

CAFRT Hearings Guidelines

Committee on Academic Freedom, Responsibility, and Tenure

Revised July 18, 2023 – Updated July 2, 2024

1) Bases for Faculty Member to Appeal to the CAFRT

- a. Faculty members may appeal to the Committee on Academic Freedom, Responsibility, and Tenure (CAFRT) under the *Texas A&M University Rule [12.01.99.M1](#)*, “University Statement on Academic Freedom, Responsibility, Tenure, and Promotion”. Typically, such appeals relate to an announced decision by the University not to continue either tenured or tenure track faculty appointments. Other types of appeals are not appropriate for the CAFRT but may be appropriate to the University Grievance Procedure (*see [SAP 12.99.99.M0.01](#)*).

- b. With regard to tenure-track (but untenured) faculty members who have been informed that they will not be reappointed, there are precisely three possible bases for an appeal to the CAFRT (*see [12.01.99.M1](#), section 5.2*). Violation of one or more of the following bases must be identified by the faculty member.
 - i. The University’s decision shall be based on adequate consideration (defined per [12.01.99.M1](#), section 4.5.2) of the individual’s professional performance.

 - ii. The University’s decision must not be made in violation of academic freedom (defined per [12.01.99.M1](#), section 3.1).

 - iii. The University’s decision must not be made as a form of illegal discrimination (defined per [08.01.01.M1](#), section 1). However, (per [12.01.99.M1](#), section 8.2.4), if a faculty member believes their dismissal was the result of a violation of their civil rights, the VP of Faculty Affairs must initiate an investigation of the alleged violation according to University Rule [08.01.01.M1](#) before the appeal can be heard by CAFRT.

2) Scheduling the Hearing and Selection of a Hearing Panel

Upon receipt of the Preliminary Screening Committee’s letter in the case of a non-renewal of appointment or of the President’s letter in the case of dismissal for cause, the hearing will be scheduled with the following constraints, and a University Representative will be appointed by the President.

- a. The chair and/or the vice chair of the CAFRT has the authority to schedule the hearing.

- b. The hearing must be scheduled at least thirty (30) calendar days prior to the hearing date.
- c. Normally, the hearing is scheduled over the course of three days with an expectation of spending four hour blocks each day. Hearings may be scheduled after hours if a panel is unable to convene during normal business hours.
- d. The chair of the CAFRT will provide the faculty member, the University's representative, University Counsel, and all CAFRT members with a list of possible dates and times for the hearing, with the request that they promptly notify the chair of their availability. The faculty member is responsible for indicating the availability of her/his counsel (if involved).
- e. CAFRT members will also be requested to inform the CAFRT chair of any possible conflicts of interest. The mere existence of friendships or other contacts between a panel member and the other individuals does not necessarily constitute bias. CAFRT hearing panel members should not be from the same college/school as the faculty member making the appeal. The chair, at her or his discretion, may eliminate from consideration any member with a possible conflict of interest at any time prior to the full hearing.
- f. In constituting a CAFRT hearing panel, preference should be given to having diversity in the departments represented and having different CAFRT members serve on different panels. Since *University Rule [12.01.99.M1](#), section 10.2.4* requires that no less than seven (7) voting CAFRT members be present for all of the hearing, it is best to start with nine (9) members assigned to each hearing.
- g. The chair of the CAFRT will determine which dates the two sides and at least seven (7), but preferably nine (9), CAFRT members are available, and will notify both sides, the hearing officer (if other than the chair), and the CAFRT panel members of the time and place of the hearing.
- h. Normally either the chair or the vice chair of the CAFRT will serve as the *hearing officer*. Under unusual circumstances, the chair of the CAFRT may appoint someone else to be the hearing officer. In all cases, the hearing officer is non-voting.

3) Challenges of Panel Members

See section 2(e) concerning notification of possible conflicts of interest made by CAFRT members. All challenges must relate to the ability of a panel member to render an unbiased decision. The mere existence of friendships or other contacts between a panel member and other individuals does not necessarily constitute bias. Should a side wish to challenge a panel member, the challenge must be made in writing at least seven (7)

calendar days prior to the pre-hearing conference, with copies sent to the other side and the hearing officer.

