

SECTION 8 PROMOTION AND TENURE

8.1 ACADEMIC TENURE

A tenure-track faculty member, after a probationary period at CSM, may be granted tenure status. Once such status is granted to a faculty member, that individual may be terminated by CSM only for cause or non-renewed for reasons of financial exigency or degree program termination. CSM shall not terminate or non-renew a tenured faculty member simply because it is judged that a possible replacement may do a better job. Promotion and tenure at CSM are granted not only in recognition of high faculty performance, but also with the expectation that such performance level will continue or increase.

8.1.1 Tenure-Track Appointments

The precise terms and conditions of each tenure-track appointment at CSM shall be explicitly agreed upon by both the Provost and the faculty member and expressed in writing before the appointment is finalized. Tenure-track appointments may be non-renewed without cause pursuant to paragraph 9.1.1. Additionally, appointments of tenure-track faculty are probationary appointments which may be terminated at the conclusion of the Preliminary Tenure Review based upon a tenure-track faculty member's lack of sufficient progress toward achieving tenure.

8.1.2 Time Limitations

A. Tenure-Track Assistant Professors

Unless extended, a probationary contract period for a tenure-track assistant professor shall not exceed seven years and a tenure decision must be made by no later than the end of the sixth year of tenure-track service at CSM. In the case of a start date later than the beginning of the Fall semester, the probationary period will be extended to six years after the beginning of the Fall semester following the appointment. A performance evaluation in the form of a Preliminary Tenure Review shall be conducted in the sixth semester of tenure-track service at CSM. At the initiation of either the tenure-track assistant professor or his or her department head, a Preliminary Tenure Review may be conducted before the sixth semester with the written approval of the Provost. The process for a Preliminary Tenure Review is described in paragraph 8.1.5 below.

B. Tenure-Track Associate and Full Professors

Unless extended, a probationary contract period for a tenure-track associate or full professor shall be consistent with the termination date on the associate or full professor's tenure-track employment contract. The length of this probationary period shall be set during employment negotiations and shall be no less than four and no more than seven years. A tenure decision must be made no later than one year prior to the termination date on the tenure-track employment contract. In the case of a start date later than the beginning of the Fall semester, the probationary period will be extended to six years after the beginning of the Fall semester following the appointment. A performance evaluation in the form of a Preliminary Tenure Review shall be conducted in the sixth semester of tenure-track service at CSM for tenure-track associate or full professors whose probationary periods are longer than four years. At the initiation of either the tenure-track associate or full professor or his or her department head, and irrespective of length of the probationary period, a Preliminary Tenure Review may be conducted before the sixth semester with the written approval of the Provost. The process for a Preliminary Tenure Review is described in paragraph 8.1.5 below.

C. Effect of Extended Leave on Timing of Tenure Decisions

Upon the written application of a tenure-track faculty member and with the concurrence of the department head and the written approval of the Provost, the probationary period may be extended for a reasonable period of time in the case of serious illness, pregnancy, childbirth, dependent care, or other extenuating circumstances. Leave taken pursuant to sections 5.5.4, 5.5.5, 5.5.11, 5.5.12, and 5.5.13 of the Handbook qualify for stoppages of the tenure clock. Any such "stops" must be taken in one-year increments. However, the faculty member may elect, within six months following his or her return from leave, to have the leave time count as part of his or her probationary period. Such election must be made in writing to the employee's department or division head and must be approved by the Provost. Normally, a maximum of two such "stops" on the tenure clock is allowed. However, the probationary period may be extended by the Provost for an additional period of time beyond the normal limit if extraordinary circumstances are shown to exist that would justify a longer extension.

8.1.3 Criteria for Tenure

Tenure establishes a long-term contractual relationship between CSM and a faculty member. The granting of tenure represents acknowledgement by CSM that a tenure candidate has convincingly demonstrated the capability for making substantial and important contributions to the goals of CSM throughout the remainder of his or her career. Since the tenure decision is based on a tenure candidate's potential for long-term contribution to the goals of the department and CSM, progress toward tenure is reviewed as a part of each tenure-track faculty member's annual evaluation. As departmental and CSM goals change, so, too, will the criteria for the granting of tenure. The factors that shall be considered by CSM in making a tenure decision shall include, but not be limited to, the following: (1) the candidate's academic degree and other professional attainments; (2) the quality and consistency of the candidate's performance in teaching, scholarship and service; (3) the likelihood that the candidate will continue to produce at or above his or her current level and continue to grow professionally; (4) the candidate's progress toward establishment of a national and international professional reputation; (5) the candidate's potential for achievement of greater professional recognition; and (6) the compatibility of the candidate's academic expertise with the long-term, programmatic goals and requirements of CSM.

