

**Exhibit A**  
**BOARD OF REGENTS POLICY MANUAL**  
**Revised Policy with Markup**  
**Meeting of April 18 - 19, 2023**

**Board Policy Revisions to Section 8.3.5.4 Post-Tenure Review and Subsection 8.3.9.1 Ground for Removal**

**Background:**

In consultation with the USG Faculty Council, we have determined that we need to further distinguish, and make self-sufficient, two Board policies: 8.3.5.4 and 8.3.9.1. Policy 8.3.5.4 stipulates that an unsuccessful outcome of a post-tenure review process could lead to a variety of remedial actions. One of those actions is separation from employment, for which the previous post-tenure policy did not provide for a final faculty hearing as is provided for separation of employment in 8.3.9 Discipline and Removal of Faculty Members. While a final faculty hearing seems redundant for post-tenure review outcomes given the extensive steps already incorporated into the post-tenure review process, adding such a hearing will better align a separation of employment based on post-tenure review with a separation of employment based on other reasons. Consequently, this policy revision allows for an expeditious faculty hearing to evaluate due process, and one that is not binding on the President, at the final stage of the post-tenure review process. This makes policy 8.3.5.4 self-sufficient for separation of employment cases that are based on a post-tenure review. Consequently, to provide a clear distinction, 8.3.9.1 Grounds for Removal has been changed to explicitly state that 8.3.9.1 applies only to those cases that are not identified as part of the post-tenure review process.

An additional change in the post-tenure review policy is a clarification of what happens when the department chair and dean do not agree on an assessment. The new language notes that, in this circumstance, the provost will make the final assessment.

**Effective Date:**

The effective date of this policy revision is April 19, 2023.

**Current Policy Language:**

**8.3.5.4 Post-Tenure Review**

The post-tenure review process shall support the further career development of tenured faculty members as well as ensure accountability and continued strong performance from faculty members after they have achieved tenure.

Each tenured faculty member shall participate in a post-tenure review within five years following the award of tenure and again at least once every five years thereafter. The first post-tenure review shall assess the tenured faculty member's performance since the award of tenure, and subsequent post-tenure reviews shall assess the performance since the most recent post-tenure review.

A tenured faculty member may voluntarily choose to participate in a post-tenure review sooner than five years. If this voluntary review is successful, then the faculty member's next scheduled post-

tenure review will take place five years after this voluntary review. In addition, a tenured faculty member whose performance is evaluated as unsatisfactory or not meeting expectations – whether overall or in any particular area – in an annual review process will be provided with a remediation plan. If the faculty member’s performance is evaluated as unsatisfactory or not meeting expectations – overall or in a particular area – again the next year, the faculty member shall then undergo a corrective post-tenure review. That review will not alter the timing of the faculty member’s regularly scheduled five-year post-tenure review thereafter.

Each tenure-granting institution must create its own specific policies for implementing this post-tenure review policy. Each institution’s policies shall be developed in consultation with the institution’s faculty and shall include appropriate due-process mechanisms. Institutions will have flexibility in their implementation to create a process appropriate to the campus context. Prior to implementation, institutions must submit policies and evaluation criteria to the Chancellor or the Chancellor’s designee(s) for approval. The Chancellor or the Chancellor’s designee(s) will provide institutions with more specific guidelines for their post-tenure review policies and procedures.

Consistent with those guidelines and institutional policies, post-tenure review shall include evaluation of instruction, student success activities, research/scholarship, and service as is appropriate to the faculty member’s institution, school or college, and department. The post-tenure review will also incorporate findings from the faculty member’s annual reviews from the years since the last post-tenure review. The faculty member shall provide review materials and additional information, as provided for in the institution’s guidelines, to aid the review process.

The post-tenure review will include, at a minimum, feedback from the faculty member’s department chair and a committee of faculty colleagues. The results of the post-tenure review shall be conveyed to the faculty member. The results of the post-tenure review shall be considered in subsequent decisions on promotion, merit pay, and other rewards.

If the results of the post-tenure review are unfavorable, then a performance improvement plan shall be created by the applicable department chair and dean in consultation with the faculty member. The necessary elements of such performance improvement plans will be described in the guidelines provided by the Chancellor or the Chancellor’s designee(s) as well as in each institution’s post-tenure review policies.

If the faculty member successfully completes the performance improvement plan, then the faculty member’s next post-tenure review will take place on the regular five-year schedule. If the faculty member fails to make sufficient progress in performance as outlined in the performance improvement plan (or refuses to engage reasonably in the process) as determined by the department chair and dean after considering feedback from the committee of faculty colleagues, then the institution shall take appropriate remedial action corresponding to the seriousness and nature of the faculty member’s deficiencies. The President will make the final determination on behalf of the institution regarding appropriate remedial action. An aggrieved faculty member may seek discretionary review of the institution’s final decision pursuant to the Board Policy on Applications for Discretionary Review.

Remedial actions may include, but are not necessarily limited to, suspension of pay, salary reduction, revocation of tenure, and separation from employment. The institution must give the faculty member notice of the possibility of such remedial actions when the performance

improvement plan begins. The determined remedial action will be imposed in accordance with the guidelines provided by the Chancellor or the Chancellor's designee(s) as well as the institution's post-tenure review policies. The institution's imposition of such remedial action will not be governed by or subject to the Board Policy on Grounds for Removal or Procedures for Dismissal.

