated. Also, when the process has been completed, the UGO shall notify the person(s) who filed the Statement of the final outcome. In both cases, the person(s) who filed the Statement shall notify the person(s) who wrote the Statement.

E.15.2 Operational Procedures Prior to Completion of Formal Disciplinary Action

The UGO shall review the Statement to ensure that it alleges the existence of one or more of the conditions for disciplinary action listed in Section E.15.a or E.15.b. If the UGO finds that the Statement alleges one or more of these conditions, then, no later than three (3) working days following receipt of the Statement, the UGO
shall provide a copy of the Statement to the Tenured Faculty Member and inform
the Academic Supervisor and the dean of the college (or the Provost if the
Academic Supervisor is a dean) of the commencement of the disciplinary process.
The Statement is deemed to have been received when it is delivered personally to
the Tenured Faculty Member, or ten working days after it has been sent to the
Tenured Faculty Member via email to their official CSU email address, or when
receipt has been confirmed to the UGO by the Tenured Faculty Member.

Pending the outcome of this process, the Provost may assign the Tenured Faculty
Member to other duties or take such other action as deemed appropriate, including
suspension of duties, only if the Provost determines that the continued presence of
the Tenured Faculty Member would threaten the safety or security of the Tenured
Faculty Member or other persons or would substantially impair or disrupt the
normal functioning of the University or one of its departments or divisions. Salary
shall continue during the period of a suspension.

E.15.3 Discussions to Achieve a Resolution

No later than three (3) working days after confirming the adequacy of the
Statement and notifying the appropriate parties, the UGO shall direct the
Academic Supervisor, the college dean, and/or the Provost to enter into
discussions with the Tenured Faculty Member in an effort to come to a resolution
as to possible disciplinary action to be taken against the Tenured Faculty Member
by mutual agreement.: The agreement by the Tenured Faculty Member to accept
such action does not imply admission of responsibility for the charge(s).

If an agreement is reached, it requires the approval of the Provost. If the Provost
determines that the agreement is appropriate, and the agreement does not involve
revocation of tenure, a demotion, reduction in pay, resignation, or other separation
from the University, the Provost is authorized to approve the agreement. If the
Provost determines that the agreement is appropriate, and the agreement involves
revocation of tenure, a demotion, reduction in pay, resignation, or other separation
from the University, the agreement must be approved by the President. If the
Provost determines, after consultation with the UGO, that the agreement is not appropriate, the Provost shall direct that the matter proceed to a the formal Hearing Process. This agreement that states the disciplinary action, if rejected, may not be used in the resulting Hearing. If no agreement can be reached within five (5) working days of the UGO’s directive to enter into discussions, the matter shall proceed to a the formal Hearing Process.

If the decision is made to proceed to a the formal Hearing Process, the Tenured Faculty Member shall be notified of the decision and given ten (10) working days to submit a written response (hereinafter termed the “Response”) to the allegations in the Statement.

**E.15.4 Hearing Process**

If the allegations in the Statement are limited to performance of professional duties (Section E.15.a), then the procedures specified in Section E.15.4.1 are to be followed. If the allegations in the Statement are limited to behavior (Section E.15.b), then the procedures specified in Section E.15.4.2 are to be followed. If the Statement contains allegations involving both performance of professional duties and behavior, and each of the two procedures determines that a formal hearing is warranted, then a single Hearing shall be conducted with the participation of both of the Hearing Committees specified in Sections E.15.4.1 and E.15.4.2.

As appropriate, individuals appointed to serve on Hearing Committees assembled under the provisions of Section E.15 may have their effort distributions adjusted, as negotiated with their immediate supervisor, to reflect their involvement in the disciplinary process, or they may receive release time from some of their academic obligations.

**E.15.4.1 Performance of Professional Duties**
For allegations involving performance of professional duties as described in Section E.15.a, the charges shall be considered in a Phase II Review (see Section E.14.3.2) before they are considered in a formal disciplinary Hearing Process is initiated. The Phase II Review Committee shall determine whether or not a formal disciplinary Hearing Process is warranted. The Provost may, for convincing reasons stated in writing, reverse the decision of the Phase II Review Committee, but this must be done within five (5) working days of being notified of the decision.