8.1.4 Departmental Promotion and Tenure Committees

The promotion and tenure committee of each academic department shall consist of all full-time, tenured associate professors and full professors in that department, but it shall not include the department head or faculty members on transitional appointments. Departments with fewer than three tenured associate professors and full professors shall select enough tenured associate professors and full professors from related departments to bring the total number of promotion and tenure committee members up to three. Temporary promotion and tenure committee members from related departments shall be selected to serve one-year terms by the tenured associate professors and full professors of the home department with the approval of the Provost.

A. Full Professor Subcommittees

Each departmental promotion and tenure committee shall have a subcommittee, consisting only of the full-time, tenured full professors in that department, which shall consider applications for tenure filed by full professors and applications for promotion to the rank of full professor. Departments with fewer than three tenured full professors shall select enough tenured full professors from related departments to bring the total number of full professor subcommittee members up to three.

8.1.5 Preliminary Tenure Reviews

The Preliminary Tenure Review is a mandatory step in the tenure review process for tenure-track assistant professors and those tenure-track associate and full professors whose probationary

contracts are longer than four years. The process is designed to (1) inform a tenure-track faculty member and his or her department of the candidate's progress toward promotion and tenure; (2) address areas for improvement; and (3) offer guidance, if needed. The review shall take place in the sixth semester of the faculty member's tenure-track service at CSM. At the initiation of either the tenure-track assistant professor or his or her department head, a Preliminary Tenure Review may be conducted before the sixth semester with the written approval of the Provost. The review should point out areas of strength, identify areas requiring further development, and recommend strategies for achieving needed improvement. In rare instances, the review may indicate that the candidate's success at CSM is sufficiently unlikely that his or her appointment should be terminated prior to the end of the full probationary period.

The following is a general outline of the Preliminary Tenure Review process at CSM:

- A. In accordance with the timing of the Preliminary Tenure Review stated above, the department head shall convene the departmental promotion and tenure committee, transmit to the committee a dossier prepared by the candidate in consultation with the department head, and appoint a committee member to chair deliberations.
- B. The departmental promotion and tenure committee shall examine the dossier, prepare a written report containing a recommendation, and forward the dossier and report to the department head. A report prepared by members of the committee holding a minority point of view shall also be accepted for consideration.
- C. The entire package, including the report(s) of the committee and a report prepared by the department head, shall be forwarded to the Provost.
- D. Copies of the reports of the committee and the department head shall be provided to the candidate.
- E. The department head shall meet with the candidate to discuss the above-mentioned reports.

8.1.6 Tenure Application Process

At the time of hiring or at any other time during the probationary period, it is the responsibility of the tenure-track faculty member, in consultation with his or her department head, to submit a formal tenure application with appropriate supporting documentation to CSM for tenure review pursuant to the process specified in paragraph 8.1.7 below. Under normal circumstances, a tenure applicant holding the rank of assistant professor shall also apply for promotion to associate professor at the time his or her tenure application is considered, and promotion and tenure decisions are coupled (either granted or denied as a package) for these individuals. However, the Provost may make exceptions to this practice on a case-by-case basis for reasons deemed to be in the best interests of CSM.

8.1.7 Tenure Review Process

A. Tenure-Track Faculty

The following is a general outline of the tenure review process for tenure track faculty at CSM.

1. The department head shall convene the departmental promotion and tenure committee, transmit the tenure application package to the committee, and appoint a committee member to chair deliberations.
2. The department head, or the department head's delegate, shall solicit external evaluations of the candidate's credentials.
3. The departmental promotion and tenure committee shall examine the package, prepare a written tenure report containing a recommendation, and forward the package and report to the department head. A report prepared by members of the committee holding a minority point of view shall also be accepted for consideration.
4. The entire tenure package, including the recommendation(s) of the committee, a recommendation from the department head, and a summary of the candidate's external evaluations, shall be forwarded to the Provost.

