CODE OF PROCEDURES FOR
SPECIAL ACADEMIC FREEDOM & TENURE - A (AFT-A) COMMITTEES
University of Nebraska-Lincoln

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1 INTRODUCTION

1.1 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 these rights and respect their exercise by others, and uphold the attendant responsibilities outlined in Regents Bylaw 4.1.

1.2 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

1.2.1 supervise, hire, assign or reassign responsibilities;
1.2.2 recommend or grant promotion or demotion; and/or
1.2.3 recommend or take any disciplinary or corrective actions.

1.3 Authority and Jurisdiction of Special AFT-A Committees.

1.3.1 Regents Bylaw 4.14 authorizes a Faculty Academic Freedom and Tenure Committee to consider complaints by any faculty member alleging any procedural or substantive grievance that constitutes an allegation that action taken, or threatened, violates the complainant's academic freedom or academic tenure. The UNL Faculty Senate, with the approval of the University of Nebraska Board of Regents, has vested that authority in Special AFT-A Committees established under the aegis of the Academic Rights and Responsibilities Committee (ARRC). A description of the committees can be found in the Syllabus of Committees of the Faculty Senate, available from the Faculty Senate Office and on the Faculty Senate website.

1.3.2 The Code entitled "Responsibilities of the Academic Rights and Responsibilities Committee and Procedures for Handling Matters of Academic Freedom and Tenure, Grievance and Professional Conduct" ("ARRC Procedures") indicates how complaints are to be received by the ARRC, assessed for sufficiency and jurisdiction, and transmitted to a Special Committee.

1.3.3 This **"**Code of Procedures for Special AFT-A Committees" indicates how a complaint is to be handled after the ARRC has transmitted it to a Special AFT-A Committee.

1.3.4 The ARRC Procedures and the Code of Procedures for Special AFT-A Committees in their current form are available from the Faculty Senate Office and on the Faculty Senate website. Any faculty member contemplating filing a complaint with the ARRC should first consult both documents. For information and advice concerning these procedures, contact the Chair of the ARRC.

2 DEFINITIONS

As used in this Code of Procedures for Special AFT-A Committees, 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 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).

2.4 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.

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

2.6 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.

2.7 Section, unless otherwise noted, refers to a section of this Code of Procedures for Special AFT-A Committees.

3 GENERAL RULES GOVERNING SPECIAL AFT-A COMMITTEES

3.1 Quorum. Each Special AFT-A Committee has six tenured members. If a member of the Special AFT-A Committee withdraws or is barred prior to commencement of the Hearing, the Chair of the Special AFT-A Committee shall notify the Chair of the ARRC, and the Chair of the ARRC shall make every reasonable effort to appoint a suitable replacement as provided in Section 3.3.5 of the ARRC Procedures. In an emergency, and with the consent of the parties, a hearing may be

conducted with one member absent, but a member absent from the hearing may not participate in subsequent deliberations. In no case may the Special AFT-A Committee proceed with the Hearing with fewer than five members present.

3.2 Voting. The Special AFT-A Committee may take action only on concurrence of four members. The Chair may vote.

3.3 Expiration of Term. A member of the Special AFT-A Committee whose term on the ARRC Panel expires during a case shall continue to serve until the case is concluded.

3.4 Conflict of Interest. Conflict of Interest occurs when a member of the Special AFT-A Committee

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

3.4.2 answers directly to a party or witness; or

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

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

3.4.5 has provided counsel or assistance to a party relating to the grievance; or

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

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

When a member of the Special AFT-A Committee discovers that the member has a conflict of interest, the member shall voluntarily withdraw from participation. When a member of the Special AFT-A Committee is alleged to have a conflict of interest and the member does not voluntarily withdraw, the ARRC shall review the allegation and, if a conflict of interest is found, shall bar that person from further participation.

3.5 Communications.

3.5.1 The Chair of the Special AFT-A Committee receives communications for the Committee and speaks for it. Both complainant and respondent shall address communications concerning the case only to the Chair of the Special AFT-A Committee. Special AFT-A Committee members should discourage contacts outside the regular process, and should direct those who make them to the Chair of the Special AFT-A Committee.

3.5.2 The Chair of the Special AFT-A Committee shall keep all parties informed of any substantive communications and contacts, including those that arise outside the normal process.