If the decision is made to conduct a formal disciplinary Hearing regarding allegations involving performance of professional duties, the Tenured Faculty Member’s performance must be judged against the normal expectations within their department, taking into account the tenured faculty member’s effort distribution (see Section E.9.1) and workload (see Section E.9.2). In this case, a Hearing Committee of at least six (6) members shall be formed. The persons eligible to serve on this Hearing Committee are the tenured faculty members of the Tenured Faculty Member’s department who have the same or higher rank as the Tenured Faculty Member and who have no administrative duties (see Section K.11.2), but excluding the Tenured Faculty Member and their academic supervisor. The Department Code may specify the process for selecting the eligible faculty members to serve on the Hearing Committee. If the Department Code does not specify this process, then the Hearing Committee shall consist of six (6) eligible faculty members drawn by lot by the college dean. If there are fewer than six (6) faculty members of the department eligible for the committee, then additional members shall be drawn by lot by the college dean from a pool consisting of all tenured faculty members of the college who have the same or higher rank as the Tenured Faculty Member and who have no administrative duties (see Section K.11.2). The members of this Hearing Committee shall then select from their membership a chairperson who shall be a voting chair of the committee.

E.15.4.2 Behavior
If the Statement contains allegations involving behavior as described in Section E.15.b, then the UGO and the Chair of the Faculty Council shall jointly appoint a six (6) person Hearing Committee from the tenured faculty members of the Faculty Grievance Panel (see Section K.15). Neither the Tenured Faculty Member nor their Academic Supervisor may be part of this committee. The members of this Hearing Committee shall then select from their membership a chairperson who shall be a voting chair of the committee.

If the Statement involves allegations of sexual harassment, discrimination, bullying, retaliation, or research misconduct, the procedures appropriate to those allegations shall be followed (see Appendices 1, 2, 3, 6, and 7) before a Hearing Committee is formed.

This Hearing Committee shall conduct a Preliminary Review in which they discuss the allegations in the Statement, evaluate the Tenured Faculty Member’s Response and determine whether or not a Hearing is warranted. During this process, the Hearing Committee may request additional statements from the Tenured Faculty Member, the person(s) filing the Statement, and/or other persons deemed to have relevant information. The Hearing Committee shall then retire for private discussion, which shall be confidential. These deliberations shall be followed by a vote to determine if sufficient information exists to warrant a Hearing. The decision to conduct a Hearing requires a majority vote. The Provost may, for convincing reasons stated in writing, reverse this decision by the Hearing Committee, but this must be done within five (5) working days of being notified of the decision.

**E.15.4.3 Removal of Hearing Committee Members**

Members of a Hearing Committee who believe themselves sufficiently biased or interested that they cannot render an impartial judgment shall remove themselves from the committee on their own initiative. Challenges for cause may be lodged with the UGO by the Tenured Faculty Member, the person(s) who filed the Statement, or any member of the Hearing Committee. The UGO shall decide
all challenges with such advice from legal counsel for the University or from the Colorado Department of Law (Office of the Attorney General) as the UGO deems necessary or advisable. The UGO may remove a member of the Hearing Committee even though actual cause cannot be proven. The Tenured Faculty Member shall have a maximum of two (2) challenges without stated cause, but such challenges must be made within five (5) working days of receiving notification of the membership of the Hearing Committee. If a member is removed from the Hearing Committee, then a replacement member shall be chosen by following the same procedures for the initial selection of the committee members in order to produce a Hearing Committee with six (6) members.