5. The tenure candidate shall be advised of the recommendation(s) of the committee and the recommendation of the department head, but he or she shall not be provided with any written report or recommendation produced by the committee or the department head until the conclusion of the tenure review process.
6. The department head may meet with the candidate to discuss the above-mentioned recommendations.
7. The Provost shall convene the Promotion and Tenure Committee to discuss and submit recommendations on all tenure applications received during the relevant time period.
8. The Provost shall solicit a written recommendation regarding each tenure candidate under review from the Vice President of Research and Technology Transfer.
9. The Provost shall review and consider all of the material provided in each tenure application package as well as all recommendations and other information submitted for each candidate.
10. After making a decision regarding each tenure application, the Provost shall provide the President and the Board with a list of all tenure decisions for their consideration.
11. The Board shall have the final authority to grant or deny tenure for each candidate.
12. The Provost shall provide written notification to each applicant of the results of his or her tenure application. Positive tenure decisions shall be reflected in the official records of CSM at the beginning of the next academic year. However, newly tenured faculty may begin professional use of their new status immediately.
13. In the case of an unfavorable decision, an applicant may appeal the decision pursuant to the Promotion and Tenure Decision Appeal Procedure set forth in subsection 8.3 below.

B. Candidates for Faculty Employment

The following is a general outline of the tenure review process for candidates for faculty employment at CSM:

1. The department head shall convene the departmental promotion and tenure committee and transmit the employment candidate's application package to the committee.
2. The committee shall examine the application package, prepare a written tenure recommendation, and forward the package and recommendation to the department head.
3. The recommendation of the committee and the recommendation of the department head shall be forwarded to the Provost.
4. The Provost shall solicit advice from the Promotion and Tenure Committee regarding the tenure application of the candidate for faculty employment.
5. The Provost shall decide whether to offer tenure to the employment candidate, subject to the Board's final authority to grant or deny tenure.

8.2 PROMOTION IN ACADEMIC, RESEARCH AND LIBRARY RANK

8.2.1 Criteria for Promotion

Promotion in academic rank at CSM for tenured and tenure-track faculty is based on the quality of a faculty member's overall performance in teaching, scholarship or research, service, and the likelihood of continued growth in their accomplishments and their professional reputations nationally and internationally. [The minimum qualifications for appointment to the various academic faculty ranks are set forth in subsection 4.2 above. The minimum qualifications for non-tenure track instructional faculty are set forth in subsection 4.3 above.] Promotion in research rank at CSM for research faculty is based on the quality of a faculty member's overall performance in research, service, and the likelihood of continued growth in their accomplishments and their professional reputations nationally and internationally. [The minimum qualifications for appointment to various research faculty ranks are set forth in subsection 4.4 above.] Promotion in library rank at CSM for library faculty is based on the quality of a faculty member's overall performance in professional responsibility, scholarship or research, and service. [The minimum qualifications for appointment to the various library faculty ranks

are set forth in subsection 4.5 above.] The decision whether or not to promote a faculty member lies solely within the discretion of the Board.

Promotion in the non-tenured instructional faculty ranks is set forth in section 8.2.2.

8.2.2 Non Tenure-Track, Research and Instructional Faculty Promotion Process

Upon a written request to his or her department head, a non tenure-track faculty member will be considered for promotion following the general promotion application and review processes outlined in sections 8.2.4 and 8.2.5 (specifically, provisions A through F and H through M). Because non-tenure track faculty are not considered by the University Promotion and Tenure Committee, provision 8.2.5.G does not apply.

8.2.3 Library Promotion Committee

The Library Promotion Committee shall consist of all full-time library faculty members of a rank equal to or higher than the rank aspired to by the candidate, but it shall not include the Director of the Library. If fewer than three library faculty are eligible to serve on this committee, enough full professors from the academic departments shall be selected to bring the total number of Library Promotion Committee members up to three. With the approval of the Provost, temporary Library Promotion Committee members shall be selected by the entire library faculty from academic departments to serve one-year terms. With regard to promotions of library faculty, the Library Promotion Committee shall perform the duties of the departmental promotion and tenure committee listed in paragraph 8.2.5 below.