3.5.3 If the Chair of the Special AFT-A Committee has difficulty communicating with a party or other necessary participant, the Chair of the Special AFT-A Committee may consult with the Chair of the ARRC about ways to resolve the communication problem.

3.6 Dissemination of Personnel Information. Participation in Special AFT-A Committee proceedings makes participants privy to sensitive information and allegations involving the personal and professional lives of members of the University community. UNL Bylaw 2.9 describes limitations on the collection and dissemination of personnel information. Some information obtained as part of a AFT-A proceeding may be protected against broader dissemination by this Bylaw. Violators of this Bylaw could be subject to sanctions for professional misconduct.

3.7 Open Hearings. AFT-A Hearings, but not Pre-Hearing Conferences or other AFT-A proceedings, ordinarily are open to the public. However, the Special AFT-A Committee may order a Hearing closed if

3.7.1 prior to the Pre-Hearing Conference, a party in writing requests that the Hearing be closed;

3.7.2 all parties consent; and

3.7.3 the Special AFT-A Committee determines that there is good cause why the Hearing should be closed.

If the Hearing is closed, only those persons identified in Section 6.1 may be present.

3.8 Academic Advisors. Each party may choose an Academic Advisor who may accompany and advise the party at the Pre-Hearing Conference and the Hearing. The role of Academic Advisor is open to any person who:

3.8.1 is a member of the UNL Academic Assembly (UNL Bylaw 3.3.1) or has emeritus faculty status at UNL;

3.8.2 is not in the same department or equivalent unit as a witness (other than the party being advised) before or a member of the Special AFT-A Committee;

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

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

3.8.5 has no other relationship with a party, an organization, or a witness that might interfere with the investigative process.

3.9 Counsel and Advice for the Special AFT-A Committee.

3.9.1 Because of potential conflicts of interest, the Special AFT-A Committee 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 the Report of the Special AFT-A Committee.

3.9.2 The Special AFT-A Committee may receive advice from the ARRC attorney selected pursuant to section 3.10.2 of the ARRC Procedures.

3.9.3 Nothing in this Section 3.9 shall prevent full participation by a member of the Special AFT-A Committee who is also an attorney.

3.10 Termination of Pending AFT-A Proceedings.

3.10.1 If at any time all complainants in writing ask the Chair of the Special AFT-A Committee that the Formal Written Complaint be withdrawn, or all parties in writing notify the Chair of the Special AFT-A Committee that they have reached a settlement of the case, the Special AFT-A Committee shall terminate the proceedings and shall not deliver the Final Report described in Section 8. However, in such circumstances the Special AFT-A Committee may, on its own initiative, make written recommendations authorized by Sections 8.2.2 and 8.2.3

3.10.1.1 concerning ways to prevent recurrence of acts, decisions, or circumstances which may have contributed to the filing of the grievance; and

3.10.1.2 concerning ways to correct any deficiencies or anomalies found in the substance or application of bylaws, rules, regulations, policies, procedures, or customs which may have contributed to the filing of the grievance.

Termination of the proceedings under this section shall not preclude the Special AFT-A Committee, or members of the Special AFT-A Committee, from making the "Communications Regarding Matters Outside the Scope of the Formal Written Complaint" authorized by Section 10.

3.10.2 Resignation from the University by any party shall not necessarily prevent the Special AFT-A Committee from completing its deliberations and delivering the Final Report described in Section 8.

3.11 Timely Completion. Unless the ARRC, for good cause shown, authorizes a longer period of time, the Special AFT-A Committee shall complete its investigation and deliver its report within 150 days of receiving the Formal Written Complaint from the Chair of the ARRC.

3.12 Adherence to Procedures.

3.12.1 If a party has good reason to believe that the Special AFT-A Committee is out of compliance with these procedures, the matter should be brought to the attention of the Chair of the Special AFT-A Committee. Procedural questions that the Chair of the Special AFT-A Committee cannot

resolve promptly and that are so important that failure to resolve them would undermine the credibility of the Special AFT-A Committee may be referred by the Chair of the Special AFT-A 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 AFT-A Committee. The Chair of the ARRC shall inform the parties and the Special AFT-A Committee of the ARRC decision and direct them to follow the decision.

3.12.2 If a party has good reason to believe that the ARRC is out of compliance with these procedures or the ARRC Procedures, the party may invoke Section 6.2 of the ARRC Procedures.