**E.15.4.4 Hearing**

a. The Hearing Committee(s) may hold organizational meetings which may include meetings with the Tenured Faculty Member, the Academic Supervisor, the person(s) filing the Statement, or other persons, as needed, to (1) clarify the issues, (2) effect stipulations of facts, (3) provide for the exchange of documentary or other information, (4) formulate a list of potential witnesses, and (5) achieve other pre-Hearing objectives as will make the Hearing fair, effective, and expeditious. The UGO shall be present at all meetings of the Hearing Committee(s). The Hearing Committee(s) decide what witnesses will be interviewed and will provide a written explanation of their decision to the UGO. The written explanation of the decision will be shared with Tenured Faculty Member and the person(s) filing the Statement.

b. The Tenured Faculty Member and the person(s) filing the Statement shall be notified in writing of the Hearing and the specific allegations within five (5) working days following the formal decision to proceed with the Hearing. Within five (5) working days of this notification, the Tenured Faculty Member and the person(s) filing the Statement must submit to the UGO any additional materials that they wish the Hearing Committee(s) to consider. The UGO shall forward these
materials to the Hearing Committee(s) within three (3) working days of receiving them.

The Hearing shall commence no sooner than twenty (20) working days following receipt of the notice by the Tenured Faculty Member, unless the Tenured Faculty Member requests an earlier Hearing and the Hearing Committee concurs. A notice is deemed to have been received when it is delivered personally to the Tenured Faculty Member, or when it has been sent to the Tenured Faculty Member via email to their official CSU email address, or when receipt has been confirmed by the UGO by the Tenured Faculty Member.

c. The Hearing and recommendations for action shall be limited to the allegations specified in the Statement. Any additional allegations emerging during the Hearing may be considered only after a new Statement regarding such allegations has been filed with the Hearing Committee(s) and the Tenured Faculty Member has been given an opportunity to submit a new written Response.

d. The Hearing shall be closed, and the proceedings shall remain confidential to the extent permitted by law. During the Hearing, the Tenured Faculty Member and the UGO shall be present at all times, and the Tenured Faculty Member shall be invited to be present at all times. In addition, the Tenured Faculty Member and the Hearing Committee(s) shall each be permitted to have a maximum of two (2) advisors present, consisting of academic advisors and/or legal counsel. These advisors may provide advice and assistance, but they may not actively participate in the proceedings, such as making objections or attempting to argue the case (however, if an advisor is called as a witness, the advisor is allowed to participate in this capacity). Advisors for any participant shall be free to advise the participant fully throughout the proceeding, including assisting the participant in formulating any required written documentation and helping the participant prepare for any oral presentations.

e. The Hearing shall be recorded, a copy of the recording shall be made available, without cost, to the Tenured Faculty Member, and a verbatim transcription shall be
made available without cost to the Tenured Faculty Member at the Tenured Faculty Member’s request.

f. At least five (5) working days prior to the Hearing, the Tenured Faculty Member and the person(s) filing the Statement Hearing Committee(s) shall be provided at least five (5) working days prior to the Hearing with all written documents scheduled to be presented and the names of all witnesses scheduled to be heard in the proceedings, along with the nature of their proposed testimony. The administration shall cooperate with the Tenured Faculty Member and the Hearing Committee(s) to the extent possible in securing witnesses and making documentary and other information available.

If the need arises, the Hearing Committee(s) may decide to request additional written documents or call additional witnesses during the Hearing. If so, the Tenured Faculty Member must be given the opportunity to prepare a response to such changes, and this may include presenting new written documents and/or calling additional witnesses. This may require adjournments of the Hearing for periods that the Hearing Committee(s) deem appropriate.

g. The Tenured Faculty Member and the Hearing Committee(s) shall have the right to see all written evidence presented, hear all testimony, and question all witnesses. Furthermore, the Tenured Faculty Member must be afforded the opportunity to question the person(s) filing the Statement. If any person filing the Statement refuses to appear as a witness, then the Hearing shall conclude immediately, and no disciplinary action shall be taken as a result of this Hearing (although the same allegations may be considered again in a newly initiated Hearing). However, harassment of witnesses by the Tenured Faculty Member, as determined by a concurrence of at least two-thirds (2/3) of the members of the Hearing Committee(s), is prohibited. Also, if it is deemed appropriate by at least two-thirds (2/3) of the members of the Hearing Committee(s), the questioning of one (1) or more witnesses may occur with the parties being in different physical locations, but the questioning must occur in a real-time, spontaneous format (e.g.,
a video conference or a teleconference), unless at least two-thirds (2/3) of the members of the Hearing Committee concur that this is not feasible.