8.2.4 Promotion Application Process

At the time a promotion is desired, it is the responsibility of the faculty member, in consultation with his or her department head, to submit a formal promotion application with appropriate supporting documentation to CSM for promotion review pursuant to the process specified in paragraph 8.2.5 below. Under normal circumstances, a promotion applicant holding the rank of assistant professor shall also apply for tenure at the time his or her promotion application is considered, and promotion and tenure decisions are coupled (either granted or denied as a package) for these individuals. However, the Provost may make exceptions to this practice on a case-by-case basis for reasons deemed to be in the best interests of CSM.

8.2.5 Promotion Review Process

The following is a general outline of the promotion review process for all tenure and tenure-track faculty at CSM:

- A. The candidate shall prepare a package of promotion credentials and submit it to the department head.
- B. The department head shall convene the departmental promotion and tenure committee, transmit the promotion application package to the committee, and appoint a committee member to chair deliberations.
- C. The department head, or the department head's delegate, shall solicit external evaluations of the candidate's credentials.
- D. The departmental promotion and tenure committee shall examine the package, prepare a written promotion report containing a recommendation, and forward the package and report to the department head. A report prepared by members of the committee holding a minority point of view shall also be accepted for consideration.
- E. The department head shall prepare a written recommendation and forward the promotion package, including all recommendations, to the Provost.
- F. The promotion candidate shall be advised of the recommendation(s) of the committee and the recommendation of the department head, but he or she shall not be provided with any written

- report or recommendation produced by the committee or the department head until the conclusion of the promotion review process.
- G. The Provost shall convene the Promotion and Tenure Committee to discuss and submit recommendations on all promotion and tenure decisions for tenured and tenure-track faculty under consideration during the relevant time period.
 - H. The Provost shall solicit a written recommendation regarding each promotion candidate under review from the Vice President of Research and Technology Transfer.
 - I. The Provost shall review and consider all of the material provided in each promotion credential package as well as all recommendations and other information submitted for each candidate.
 - J. After making a decision regarding each promotion application, the Provost shall provide the President and the Board with a list of all promotion decisions for their consideration.
 - K. The Board shall have the final authority to grant or deny promotion for each candidate.
 - L. The Provost shall provide written notification to each candidate of the results of his or her promotion application, including reasons for a negative decision. Academic faculty promotions shall be reflected in the official records of CSM at the beginning of the next academic year. Library faculty promotions shall be reflected in the official records of CSM at the beginning of the next fiscal year. All newly promoted faculty may begin professional use of their new titles immediately.
 - M. In the case of an unfavorable decision, an applicant may appeal the decision pursuant to the Promotion and Tenure Decision Appeal Procedure set forth in subsection 8.3 below.

8.3 PROMOTION AND TENURE DECISION APPEAL PROCEDURE

8.3.1 Persons Eligible to File an Appeal

An appeal hereunder may be filed by any candidate for promotion or tenure at CSM as described in either of the categories below, hereinafter referred to in this appeal procedure as the "Candidate."

- A. Any tenure-track faculty member whose application for tenure has been denied by CSM; or
- B. Any academic faculty member, research faculty member or library faculty member whose application for promotion to a higher academic rank has been denied by CSM.

8.3.2 Notice of Appeal

A Notice of Appeal is a written document in letter or memorandum form prepared and filed by the Candidate to initiate an appeal hereunder. The Notice of Appeal must contain, at a minimum, a concise statement of the matter being appealed as well as the specific grounds for the appeal set forth in sufficient detail to provide CSM with reasonable notice of the substance of the appeal. In all tenure decision appeals, the Notice of Appeal must allege one or more of the specific, appealable issues listed in item 8.3.4.A.1 below. In promotion decision appeals, the Notice of Appeal may address the merits of the decision, alleged procedural irregularities, and/or alleged constitutional right violations on the part of CSM.

8.3.3 Procedure for Initiation of Appeals

A. Place to File Notice of Appeal

A Notice of Appeal shall be addressed to and filed with the office of the Provost, who shall be presumed to be acting on behalf of CSM throughout the appeal. At the time the Notice of Appeal is filed with the Provost, the Candidate shall also file a copy thereof with the Office of Legal Services.

B. Time Limitations

All appeals filed pursuant to this procedure must be filed with the Provost and the Office of Legal Services no later than ten business days following receipt by the Candidate of notification of the tenure or promotion decision constituting the subject matter of the appeal. If the last day to file a

Notice of Appeal, or any other document pursuant to this Appeal Procedure, happens to fall on a weekend, a holiday, or any day on which CSM is closed, the Notice of Appeal or other document shall be due on the next CSM business day. If a Notice of Appeal is not filed in a timely manner, the Candidate shall forfeit all rights of appeal conferred hereunder. The Provost shall notify the Candidate in writing if a Notice of Appeal is not received in a timely manner.