4 GENERAL RESPONSIBILITIES OF THE CHAIR OF THE SPECIAL AFT-A COMMITTEE, NOTICE, RESPONSE, ALLEGATIONS OF CONFLICT OF INTEREST, AND CHALLENGES TO THE ELIGIBILITY OF PROPOSED ACADEMIC ADVISORS

4.1 General Responsibilities of the Chair of the Special AFT-A Committee. The responsibilities of the Chair of the Special AFT-A Committee include:

4.1.1 convening and presiding over meetings of the Special AFT-A Committee;

4.1.2 receiving communications for the Special AFT-A Committee and speaking for it;

4.1.3 ensuring that all substantive communications are made available to all parties;

4.1.4 maintaining a complete case file, including a record of all substantive communications, documents, verbatim transcripts of hearings, committee actions, and committee reports;

4.1.5 providing a copy of the Formal Written Complaint, the Formal Written Response, the current ARRC Procedures, and the current Code of Procedures for Special AFT-A Committees to each member of the Special AFT-A Committee, and to the ARRC Observer, if any;

4.1.6 arranging for accommodations for the Pre-Hearing Conference and for the Hearing, taking into account such factors as the time needed, the space needs of the Special Committee and parties and witnesses, the need for a separate accommodation for witnesses while waiting to testify, and access to other facilities that may be needed;

4.1.7 moving the proceedings toward a conclusion as expeditiously as reasonably possible while respecting the rights and needs of all participants;

4.1.8 notifying the Chair of the ARRC of any withdrawal from the Special AFT-A Committee to permit timely appointment of a substitute as provided in Section 3.3.5 of the ARRC Procedures;

4.1.9 reminding participants of limitations on the dissemination of personnel information set forth in Section 3.6;

4.1.10 arranging for timely consultation with the Chair of ARRC should procedural disputes arise;

4.1.11 keeping accurate records of expenditures for activities of the Special Committee and arranging for reimbursements from the Chancellor's office; and

4.1.12 arranging for the court reporter and verbatim transcript required by Section 6.5.

4.2 Written Notice to the Parties. Within 7 days after the Special AFT-A Committee has been convened, the Chair of the Special AFT-A Committee shall send to each party the following:

4.2.1 a copy of the Formal Written Complaint;

4.2.2 a copy of the current Procedures of the Academic Rights and Responsibilities Committee;

4.2.3 a copy of the current Code of Procedures for AFT-A Committees;

4.2.4 a list of the members of the Special AFT-A Committee;

4.2.5 the name of the ARRC Observer or, if no ARRC Observer has been appointed, notice to the parties that they are entitled to request that an ARRC Observer be appointed; and

4.2.6 notice of the deadlines established in Section 4.3 and 4.4.

4.3 Formal Written Responses from Respondents: Mandatory Elements and Deadline for Filing. Within 20 calendar days from the date of receipt of the Formal Written Complaint from the Chair of the Special AFT-A Committee, each respondent shall file a Formal Written Response with the Chair of the Special AFT-A Committee. In addition, if a Formal Written Complaint was filed by an attorney for a complainant, each respondent shall within 20 calendar days from date of receipt of the complaint mail a copy of the Formal Written Response to said attorney by regular United States mail with sufficient postage attached, properly addressed to said attorney.

4.3.1 Mandatory Elements. Each Formal Written Response shall contain a clear and concise statement indicating which, if any, of the facts alleged in the Formal Written Complaint the respondent wishes to contest and a clear and concise statement indicating any ameliorating or other additional facts the respondent wishes to allege. Under Sections 4.5 and 7.2, if a respondent fails to file a timely Formal Written Response or otherwise fails to contest an allegation of fact, the uncontested allegations of fact shall be deemed to be true.

4.3.2 Optional Elements. In addition, the Formal Written Response may include the following:

4.3.2.1 a clear and concise statement indicating which, if any, of the standards identified in the Formal Written Complaint the respondent wishes to contest;

4.3.2.2 a clear and concise statement of the standards, if any, the respondent believes to be appropriate for evaluating the complaint;

4.3.2.3 a clear and concise statement indicating which, if any, of the violations alleged in the Formal Written Complaint the respondent wishes to contest;

4.3.2.4 a clear and concise statement indicating which, if any, of the proposed remedies, sanctions, or other personal relief or prospective institutional change the respondent believes would be inappropriate.