4) Pre-Hearing Conference

At least fourteen (14) calendar days prior to the full CAFRT hearing date, the hearing officer will conduct a pre-hearing conference according to the following guidelines:

- a. Both the chair and vice chair of the CAFRT may be present at the pre-hearing conference.
- b. CAFRT shall be self-governing and adopt such rules and procedures as it deems appropriate (described herein); it is not necessary for CAFRT hearings to follow the formal rules of court procedure.
- c. The parties shall provide each other and the hearing officer with a list of witnesses during the pre-hearing conference. The list of witnesses should include each witness's name, institutional and departmental affiliation, work-related position, and a brief description of the nature of their testimony.
- d. Amendments to the lists of witnesses may be made prior to the full CAFRT hearing by permission of the hearing officer. At the hearing, witnesses may be added to the lists only with the permission of the CAFRT panel.
- e. Requests to have witnesses submit written statements or present their testimony other than in person must be presented at the pre-hearing conference and will be decided upon by the hearing officer. See also section 5(g).
- f. Each side shall provide the other side and the hearing officer with copies of all pieces of documentation it plans to present to the CAFRT panel, organized as exhibits and supporting materials in a method mutually agreed upon (e.g., USB drives, file sharing platforms). These materials will be shared with the CAFRT hearing panel to review prior to the hearing. Faculty Affairs or designee ensure access to all documents for the CART hearing panel members and the opposing sides.
- g. The hearing officer may allow additional materials to be added subsequent to the pre-hearing conference. To request a subsequent addition, a copy of the material must be given to the other side and to the hearing officer, along with a request that the material be approved for addition by the hearing officer.

- h. The faculty member requesting the hearing will inform the University representative and the hearing officer of their decision to have an open or closed hearing.
- i. The hearing officer will render decisions on any challenges to the hearing panel members. See section 5.
- j. The hearing officer will inform both sides how the hearing will be recorded and the procedures for obtaining copies of the recording. See section 8.
- k. The hearing officer will review the procedures for the full CAFRT hearing.
- l. If the hearing officer concludes that a participant is disrupting the pre-hearing conference to such an extent that the conference cannot proceed (e.g., by repeatedly refusing to move to the next point, by making *ad hominem* attacks), the hearing officer may adjourn the pre-hearing conference. In that case, the hearing officer will inform the President of the circumstances surrounding the adjournment of the proceedings and provide recommendations concerning how the impasse might be resolved.

5) The CAFRT Hearing

The full CAFRT hearing will be conducted according to the following guidelines:

- a. Faculty Affairs or designee is responsible for making sure that a hard or electronic copy of every piece of documentation each side presents to the CAFRT panel is distributed to the other side, to the hearing officer, and to each member of the panel. See also section 4(f) above.
- b. As stated in *University Rule [12.01.99.M1](#)*, the CAFRT shall be self-governing and adopt such rules and procedures as it deems appropriate (described herein); it is not necessary for CAFRT hearings to follow the formal rules of court procedure.
- c. Both the faculty member and the University representative shall have the right to be represented by one individual serving as legal counsel.
- d. Each side shall be allowed to have one “assistant” attend the hearing. This individual may not speak during the hearing or discuss particulars of the appeal with panel members, witnesses, or the other side.
- e. In advance of every individual hearing session, each side shall provide the other side and the hearing officer with a list of witnesses they intend to call during that session.