C. Extension of Time Limitations

For good cause, the Candidate may request in writing from the Provost an additional amount of time within which to file a Notice of Appeal. However, in order to be considered, a Request for Additional Time must be filed within the time limit for filing the Notice of Appeal. The Provost shall possess the authority to issue a final ruling on such a request.

D. Fulfillment of Notice of Appeal Requirements

An attorney from the Office of Legal Services shall examine the Notice of Appeal to determine if the requirements set forth above have been met. If the attorney determines that the Notice of Appeal has not fulfilled the requirements, he or she shall inform the Candidate of the deficiencies in writing within ten business days. The Candidate shall then have the opportunity to correct and re-file the Notice of Appeal. If the Notice of Appeal was filed in good faith, the Candidate shall have the remainder of the time limit for filing the appeal, if any, plus five additional business days to correct the deficiencies and re-file the Notice of Appeal. If the attorney concludes that the re-filed version of the Notice of Appeal is still deficient, the Candidate may: (1) correct and re-file the Notice of Appeal; or (2) request that the re-filed version along with a written recommendation of the attorney be forwarded to the hearing panel for a decision. If option #1 above is chosen, the Candidate shall have the remainder of the original time limit for filing the appeal, if any, plus five additional business days to correct the deficiencies and re-file the Notice of Appeal. If option #2 above is chosen, the hearing panel must examine the Notice of Appeal and decide that: (1) the Notice of Appeal is not deficient and the appeal may proceed to hearing; (2) the deficiencies contained in the Notice of Appeal are not fatal to the appeal, which may proceed to hearing; or (3) the deficiencies contained in the Notice of Appeal are fatal to the appeal, which must be dismissed "with prejudice." If the Notice of Appeal is dismissed with prejudice, it may not be re-filed.

8.3.4 Appeal Standards

A. Reviewable Issues

This appeal procedure is not designed to resolve allegations of unlawful discrimination made by employees. Any appeal that contains such allegations must be filed as a complaint under the Unlawful Discrimination Policy and Complaint Procedure set forth in subsection 10.6 below.

1. Tenure Decision Appeals

In appeals of tenure decisions, the following issues are reviewable on appeal: (1) an alleged violation by CSM of one or more constitutionally protected rights of the Candidate, provided that the appeal does not contain allegations of unlawful discrimination; and (2) an alleged breach of a significant contractual obligation by CSM which has materially impacted the Candidate's ability to successfully earn tenure at CSM.

2. Promotion Decision Appeals

In appeals of promotion decisions, the following issues are reviewable on appeal: (1) the merits of the Provost's decision; (2) alleged procedural irregularities; and (3) an alleged violation by CSM of one or more constitutionally protected rights of the Candidate, provided that the appeal does not contain allegations of unlawful discrimination.

B. Burden of Proof

The Candidate shall bear the burden of proof in all appeals heard pursuant to this procedure.

C. Standard of Proof

The standard of proof for all appeals heard pursuant to this procedure shall be the "preponderance of the evidence" standard, as it is generally applied in civil cases. This standard shall be deemed met if the hearing panel believes that it is more likely than not that the facts at issue occurred. The "facts at issue" shall include all facts that are required to be proven by the Candidate in order to prevail.

8.3.5 Initial Hearing Panel Selection Criteria

All appeals filed hereunder shall be heard by a hearing panel chosen through the process specified in subparagraph A immediately below from the pool of tenured faculty at CSM who hold an academic rank which is: (1) equal to or higher than the rank of the Candidate in tenure appeals; or (2) equal to or higher than the rank applied for by the Candidate in promotion appeals or combined promotion and tenure appeals.

A. Hearing Panel Selection Process

An initial hearing panel of eight members shall be chosen on a random basis from the applicable tenured faculty pool under the supervision of the Director of Human Resources. Panel members may be excused by the Human Resources Director on account of conflict of interest, health, or unavoidable absence from campus. The Candidate and the Provost shall each disqualify two of the hearing panel members. The disqualifications exercised by the parties shall proceed in an alternate fashion beginning with the Candidate. Of the remaining panel members, the one chosen last shall serve as an alternate hearing panel member. The other three panel members shall constitute the hearing panel for the appeal. An excused hearing panel member shall be replaced by another faculty member from the applicable pool chosen in a random drawing prior to the exercise of any disqualifications by either party.