Each institution shall also develop and implement procedures to conduct post-tenure reviews with tenured faculty members who hold administrative positions. These procedures shall address the distinctive nature of administrators' work and leadership roles, include constituent feedback, and reflect that tenure is held in faculty positions not in administrative positions. Each institution shall compile and submit an annual report on post-tenure review activity to the Chancellor or the Chancellor's designee(s).

### **8.3.9.1 Grounds for Removal**

A tenured or non-tenured faculty member may be dismissed before the end of his or her contract term for any of the following reasons, provided that the institution has complied with procedural due process requirements:

1. Conviction or admission of guilt of a felony or of a crime involving moral turpitude during the period of employment or prior thereto if the conviction or admission of guilt was willfully concealed;
2. Professional incompetency, neglect of duty, or default of academic integrity in teaching, research, or scholarship;
3. Unlawful manufacture, distribution, sale, use, or possession of marijuana, a controlled substance, or other drugs as defined by applicable laws; teaching or working under the influence of alcohol or illegal or dangerous drugs, which interferes with the faculty member's performance of duties or responsibilities to the institution or his or her profession;
4. Conviction or admission of guilt in a court proceeding of any criminal drug offense;
5. Physical or mental incompetency as determined by law or by a medical board of three or more licensed physicians and reviewed by a committee of the faculty;
6. False swearing with respect to official documents or statements filed with or given to the institution;
7. Disruption of any teaching, research, administrative, disciplinary, public service, or other authorized activity;
8. Violation of Board of Regents' policies; and,
9. Other grounds for dismissal as may be specified in the institution statutes of the institution, which may supplement the Board of Regents' policies governing causes and procedures for dismissal.

Each institution should provide for standards governing faculty conduct, including sanctions short of dismissal and procedures for implementing such sanctions. In imposing sanctions, the burden of proof lies with the institution.

## **Revised Policy Language in Change Tracker**

### **8.3.5.4 Post-Tenure Review**

The post-tenure review process shall support the further career development of tenured faculty members as well as ensure accountability and continued strong performance from faculty members after they have achieved tenure.

Each tenured faculty member shall participate in a post-tenure review within five years following the award of tenure and again at least once every five years thereafter. The first post-tenure review shall assess the tenured faculty member's performance since the award of tenure, and subsequent post-tenure reviews shall assess the performance since the most recent post-tenure review.

A tenured faculty member may voluntarily choose to participate in a post-tenure review sooner than five years. If this voluntary review is successful, then the faculty member's next scheduled post-tenure review will take place five years after this voluntary review. In addition, a tenured faculty member whose performance is evaluated as unsatisfactory or not meeting expectations – whether overall or in any particular area – in an annual review process will be provided with a remediation plan. If the faculty member's performance is evaluated as unsatisfactory or not meeting expectations – overall or in a particular area – again the next year, the faculty member shall then undergo a corrective post-tenure review. That review will not alter the timing of the faculty member's regularly scheduled five-year post-tenure review thereafter.

Each tenure-granting institution must create its own specific policies for implementing this post-tenure review policy. Each institution's policies shall be developed in consultation with the institution's faculty and shall include appropriate due-process mechanisms. Institutions will have flexibility in their implementation to create a process appropriate to the campus context. Prior to implementation, institutions must submit policies and evaluation criteria to the Chancellor or the Chancellor's designee(s) for approval. The Chancellor or the Chancellor's designee(s) will provide institutions with more specific guidelines for their post-tenure review policies and procedures.

Consistent with those guidelines and institutional policies, post-tenure review shall include evaluation of instruction, student success activities, research/scholarship, and service as is appropriate to the faculty member's institution, school or college, and department. The post-tenure review will also incorporate findings from the faculty member's annual reviews from the years since the last post-tenure review. The faculty member shall provide review materials and additional information, as provided for in the institution's guidelines, to aid the review process.

The post-tenure review will include, at a minimum, feedback from the faculty member's department chair and a committee of faculty colleagues. The results of the post-tenure review shall be conveyed to the faculty member. The results of the post-tenure review shall be considered in subsequent decisions on promotion, merit pay, and other rewards.

If the results of the post-tenure review are unfavorable, then a performance improvement plan shall be created by the applicable department chair and dean in consultation with the faculty member. The necessary elements of such performance improvement plans will be described in the guidelines provided by the Chancellor or the Chancellor's designee(s) as well as in each institution's post-tenure review policies.

If the faculty member successfully completes the performance improvement plan, then the faculty member's next post-tenure review will take place on the regular five-year schedule. If the faculty member fails to make sufficient progress in performance as outlined in the performance improvement plan (or refuses to engage reasonably in the process) as determined by the department chair and dean after considering feedback from the committee of faculty colleagues, then the institution shall take appropriate remedial action corresponding to the seriousness and nature of the faculty member's deficiencies. If the department chair and the dean do not agree on their assessment of sufficient progress in performance, the provost will make the final assessment. The President will make the final determination on behalf of the institution regarding appropriate remedial action. An aggrieved faculty member may seek discretionary review of the institution's final decision pursuant to the Board Policy on Applications for Discretionary Review.