- f. If a member of the hearing panel, physically present or virtually present via video conference, must leave prior to the end of a hearing day in case of emergency or unavoidable circumstance, the hearing officer may allow the member to still vote provided the absence is no longer than two (2) hours and only if the member is able to obtain and watch the recording of the hearing prior to the convening of the next hearing day. Otherwise, the member will become ineligible to vote. In such circumstances, the hearing officer shall inform the parties of the ineligibility of the panel member to vote but will provide the parties the opportunity to waive such ineligibility if both parties agree to allow that member to vote.
- g. Normally, witnesses shall testify in person unless they are located outside of the state of Texas on the dates of the hearing. All requests for a witness to present written statements or present testimony other than in person must be submitted at the pre-hearing conference and will be decided upon by the hearing officer. See section 4(e) above.
- h. Closed or Open Hearings:
 - i. CAFRT hearings are closed unless the faculty member making the appeal requests an open hearing during the pre-hearing conference.
 - ii. A closed hearing is restricted to the members of the CAFRT hearing panel, the faculty member making the appeal (and her/his counsel and assistant, if any), and the University representative (and her/his counsel and assistant, if any). Concerning the attendance of non-vocal assistants, see section 5(d) above.
 - iii. An open hearing may be attended by any interested persons, with the exception of witnesses for either or both the faculty member and the administration.
 - iv. Witnesses may not hear other witnesses' testimony; hence, even in an open hearing, they may attend the hearing only when testifying.
- i. Hearing Format
 - i. To accommodate schedules of all participants, hearings normally are scheduled for three days with an expectation of spending four hours each day.
 - ii. Each side is entitled to equal amounts of time, with a maximum of four (4) hours, including opening and closing statements (limited to 15 minutes

each). The hearing officer or designee is responsible for tracking time usage. Time required for breaks or the questioning of witnesses by members of the hearing panel shall not be included in the time allocated to either side.

- iii. In exceptional cases, the hearing officer, with the concurrence of a majority of the panel, may extend the length of the hearing.
- iv. In addition to oral statements and oral testimony, each side may submit written opening and closing statements, as well as charts, handouts, or other visual aids. It shall be the responsibility of each side to distribute, before or at the moment of presentation, hard copies of such written documents and visual images to the other side and to every member of the CAFRT hearing panel.
- v. Each side should make every effort to call witnesses in the order appearing on the list submitted to the hearing officer at the pre-conference hearing. However, for practical or strategic reasons (e.g., an individual's inability to appear as a witness at a specific time, changes made by either side in response to the testimony of a particular witness), and in order to accommodate unforeseen scheduling complications that might develop during the hearing, it may be necessary or expedient to change the order in which witnesses are called. In these cases, the party requesting a change of the scheduled appearance of a witness should make every effort to notify the hearing officer at least 24 hours prior to the scheduled appearance.
- vi. The calling of witnesses not on the hearing officer's list of witnesses or the recall of a dismissed witness is permitted only with the approval of the CAFRT hearing panel. The CAFRT hearing panel may recall a dismissed witness at any time.

j. Schedule of Events

- i. Opening statement by or for the side with the burden of proof, i.e., the faculty member in the case of non-renewal, the University in the case of dismissal for cause (maximum of 15 minutes)
- ii. Opening statement by or for the other side (maximum of 15 minutes)
- iii. Testimony by witnesses called by the side with the burden of proof
- iv. Testimony by witnesses called by the other side

- v. Closing statement by or for the side without the burden of proof (maximum of 15 minutes)
 - vi. Closing statement by or for the side with the burden of proof (maximum of 15 minutes)
- k. Protocol for Witness Testimony
- i. Swearing in of the witness by the hearing officer or designee
 - ii. Questioning of the witness by the side calling the witness
 - iii. Cross-examination by the other side
 - iv. Re-direct by the side calling the witness pertaining to the questions asked during cross-examination
 - v. Re-cross by the other side limited to the questions posed during re-direct
 - vi. Questions from members of the CAFRT hearing panel (a 10-minute limit for each witness is strongly recommended)
 - vii. Re-direct by the side calling the witness limited to the questions asked by the members of the CAFRT hearing panel
 - viii. Re-cross by the other side limited to the questions asked by the members of the CAFRT hearing panel.
- l. Refreshments should be provided and paid for by the University.

6) Review of Allegations of Inadequate Consideration

Adequate consideration is addressed in section 4.5.2 of Texas A&M University Rule [12.01.99.M1](#) and members of the hearing panel should review such section.