B. Selection of Chief Panel Member

The panel members shall elect a chief panel member from their number to preside throughout the remainder of the appeal.

C. Authority of Chief Panel Member

The chief panel member shall have the authority to (a) issue orders to compel discovery; (b) make rulings on objections; and (c) issue any other orders necessary to control the conduct of the hearing and prohibit abusive treatment of witnesses, including removal of disruptive individuals from the hearing room.

D. Role of Alternate Hearing Panel Member

The alternate member shall observe, but not actively participate in, all of the proceedings in the case and be prepared to substitute for a panel member who becomes unavailable during any stage of the case due to death, illness, or unavoidable emergency.

8.3.6 Legal Representation

A. Role of Legal Counsel

Either party may engage the services of an attorney to assist in document preparation or case preparation. However, an attorney may not *enter an appearance* or actively participate in the hearing on behalf of either party.

B. Peer Counsel

The Candidate may designate a peer counsel in writing to provide moral support or actual representation during the hearing. If so designated and to the extent authorized by the Candidate, the peer counsel may speak on behalf of the Candidate, examine witnesses, deliver opening and closing statements, etc.

C. Legal Advice for the Panel

An attorney from the Office of Legal Services or the Assistant Attorney General assigned to represent CSM shall provide the desired level of legal advice to the panel throughout the proceeding. If this representation arrangement creates a conflict of interest, a "conflicts counsel" from the Attorney General's Office shall be engaged to perform this function.

8.3.7 Pre-Hearing Procedures

A. Acknowledgment of Notice of Appeal

As soon as practicable after receipt of the Notice of Appeal and completion of the examination of legal sufficiency, the Provost shall send a letter to the Candidate acknowledging timely receipt and the legal sufficiency of the Notice of Appeal. This subparagraph shall not apply if the Notice of Appeal was untimely or legally insufficient.

B. Setting of Hearing Date

After a chief panel member has been chosen, a hearing date shall be set with reasonable consideration given to the schedules of the individuals concerned. The chief panel member shall set a date for the hearing, which shall occur no more than thirty days after the date upon which the hearing panel was selected. Once set, the hearing date may be rescheduled only with the concurrence of the Candidate, the Provost, and the chief panel member.

C. Pre-Hearing Discovery

Informal discovery, or the voluntary exchange between the parties of information relevant to the case, is encouraged. If the parties cannot resolve such issues informally, up to five business days prior to the hearing date either party may request the chief panel member to enter an order compelling discovery upon a showing of the relevance of the requested information and the necessity of such information to case preparation. The other party may oppose such request by showing that the requested information is irrelevant, unnecessary to case preparation, or privileged according to law.

D. List of Hearing Issues

After examining the position statements of both parties, the hearing panel shall prepare a list of issues to be resolved through the hearing and distribute such list to the parties no later than three business days prior to the hearing date. The list of issues generated pursuant to this subparagraph shall be binding upon the subsequent hearing and shall form the standard against which all relevancy arguments shall be weighed.

8.3.8 Position Statements

A. Contents of Position Statements

Each party shall file a Position Statement containing the following components:

- 1. Position Summary:** A concise statement summarizing the case from the position of the submitting party;
- 2. List of Witnesses:** A list of witnesses to be presented at the hearing along with a summary of the anticipated testimony of each witness; and
- 3. Photocopies of Exhibits:** Photocopies of each exhibit to be presented at the hearing.

B. Deadlines for Position Statements

Each party shall prepare and file a position statement with the hearing panel and provide a copy to the opposing party no later than five business days prior to the hearing date. If the hearing date is rescheduled, these time limits shall apply to the rescheduled hearing date.

C. Limitations Imposed by Position Statements

Neither party shall make an argument during the hearing that is inconsistent with the arguments set forth in the position summary section of his or her position statement. Neither party shall introduce any witnesses or exhibits at the hearing that are not listed in his or her position statement. All exhibits listed in the position statements shall be deemed genuine and admissible unless successfully challenged prior to the hearing.