The Chair of the Special AFT-A Committee may extend these deadlines for good cause shown.

4.4 Deadline for Requests from Any Party Requesting an Academic Advisor, an ARRC Observer, and for Allegations of Conflict of Interest. Within 15 days from the date of receipt of the Formal Written Complaint from the Chair of the Special AFT-A Committee,

4.4.1 any party wishing to be advised by an academic advisor shall file a written request with the Chair of the Special AFT-A Committee identifying the proposed academic advisor;

4.4.2 any party wishing to request that the ARRC appoint an ARRC Observer shall file a written request with the Chair of the Special AFT-A Committee;

4.4.3 any party wishing to allege that a member of the Special AFT-A Committee has a conflict of interest shall file a written statement with the Chair of the Special AFT-A Committee setting forth the basis for the challenge.

The Chair of the Special AFT-A Committee may extend these deadlines for good cause shown.

4.5 Procedure If No Respondent Files a Timely Formal Written Response. If no respondent files a timely Formal Written Response, the uncontested allegations of fact in the Formal Written Complaint shall be deemed to be true, and the Chair of the Special Committee shall so notify the parties and shall schedule a meeting of the Special AFT-A Committee to prepare the Final Report required by Section 8**.**

4.6 Procedure If a Respondent Files a Timely Formal Written Response. If any respondent files a timely Formal Written Response, the Chair of the Special AFT-A Committee shall

4.6.1 determine whether proposed academic advisors are eligible under Section 3.8, and if any party's proposed academic advisor is not eligible, invite that party to propose an eligible academic advisor;

4.6.2 forward to each complainant and to each respondent a copy of each Formal Written Response and the names of proposed academic advisors; and

4.6.3 forward to the Chair of the ARRC any request that an ARRC Observer be appointed.

4.7 Party Challenges to Proposed Academic Advisors or ARRC Observer.

4.7.1 Any party may in writing challenge the eligibility of a proposed academic advisor by delivering the challenge to the Chair of the Special AFT-A Committee within 7 days after receipt of the name of the proposed academic advisor. If a challenged proposed academic advisor does not voluntarily withdraw, the Chair of the Special AFT-A Committee shall determine whether the proposed academic advisor is eligible. If the proposed academic advisor is not eligible, the party may propose another academic advisor. If the new proposed academic advisor appears to be eligible, the Chair of the Special AFT-A Committee shall notify parties of the new proposed academic advisor and afford parties an opportunity to challenge the new proposed academic advisor.

4.7.2 Any party may in writing challenge the eligibility of a proposed ARRC Observer by delivering the challenge to the Chair of the Special AFT-A Committee within 7 days after receipt of the name of the proposed ARRC Observer. The Chair of the Special AFT-A Committee shall forward the challenge to the Chair of the ARRC. If a challenged ARRC Observer does not voluntarily withdraw, the Chair of the ARRC shall determine whether the proposed ARRC Observer is eligible. If the proposed ARRC Observer is not eligible, the ARRC may in writing propose another ARRC Observer to the Chair of the Special Committee. The Chair of the Special Committee shall in writing notify parties of the new proposed ARRC Observer and afford parties an opportunity to challenge the new proposed ARRC Observer.

5 PRE-HEARING CONFERENCE

5.1 Purpose. As soon as possible after giving notice of a Formal Written Response contesting any allegations of the Formal Written Complaint and resolving any issues involving conflicts of interest and eligibility of proposed academic advisors and ARRC Observers, the Chair of the Special AFT-A Committee shall arrange a Pre-Hearing Conference with all parties in attendance

5.1.1 to clarify the issues involved;
5.1.2 to identify uncontroverted facts;
5.1.3 to explore the possibility of a voluntary settlement of the case;
5.1.4 to explain procedures applicable to the Hearing;
5.1.5 to explain deadlines for identifying witnesses to be called and documents to be offered in accordance with Section 5.3; and
5.1.6 to establish procedures for setting the date, time, and place of the Hearing.

5.2 Persons Who May Attend and Participate in the Pre-Hearing Conference:

5.2.1 the Chair of the Special AFT-A Committee;
5.2.2 the parties;
5.2.3 each party's attorney, if any;
5.2.4 each party's academic advisor, if any;

5.2.5 the ARRC attorney, if requested by the Chair of the Special AFT-A Committee; and
5.2.6 the ARRC Observer, if any.