Remedial actions may include, but are not necessarily limited to, suspension of pay, salary reduction, revocation of tenure, and separation from employment. The institution must give the faculty member notice of the possibility of such remedial actions when the performance improvement plan begins. The determined remedial action will be imposed in accordance with the guidelines provided by the Chancellor or the Chancellor's designee(s) as well as the institution's post-tenure review policies. The institution's imposition of such remedial action will not be governed by or subject to the Board Policy on Grounds for Removal or Procedures for Dismissal. However, if the remedial action is separation from employment, the faculty member has the right to request a final faculty hearing for the purpose of confirming that due process was followed in reaching the decision of separation of employment. The outcome of the faculty hearing shall not be binding, but only advisory to the President who shall make the final decision. The procedures of this final faculty hearing will be governed by the procedures found in Post-Tenure Review in the Academic & Student Affairs Handbook.

Each institution shall also develop and implement procedures to conduct post-tenure reviews with tenured faculty members who hold administrative positions. These procedures shall address the distinctive nature of administrators' work and leadership roles, include constituent feedback, and reflect that tenure is held in faculty positions not in administrative positions. Each institution shall compile and submit an annual report on post-tenure review activity to the Chancellor or the Chancellor's designee(s).

### **8.3.9.1 Grounds for Removal**

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1. Conviction or admission of guilt of a felony or of a crime involving moral turpitude during the period of employment or prior thereto if the conviction or admission of guilt was willfully concealed;
2. ~~Professional incompetency, neglect of duty, or default of academic integrity in teaching, research, or scholarship;~~ Professional incompetency and neglect of duty that are not identified as part of the post-tenure review process, or default of academic integrity in teaching, research, or scholarship;

3. Unlawful manufacture, distribution, sale, use, or possession of marijuana, a controlled substance, or other drugs as defined by applicable laws; teaching or working under the influence of alcohol or illegal or dangerous drugs, which interferes with the faculty member's performance of duties or responsibilities to the institution or his or her profession;
4. Conviction or admission of guilt in a court proceeding of any criminal drug offense;
5. Physical or mental incompetency as determined by law or by a medical board of three or more licensed physicians and reviewed by a committee of the faculty;
6. False swearing with respect to official documents or statements filed with or given to the institution;
7. Disruption of any teaching, research, administrative, disciplinary, public service, or other authorized activity;
8. Violation of Board of Regents' policies; and,
9. Other grounds for dismissal as may be specified in the institution statutes of the institution, which may supplement the Board of Regents' policies governing causes and procedures for dismissal.

Each institution should provide for standards governing faculty conduct, including sanctions short of dismissal and procedures for implementing such sanctions. In imposing sanctions, the burden of proof lies with the institution.

### **New Policy Language:**

#### **8.3.5.4 Post-Tenure Review**

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3. Unlawful manufacture, distribution, sale, use, or possession of marijuana, a controlled substance, or other drugs as defined by applicable laws; teaching or working under the influence of alcohol or illegal or dangerous drugs, which interferes with the faculty member's performance of duties or responsibilities to the institution or his or her profession;
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6. False swearing with respect to official documents or statements filed with or given to the institution;
7. Disruption of any teaching, research, administrative, disciplinary, public service, or other authorized activity;
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9. Other grounds for dismissal as may be specified in the institution statutes of the institution, which may supplement the Board of Regents' policies governing causes and procedures for dismissal.

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**Exhibit B**  
**BOARD OF REGENTS STATEMENT OF PRINCIPLES ON**  
**ACADEMIC FREEDOM**

**PRINCIPLE 1: The BOR affirms the 1940 Statement of Principles on Academic Freedom (from the American Association of University Professors).**

1. “Teachers are entitled to full freedom in research and in the publication of the results, subject to the adequate performance of their other academic duties; but research for pecuniary return should be based upon an understanding with the authorities of the institution.
2. Teachers are entitled to freedom in the classroom in discussing their subject, but they should be careful not to introduce into their teaching controversial matter which has no relation to their subject. Limitations of academic freedom because of religious or other aims of the institution should be clearly stated in writing at the time of the appointment.
3. College and university teachers are citizens, members of a learned profession, and officers of an educational institution. When they speak or write as citizens, they should be free from institutional censorship or discipline, but their special position in the community imposes special obligations. As scholars and educational officers, they should remember that the public may judge their profession and their institution by their utterances. Hence they should at all times be accurate, should exercise appropriate restraint, should show respect for the opinions of others, and should make every effort to indicate that they are not speaking for the institution.”

**PRINCIPLE 2:** USG values the diversity of intellectual thought and expression, which shall be reflected in a student body and faculty that respect the individuality and beliefs of all.

**PRINCIPLE 3:** The BOR values our faculty and the important role they play in teaching, conducting research and providing service. Faculty have the right to be unburdened by ideological tests, affirmations and oaths. The key basis for hiring, promotion and tenure should be achievement and a commitment to student success.