In addition, for informational purposes only, the American Association of University Professors in its statement on procedural standards in the review or non-renewal of faculty appointments at: <https://www.aaup.org/report/statement-procedural-standards-renewal-or-nonrenewal-faculty-appointments> indicates, in part, the following:

- a. The term “adequate consideration” refers essentially to procedural rather than to substantive issues. The following suggested questions pertaining to “adequate consideration”:

- i. Was the decision conscientiously arrived at?
- ii. Was all available evidence bearing on the relevant performance of the candidate sought out and considered?
- iii. Was there adequate deliberation by the department over the import of the evidence in light of the relevant standards?
- iv. Were irrelevant and improper standards excluded from consideration?
- v. Was the decision a bona fide exercise of professional academic judgment?

7) Decision and Report of the CAFRT Hearing Panel

- a. The members of the hearing panel shall meet in closed session to discuss the merits of the appeal. Each panelist shall make her/his decision based on the preponderance of the evidence (more likely than not).
- b. The decision of the CAFRT hearing panel shall be determined by a majority vote of the eligible panel members. Only those members who were present for the entire hearing or those that fall under the exception noted in section 5(f) above are eligible to vote. The appointed hearing officer (normally the chair of the CAFRT) does not vote.
- c. If the committee arrives at a split decision whereby there is no reconciliation among members of the CAFRT hearing panel to reach an agreement as to a majority recommendation, the CAFRT chair may proceed as follows:
 - i. The CAFRT chair may propose to the CAFRT hearing panel that the Provost appoints an alternate committee of three (3) tenured faculty members that have previously served in CAFRT to review the appellant's dossier and provide an independent recommendation to the President of Texas A&M University for consideration.
 - ii. If the majority of the CAFRT hearing panel supports the foregoing proposition, the CAFRT report detailing the recommendations shall also articulate the proposal to the President.
- d. The hearing officer shall draft a report presenting the judgments and recommendations of the members of the CAFRT hearing panel and their reasons for making them. This draft shall be distributed among the members of the panel,

who will provide comments and suggestions for refining and/or revising the report.

- e. The final report must be supported by a majority of the panel members eligible to vote. Any panel member(s) who disagrees with the conclusion of the majority of the panel members may submit in writing to the hearing officer the substance of the disagreement. The hearing officer will incorporate in the final report the dissenting opinion.
- f. The hearing officer shall submit the final report along with minority reports, if any, to the President of Texas A&M University, with copies to the faculty member who initiated the appeal, the University representative, Faculty Affairs, and the CAFRT hearing panel members.
- g. For untenured tenure-track faculty members whose appointments are not renewed, whether or not the non-renewal is a result of a decision to not grant tenure, the President of Texas A&M University renders the final decision concerning the appeal after reviewing the CAFRT report(s).
- h. For faculty members being dismissed for cause, and the President of Texas A&M University proposed to terminate the individual, the full report of the hearing committee, the record of the hearing, the President's recommendation, and other relevant documentation available to both the faculty member and the system academic institution shall be delivered to the chancellor of the Texas A&M University System, who shall carry out a review of the documentation and make a final determination as to the dismissal (*per System Policy [12.01](#)*).

8) Procedures for Recording the Hearing and Obtaining a Copy of the Recording

- a. The chair of the CAFRT hearing panel is responsible for ensuring that an audio and video recording of the entire hearing is made including transcriptions thereof. To that effect, The Office of Faculty Affairs will assist in the recording on the entire hearing and the transcriptions. The Office of Faculty Affairs or designee is responsible for preparing and distributing copies of the hearing to both sides, if requested.
- b. After the completion of the hearing, the faculty member appealing to the CAFRT and the University representative may obtain electronic copies of the recording by submitting a written request to Faculty Affairs.
- c. The hearing officer shall be informed of the decision by the President.

9) Records

- a. The hearing officer is responsible for maintaining the records of a CAFRT hearing (including the recording of the hearing) while the appeal is unresolved.
- b. Once the appeal is resolved, the chair of the CAFRT will transfer the records of the CAFRT hearing (including recording of the hearing) to the Office of Faculty Affairs, which will be responsible for the long-term storage of those records.