h. The person(s) filing the Statement shall not be present during the testimony of others, unless specifically invited by the Hearing Committee(s). Such an invitation must be agreed to by at least two-thirds (2/3) of the members of the Hearing Committee(s). Such an invitation does not include the right to question either the Tenured Faculty Member or any other witnesses, unless this right is included explicitly in the invitation. If such an invitation is made, the invited person shall be permitted to have a maximum of two (2) advisors present, consisting of academic advisors and/or legal counsel. These advisors may provide advice and assistance, but they may not actively participate in the proceedings (however, if an advisor is called as a witness, the advisor is allowed to participate in this capacity).

i. The Hearing Committee is not bound by strict rules of legal evidence. Every possible effort shall be made to obtain the most reliable information available.

j. If one or more members of the Hearing Committee cannot complete the Hearing and reporting process, then this process shall continue without them. However, if fewer than five (5) members of the Hearing Committee are able to complete this process, then the process shall be terminated, a new Hearing Committee shall be formed, and a new Hearing shall be conducted.

E.15.5 Procedures Following Completion of the Hearing

After the completion of the Hearing, the Hearing Committee(s) shall retire for private discussion and review with the UGO being present. These deliberations shall remain confidential to the extent permitted by law. If there are two (2) Hearing Committees, they shall have separate deliberations and make separate recommendations.

Each Hearing Committee shall evaluate the information presented to determine if the condition required for disciplinary action exists related to its particular charge
(behavior or performance of professional duties). If the Hearing Committee determines that the condition does not exist, then it shall issue a report that states that finding. If the Hearing Committee determines that the condition does exist, then it shall issue a report that states that finding and makes a recommendation for appropriate disciplinary action. In deciding upon appropriate disciplinary action, the Hearing Committee shall consider the totality of the circumstances, including the egregiousness of the Tenured Faculty Member’s actions, the prior actions and history of the Tenured Faculty Member, and whether a pattern exists.

The written report of the Hearing Committee shall include a comprehensive and detailed summary of the relevant facts and the conclusions reached in assessing those facts. If any members of the Hearing Committee disagree with the Committee’s recommendation, they shall jointly prepare a minority statement explaining their reasons for disagreement with the majority, and this shall be part of the Hearing Committee’s report. If the Recommendation from the Hearing Committee is not unanimous, the report shall explain the reasoning of the dissenting minority, as well as that of the majority.

The Hearing Committee shall issue its final report no later than ten (10) working days after the conclusion of the Hearing.

E.15.6 Recommendations for Disciplinary Action

If at least two-thirds (2/3) of the members of the Hearing Committee concur that disciplinary action is appropriate, a written report shall be prepared that states this conclusion, recommends specific sanctions, and specifies the reasons for this recommendation. The report must include a review of the information and an explanation of the grounds for the recommendation. The sanction(s) recommended must be reasonably related to the seriousness of the offense and may take into account the totality of the circumstances.
A recommendation for revocation of tenure and/or termination of appointment requires the concurrence of at least two-thirds (2/3) of the members of the Hearing Committee.

If less than two-thirds (2/3) of the members of the Hearing Committee concur that disciplinary action is appropriate, a written report shall be prepared that recommends that no disciplinary action be taken.

**E.15.7 Disposition of the Hearing Committee’s Report**

The Hearing Committee’s written report, which may include a minority statement, shall be transmitted to the Tenured Faculty Member and their Academic Supervisor, the person(s) filing the Statement, and, at successive steps, to the dean and the Provost.

The Tenured Faculty Member and the person(s) filing the Statement, shall have the right to object in writing to the recommendation of the Hearing Committee. Such an objection shall be limited to five (5) typed pages with normal font size, and it must be submitted to the Faculty Member’s Academic Supervisor, no later than five (5) working days after receipt of the Hearing Committee’s report. Any objections shall be attached to the recommendation of the Hearing Committee and considered together with this recommendation at each successive level in the administrative chain.

