

Faculty Disciplinary Tribunal

Applicability

This policy applies to full-time faculty at the rank of Instructor and higher. Due process relating to disciplinary actions for Associates will be ensured through the House Staff Affairs Committee of the Medical Board, and due process for Research and Teaching Assistants will be overseen by Human Resources.

Purposes and Principles

In the best interests of Icahn School of Medicine, its students, faculty, and those it serves, it may sometimes be necessary to impose disciplinary action on a faculty member.

When disciplinary action is imposed, the faculty member shall have the right to a hearing. It shall be the responsibility of the hearing body to review and consider carefully all evidence properly presented to it and to render its findings and recommendations to the Dean of the School of Medicine for appropriate action. Both the hearing body and the Dean shall perform their obligations as herein described in such a manner as to protect both the rights of the faculty member and the interests of the School of Medicine. The following provisions apply to all members of the faculty of the Icahn School of Medicine.

Definitions

For ease of reference, the term "Department Chair" as used herein shall be understood to mean a Department Chair, Institute Director, or equivalent and the term "Department" shall be understood to mean a Department, Institute, or equivalent. The term "Dean" as used herein shall mean the Dean of the School of Medicine or the Dean for Academic and Scientific Affairs.

Grounds for Disciplinary Action

Grounds for disciplinary action against a faculty member during the faculty member's term of appointment include, but are not limited to:

- Neglect of professional duties
- Violation of professional or ethical obligations
- Fraud or misconduct in research or professional activities
- Other grave misconduct
- Conviction of a criminal act
- Violation of campus rules and regulations

Who May Initiate Summary Suspension or Other Disciplinary Action

A Department Chair may initiate disciplinary action by recommending to the Dean suspension, dismissal, or other serious disciplinary action as may be appropriate against any faculty member in his or her Department during the term of the faculty member's appointment.

The Dean may initiate disciplinary action where:

- the charged faculty member is a Department Chair
- the faculty member has an appointment in a Department where there is no designated Department Chair

- the Department Chair fails to act in good faith to investigate allegations made against a faculty member after a direct request to do so by the Dean
- in extraordinary circumstances, where the Dean has determined that the disciplinary process may be compromised by the participation of the Department Chair, or
- where disciplinary action has been deemed to be appropriate after an investigation conducted under the Policies and Procedures (/sites/mssm/default/about/faculty-resources/handbook/research/ethical-practices) or by the Grievance Committee.

The Dean may summarily suspend with pay any faculty member whose continued presence on the faculty is deemed to be seriously detrimental to the safety or welfare of patients, other faculty members, students, employees, or the School of Medicine.

Notice

- The Dean shall send the faculty member written notice of disciplinary action.
- The Dean shall send the faculty member written notice of summary suspension.
- Written notice shall include a written statement of the reasons for such action. The notice will also advise the faculty member of his/her right to a hearing by the Disciplinary Tribunal. The written notice shall be sent to the faculty member by certified mail, return receipt requested.

Right to Hearing

Any faculty member who has received notice of disciplinary action is entitled to a hearing under the procedures herein set forth. Where the faculty member has been summarily suspended, the summary suspension shall remain in effect until a final determination is made.

Request for Hearing

A faculty member who wishes to request a hearing must do so in writing to the President of the Faculty Council. This request must be sent by certified mail, postmarked no later than ten business days following the faculty member's receipt of a notice of summary suspension or other disciplinary action. If no such request is made, the Dean shall impose disciplinary action and the Dean's action shall be final.

Where the President of the Faculty Council has received a timely written request for a hearing, the President of the Faculty Council shall forward a copy of such written request to the Dean.

Composition of the Disciplinary Tribunal

The composition of the Tribunal, appointment to the Tribunal and charge to the Tribunal is detailed in Chapter II in the section on Committees of the Faculty Council.

Hearing

The President of the Faculty Council shall direct the Disciplinary Tribunal to hold a hearing no sooner than ten business days and no later than twenty business days from the date the written request for a hearing is received. The Chair of the Disciplinary Tribunal may grant an extension of time for cause upon request of the faculty member.

The Disciplinary Tribunal is authorized to conduct a hearing and at that hearing to examine all charges and allegations, hear testimony, question witnesses, inspect records and reports, call witnesses, and request the production of records and reports. The rules of evidence shall not apply at the hearing. The Disciplinary Tribunal shall make such additional rules, as it deems necessary to assure prompt, fair and expeditious handling of the matter.