5.3 Notice of Hearing and Deadlines for Identification of Witnesses and Documents. As soon as possible after the conclusion of the Pre-Hearing Conference, the Chair of the Special AFT-A Committee shall in writing give notice of the deadlines for identification of witnesses and documents and of the date, time, and place of the Hearing to
5.3.1 each party;
5.3.2 each member of the Special AFT-A Committee;
5.3.3 each party's attorney, if any;
5.3.4 each academic advisor, if any;
5.3.5 the ARRC Observer, if any;
5.3.6 the Chair of the ARRC.

5.4 Identification of Witnesses and Documents. At least 10 calendar days before the Hearing each complainant shall give written notice to all other parties and to the Chair of the Special AFT-A Committee of the witnesses to be called and of documents to be offered in evidence at the Hearing. At least 5 calendar days before the Hearing, each respondent shall give written notice to all other parties and to the Chair of the Special AFT-A Committee of the witnesses to be called and of documents to be offered in evidence at the Hearing. No witnesses or documents not so listed shall be heard or received at the Hearing, except in cases of surprise, or for the purpose of rebutting oral testimony, or for other justifiable cause found to exist by the Special AFT-A Committee.

6 HEARING

6.1 Persons Who May Attend a Closed Hearing. AFT-A Hearings, but not the Pre-Hearing Conference or other AFT-A proceedings, ordinarily are open to the public**.** However, if the Special AFT-A Committee orders a Hearing closed under Section 3.7, only the following persons may attend the Hearing:
6.1.1 members of the Special AFT-A Committee;
6.1.2 the parties;
6.1.3 each party's attorney, if any;
6.1.4 each party's academic advisor, if any;
6.1.5 the ARRC attorney, if requested by the Chair of the Special AFT-A Committee;
6.1.6 the ARRC Observer, if any; and
6.1.7 the court reporter; and
6.1.8 witnesses, but no witness shall be present except when that witness is testifying and responding to questions.

6.2 Order of Hearing. The usual sequence of a Hearing is as follows:

6.2.1 introductions of all present (this will be repeated for each witness);
6.2.2 introduction of the case by the Chair of the Special AFT-A Committee;
6.2.3 complainant(s)' presentation of the Formal Written Complaint and evidence in support of the Formal Written Complaint, including all documentation and all witnesses;
6.2.4 respondent(s)' presentation of the Formal Written Response and evidence in support of the Formal Written Response, including all documentation and all witnesses;
6.2.5 presentation of documentation and testimony of witnesses requested by the Special AFT-A Committee;
6.2.6 rebuttal in support of the Formal Written Complaint;
6.2.7 closing statement(s) by Complainant(s), followed by closing statement(s) by Respondent(s);
6.2.8 statement by the Chair of the Special AFT-A Committee thanking participants and explaining post-Hearing procedures.

This order may be varied if the Chair of the Special AFT-A Committee determines that a clearer way of exploring the issues can be achieved, and if the Special AFT-A Committee and the parties agree.

6.3 Evidence and Witnesses.

6.3.1 Testimony shall be taken under oath. Each party shall have the right to cross-examine witnesses who testify and shall have the right to submit rebuttal testimony. Witnesses may testify and evidence may be received not only concerning relevant facts but also concerning relevant standards.

6.3.2 Members of the UNL community shall cooperate with the Special AFT-A Committee in providing testimony or documents; however, a person shall not be required to give testimony or to produce documents in regard to any confidential communication for which the law provides a privilege. Refusal by anyone to provide documents or to testify in regard to any communication for which the law does not provide a privilege obstructs the process and shall be taken into consideration by the Special AFT-A Committee in its deliberations and in its preparation of the Final Report.

6.3.3 In the event any party to the proceedings desires the issuance of a subpoena, such subpoena shall be issued at the direction of the Corporation Secretary, and may be served in the manner provided for subpoenas in the Nebraska Court Rules of Discovery.

6.3.4 Witnesses not able to attend the hearing may present testimony taken by deposition in the manner provided for depositions in the Nebraska Courts.

6.3.5 The Special AFT-A Committee may admit and give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent persons in the conduct of their affairs. It may exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence; provided, that any party may file with the Committee at least 3 days before the hearing a written request that the rules of evidence followed by the District Courts in the State of Nebraska shall be applicable. If such a written request is filed, the Chair of the Special AFT-A Committee shall notify the parties that the proceedings shall comply with the principles of law with respect to proceedings in the District Courts in Nebraska, and all counsel and parties shall be bound by such rules and standards of ethics and codes of trial conduct as are applied in the District Courts.