**E.15.8 Administrative Action on the Hearing Committee Recommendations**

After a recommendation is received from the Hearing Committee, the Academic Supervisor shall review the Hearing Committee’s report and recommendation and any written objections and make their own recommendation to the dean within five (5) working days, with copies sent to the Tenured Faculty Member and the person(s) filing the Statement. The dean shall then review the Hearing Committee’s report and recommendation, any written objections, and the recommendation from the Academic Supervisor and make their own
recommendation to the Provost within five (5) working days, with copies sent to the Tenured Faculty Member, the person(s) filing the Statement, and the Academic Supervisor. If two (2) separate Hearing Committees have made two separate recommendations, each recommendation is considered separately until the two recommendations reach the Provost. The Provost shall then combine the two separate recommendations and make a single recommendation to the President. If someone in the administrative chain fails to issue a recommendation within five (5) working days the specified time limit, the matter shall be forwarded to the next administrative level for review.

If the Provost must combine two separate recommendations into a single recommendation to the President, then the decision of the President is final. Otherwise, the decision of the Provost is final, unless the decision involves revocation of tenure, a demotion, reduction in pay, resignation, or other separation from the University. If the decision of the Provost involves revocation of tenure, a demotion, reduction in pay, resignation, or other separation from the University, then that decision shall be forwarded to the President as a recommendation, and the decision of the President is final. A final decision by the Provost or a recommendation by the Provost to the President must be made within ten working (10) days of receiving the recommendation from the dean. A final decision by the President must be made within ten (10) working days of receiving the recommendation from the Provost.

An alternate recommendation or final decision that is either more or less severe than the recommendation made by the Hearing Committee(s) shall be issued at a higher administrative level only for compelling reasons that shall be stated in writing to the Tenured Faculty Member, the person(s) filing the Statement, the Hearing Committee(s), and all previous administrators in the administrative chain. In the case of an alternate recommendation, the Tenured Faculty Member, the person(s) filing the Statement, the Hearing Committee(s), and the previous administrators in the administrative chain shall be given five (5) working days from the date of notification of the alternate recommendation to object in writing to the
administrator’s reasons for making the alternate recommendation, and the alternate recommendation could be reversed at an even higher administrative level. If the Provost must make a recommendation to the President, the Provost’s recommendation shall be communicated in writing to the Tenured Faculty Member, the person(s) filing the Statement, the Hearing Committee(s), and all previous administrators in the administrative chain, and it may be objected to the President in the same manner within five (5) working days. Objections shall each be limited to five (5) typed pages with normal font size and shall be forwarded to each successive administrator along with the alternate recommendation and the rationale for it.

**E.15.9 Written Records**

The recording of the Hearing, the verbatim transcription if requested by the Tenured Faculty Member, and all written records of E.15 documents and proceedings, including the Statement and Response; supporting documents; committee reports and recommendations, including any minority statement(s); administrative reviews of committee recommendations; alternate recommendations; objections to any recommendations; and final decisions, shall be kept on file in the archives of the UGO for three years or for the duration of the employment of the Tenured Faculty Member, whichever is longer, and these shall be considered to be part of the Tenured Faculty Member’s official Personnel File (see footnote #2 regarding the official Personnel File).

**E.15.10 Term of Continuation of Faculty Salary and Benefits Following Termination of Appointment**

Employment, together with salary and benefits, shall terminate upon a final decision to terminate an appointment. However, employment may continue for a period not to exceed one (1) year if the President independently determines or concurs with a recommendation that employment be continued for that specified period to enable the Tenured Faculty Member to complete essential responsibilities.
E.15.11 Time Limit for Action by the Provost

The Provost must act on the final decision regarding disciplinary action within ten (10) working days of the reporting of that decision.

**Rationale:**

It is made clear that the Hearing Committee decides what witnesses it will interview.

The wording has been changed to clarify the intention that the Tenured Faculty member has the right to be present at all times. The current wording is not clear. Does it mean that the hearing cannot occur if the Tenured Faculty Member refuses to attend? If so, this allows the Tenured Faculty Member to avoid discipline simply by refusing to attend the hearing. Does the current language mean that the Tenured Faculty Member is required to attend the hearing, and that they can be disciplined for refusing to attend? Neither of these interpretations is the intent of the language. The intent is to state that the Tenured Faculty Member has the right to attend the hearing, but they are not required to attend.

In several places, timelines are made clear.