If the faculty member has been the subject of disciplinary action under the By-Laws of the Medical Staff of The Mount Sinai Hospital (the "Medical Staff By-Laws") and the grounds for such disciplinary action were substantially the same as those set forth in the written notice described above, the faculty member will nonetheless be entitled to request a hearing before the Disciplinary Tribunal. The hearing before the Disciplinary Tribunal shall be limited to determining whether the facts found by the hearing body under the Medical Staff By-Laws are sufficient to sustain disciplinary action by the School of Medicine against the faculty member.

The Disciplinary Tribunal shall conduct the hearing in closed session. All testimony at the hearing shall be under oath and the hearing shall be stenographically recorded.

The faculty member shall be entitled to be present at the hearing, to present relevant evidence and witnesses on his or her behalf and to question witnesses appearing in support of the charges made. The hearing shall be a peer review process and, therefore, neither the faculty member nor the party presenting the charges shall be entitled to representation by an attorney at the hearing unless the Disciplinary Tribunal, in its discretion, permits both sides to be represented by counsel. If faculty member so chooses, one member of the faculty of the School of Medicine may accompany him or her at the hearing.

Report of the Disciplinary Tribunal

Within fifteen business days of the conclusion of the hearing the Disciplinary Tribunal shall make a written report to the Dean, setting forth its findings of fact. The findings of the Disciplinary Tribunal shall be based on a preponderance of the evidence.

The Disciplinary Tribunal shall include in its written report recommendations to the Dean as to whether disciplinary action is appropriate and if so, what action should be taken. Penalties that may be recommended by the Tribunal include:

1. Admonition: an oral statement to the offender that he/she has violated the Rules and Regulations of the School.
2. Warning: notice to the offender, orally or in writing, that continuation or repetition of the wrongful conduct within a period of time stated in the warning may be cause for more severe disciplinary action.
3. Censure: written reprimand for violation of a specified regulation, including the possibility of more severe disciplinary sanction in the event of conviction for the violation of any Rule or Regulation of the School within a period of time stated in the letter of reprimand.
4. Disciplinary Probation: exclusion from participation in privileges or School activities as set forth in the notice of disciplinary probation for a specified period of time.
5. Restitution: reimbursement for damage to or misappropriation of property. Reimbursement may take the form of appropriate service to repair or otherwise compensate for damages.
6. Suspension: exclusion from privileges or activities as set forth in the notice of suspension for a definite period of time.
7. Termination: termination of faculty status for an indefinite period. The conditions of reinstatement, if any is permitted, shall be stated in the order of termination.

Action by the Dean

Within five business days after receipt by the Dean of the written report of the Disciplinary Tribunal, the Dean shall send to the Department Chair and to the faculty member by certified mail, return receipt requested:

- a. a copy of the written findings of the Disciplinary Tribunal together with a copy of its written recommendations, and
- b. written notice of the decision of the Dean with respect to disciplinary action, if any, against the faculty member.

If the faculty member does not appeal the decision of the Dean or the findings of the Disciplinary Tribunal pursuant to the provisions stated below, such findings and decision shall be final.

Appeal to Board of Trustees

1. The faculty member may appeal the findings of the Disciplinary Tribunal or the decision of the Dean to the Board of Trustees. A request for an appeal must be sent in writing to the Chair of the Board of Trustees by certified mail, return receipt requested, no later than fifteen business days after receipt of the decision of the Dean. Such request shall set forth the basis for the appeal.
2. The Chair of the Board of Trustees shall refer the appeal to an appeals board comprised of no fewer than three members of the Board of Trustees.
3. The appeals board shall convene to consider the matter of the appeal no later than thirty business days from the date the written request for appellate review is received unless the faculty member requests an extension of time.
4. The appeal shall be limited to the record of the proceedings before the Disciplinary Tribunal and the scope of review shall be limited to determining
 - a. whether the hearing before the Disciplinary Tribunal was conducted in a fair manner, and
 - b. whether there is a reasonable basis on which to support
 - c. the findings of the Disciplinary Tribunal and
 - d. the action of the Dean
5. Within fifteen business days after the conclusion of the appellate review, the appeals board shall send written notice of its decision to the faculty member, the Dean, and the Department Chair. The decision of the body hearing the appeal shall be final.

Contact Us

1 Gustave L. Levy Place
New York, NY 10029-5674

P: 212-241-6500