6.3.6 The Chair of the Special AFT-A Committee may in appropriate circumstances temporarily adjourn the Hearing.

6.4 Format of Presentations and Questions. To preserve orderly and civil proceedings, the Hearing shall be conducted by the Chair of the Special AFT-A Committee as follows:

6.4.1 No person shall speak without prior recognition by the Chair of the Special AFT-A Committee.

6.4.2 Each party and each witness may be questioned by members of the Special AFT-A Committee after the end of the presentation of that party or witness.

6.4.3 When the Special AFT-A Committee has finished questioning a party or witness, each party may question that party or witness; alternatively, the parties may submit questions to the Chair of the Special AFT-A Committee which the Chair of the Special AFT-A Committee may ask on their behalf.

6.4.4 The Chair of the Special AFT-A Committee may bar questions under Section 6.3.5. A party adversely affected by a decision to bar a question may appeal the decision of the Chair to the full Special AFT-A Committee

6.4.5 A party's academic advisor may consult privately with that party, may respond to questions from the Chair, and may address procedural questions to the Chair, but under ordinary circumstances may not otherwise participate in the Hearing.

6.5 Record of Hearing

The Chair of the Special AFT-A Committee shall arrange for a court reporter to be present at the Hearing to produce a verbatim record of the Hearing. Bills for the court reporter's services shall be processed through the office of the General Counsel of the University. The verbatim record shall be made available to the parties and to the Special AFT-A Committee prior to the deliberations and decision of the Special AFT-A Committee required by Section 7. The verbatim record also shall be made available for inspection by the public as set forth in Section 8.3.

7 DELIBERATIONS AND DECISION

7.1 All deliberations shall be conducted in executive session with no one present except members of the Special AFT-A Committee, and the ARRC attorney, if invited**.**

7.2 The complainant bears the burden of proving relevant facts by a preponderance of the relevant evidence. If a respondent fails to file a timely written response or otherwise fails to contest an allegation of fact, the uncontested allegations of fact shall be deemed to be true.

7.3 Refusal by anyone to provide documents or to testify obstructs the process and shall be taken into consideration by the Special AFT-A Committee in its deliberations and preparation of the Final Report.

7.4 The standards against which the charges are to be judged include applicable state and federal law; University bylaws, rules and regulations; established policies of the relevant administrative unit; appropriate professional and discipline based standards; applicable contracts; and academic principles and tradition. In the event of conflict between different University bylaws, rules or regulations, those of the more inclusive administrative unit shall prevail.

8 THE FINAL REPORT

When the Special AFT-A Committee has completed its deliberations it shall prepare a Final Report setting forth the Special AFT-A Committee's disposition of each grievance alleged in the Formal Written Complaint. Communications regarding matters outside the scope of the Formal Written Complaint shall be addressed in accordance with the rules set forth in Section 10 below. The Final Report shall be limited to the following mandatory and optional elements.

8.1 Mandatory Elements of the Final Report. The Final Report shall contain, with respect to each grievance alleged in the Formal Written Complaint:

8.1.1 specific findings of relevant fact and reference to the evidentiary foundations upon which those findings are based;

8.1.2 identification of the standards against which the grievance is being judged; and

8.1.3 the Special AFT-A Committee's conclusions concerning whether applicable standards have been violated.

Before preparing the elements of the Final Report required by Sections 8.1.2 and 8.1.3, the Chair of the Special AFT-A Committee shall send to each party a copy of a provisional draft of the specific findings of relevant fact and reference to the evidentiary foundations upon which those findings are based required by Section 8.1.1. Each party shall have five days after receipt of the provisional draft to submit written comments to the Chair of the Special AFT-A Committee suggesting specific changes to correct specific alleged inaccuracies in the provisional draft. No changes based upon such comments shall be made to the provisional draft without first providing other parties an opportunity to respond to the comments. If the Special AFT-A Committee decides not to make changes suggested in a written comment, that written comment and the Special AFT-A Committee's reasons for that decision shall be appended to the Final Report.