D. Amendments to Position Statements

Up to three business days prior to the hearing date, either party may request the chief panel member to permit amendments to his or her position statement upon a showing of good cause and lack of prejudice to the opposing party. Any party filing an amended position statement shall provide a copy thereof to the opposing party no later than the filing deadline imposed by the order permitting the amendment.

8.3.9 Hearing Procedures

A. Presumption of Open Hearing

Subject to limitations imposed by the capacity of the hearing room, the hearing shall be open to the public. For good cause, either party may request that the hearing be closed to the public. The chief panel member may grant such a request only if the non-requesting party does not object.

B. Sequestration of Witnesses

Upon the request of either party, the chief panel member shall direct that all individuals scheduled to appear as witnesses in the hearing may not be present in the hearing room except when actually testifying.

C. Order of Presentation

The Candidate shall make his or her presentation first. After this presentation is concluded, the Provost shall make his or her presentation. Rebuttal presentations by either party may be permitted at the discretion of the chief panel member. At the conclusion of the Provost's

presentation, the Candidate shall be permitted to make a closing statement. At the conclusion of the Candidate's closing statement, the Provost shall be permitted to make a closing statement.

D. Presentation Procedure

During a party's presentation, that party may testify, examine other witnesses, or submit documents as evidence to the hearing panel. Arguments should not be made by a party or a representative of a party during the presentation, but rather should be reserved for the closing statement. Hearing panel members may interject questions at any time.

E. Witness Examination Procedure

The party on whose behalf the witness has appeared shall directly examine each witness. Upon the conclusion of the examination of each witness, the opposing party shall be permitted the right of cross-examination. The chief panel member may permit redirect and re-cross examination. However, an identical examination procedure shall be utilized for all witnesses testifying during the same hearing.

F. Inapplicability of Strict Evidentiary Rules

Strict legal evidentiary rules shall not apply during the hearing. The chief panel member shall rule on the admissibility of disputed evidence with primary consideration given to the relevance, reliability, and probative value of proffered evidence.

8.3.10 Post-Hearing Procedures

A. Recommendation of the Hearing Panel

After the conclusion of the hearing, the hearing panel shall confer among themselves and vote upon a recommended course of action. The panel members holding a majority point of view shall designate a member of their group to write a recommendation reflecting their opinion. A panel member holding a minority point of view may issue a dissenting recommendation.

B. Contents of Recommendation

The recommendation of the hearing panel shall include the following components:

1. **Statement Regarding Burden of Proof:** A statement regarding whether or not the hearing panel believes that the burden of proof borne by the Candidate has been sustained.
2. **Findings of Fact:** A list of the relevant facts found by the hearing panel upon which the recommendation is based;
3. **Conclusions:** A list of the conclusions of the hearing panel upon which the recommendation is based; and
4. **Recommended Course of Action:** A statement of the course of action recommended by the hearing panel.

C. Issuance of Recommendation

The recommendation of the hearing panel shall be issued to the parties and delivered to the President of CSM along with the panel's case file within five business days after the conclusion of the hearing.

D. Issuance of Presidential Decision

The President shall examine the case file, consider the recommendation of the hearing panel, and issue a final written decision in the matter. The President shall possess the authority to affirm, reverse, or modify the recommendation of the hearing panel or to remand the matter to the panel for further proceedings or consideration. The decision of the President shall be delivered to the parties and the hearing panel within ten business days from the date of the President's receipt of the recommendation and case file from the hearing panel, unless the President is unavailable for a significant amount of time during this period.

E. Presidential Unavailability

The term "unavailable," as utilized in this subparagraph and subparagraph D immediately above, shall be defined to mean out of town, medically incapacitated, or engaged in important CSM business to the extent that sufficient time cannot be devoted to decision making hereunder. If the President is unavailable for a significant period of time during the decision making period, a letter shall be sent to the parties advising them of that fact as well as the anticipated date of presidential availability. In such event, the decision shall be due ten business days from the date upon which the President becomes available. The President shall be the sole judge of all issues related to unavailability hereunder.

F. Appeal of Final Decision of CSM

The decision issued by the President shall constitute the final decision of CSM regarding the matter being appealed. There shall be no further appeal from the final decision of CSM. If the Candidate is aggrieved by the final decision of CSM, he or she may pursue other available legal remedies.