8.2 Optional Elements of the Final Report. In addition, the Final Report may contain one or more of the following:

8.2.1 Recommendations. The Final Report may include recommendations:

8.2.1.1 concerning ways to redress any complaint the Special AFT-A Committee has determined to be justified;

8.2.1.2 concerning ways to prevent recurrence of acts, decisions, or circumstances which may have contributed to the filing of the complaint;

8.2.1.3 concerning correction of any deficiencies or anomalies found in the substance or application of bylaws, rules, regulations, policies, procedures, or customs which may have contributed to the filing of the complaint.

8.2.2 Concurring or Dissenting Opinions. The Final Report may include concurring or dissenting opinions, or both, concerning any mandatory or optional element of the report.

8.3 Delivery and Archiving of Verbatim Record, Case File, and Final Report.

8.3.1 The Chair of the Special AFT-A Committee shall

8.3.1.1 deliver a copy of the Final Report, a copy of the verbatim record of the Hearing, and a copy of all exhibits to the Board of Regents;

8.3.1.2 deliver a copy of the Final Report to each party, to the Chancellor, to the President, to the Chair of the ARRC, and to the President of the Faculty Senate; and

8.3.1.3 deliver a copy of the Final Report and of the case file required by Section 4.1.4 to the Coordinator of the Faculty Senate.

8.3.2 The Coordinator of the Faculty Senate shall

8.3.2.1 obtain from the Corporate Secretary of the Board of Regents a copy of any committee report considered by the Board of Regents and a copy of the official record of the Board of Regents action;

8.3.2.2 deposit any committee report considered by the Board of Regents, the official record of the Board of Regents action, a second copy of the Final Report, and the case file in the Faculty Senate Office under specified conditions of access; and

8.3.2.3 deposit any committee report considered by the Board of Regents, the official record of the Board of Regents action, a second copy of the Final Report, and the case file in the University Archives under specified conditions of access.

9 FOLLOW UP TO THE REPORT

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

9.1.1 the recommendations that have been accepted and the action taken;

9.1.2 the recommendations that have been rejected in part or completely; and

9.1.3 for each recommendation rejected, reasons responsive to the Committee's rationale for proposing it.

Copies shall be sent to the parties, to the President of the Faculty Senate, and to the Coordinator of the Faculty Senate for inclusion in the case files in the ARRC archives and in the University Archives. If the response rejects or changes the recommendations made by the Special AFT-A 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.

9.2 ARRC Review of Implementation of Recommendations. The ARRC shall determine the extent to which recommendations of the Special AFT-A Committee have been implemented, and shall report its findings to the President of the Faculty Senate and in its annual report to the Senate.

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

10 COMMUNICATIONS REGARDING MATTERS OUTSIDE THE SCOPE OF THE FORMAL WRITTEN COMPLAINT

10.1 In the course of an investigation, one or more members of the Special AFT-A Committee may conclude that the Special AFT-A Committee has heard allegations or otherwise discovered information which, though outside the scope of the Formal Written Complaint and thus not subject to full investigation and evaluation by the Special AFT-A Committee, nonetheless suggests that actions or decisions have been taken or may be taken in violation of law, University policy, or academic principle.

10.2 Such concerns shall not be addressed in the Final Report of the Special AFT-A Committee required by Section 8.0. However, the Special AFT-A Committee acting though its chair, or any member or members of the Special AFT-A Committee, may communicate those concerns in writing to the appropriate administrator for investigation and for whatever corrective action may be appropriate. In shaping the contents of and determining the recipients for such communications, those preparing the communications shall consult with the Chair of the ARRC.

10.3 A copy of any such communication to an administrator shall at the same time be sent to

10.3.1 the Chancellor; and

10.3.2 the Chair of the ARRC; and

10.3.3 any individual on whose actions, decisions, or practices the communication reflects; and

10.3.4 if the communication reflects on the actions, decisions, or practices of a committee or unit, the individual who heads that committee or unit;

10.3.5 if the communication reflects on the actions, decisions, or practices of the Chancellor, the President; and

10.3.6 if the communication includes concerns about alleged unlawful discrimination, including sexual or other prohibited harassment, the UNL Office of Equity, Access and Diversity Programs.

10.4 Such communications shall be deemed to be a part of the responsibility of Special AFT-A Committee members and, as such, to be subject to the same protections afforded all Special AFT-A Committee activities by Section 6.8 of the Regents Bylaws.