

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA**

TERESA BUCHANAN,)
Plaintiff,)
v.)
F. KING ALEXANDER,)
DAMON ANDREW, A.G. MONACO,)
and GASTON REINOSO,)
Defendants.)
Case No.)
COMPLAINT FOR INJUNCTIVE)
AND DECLARATORY RELIEF)
AND DAMAGES)
JURY TRIAL DEMANDED)
)

Plaintiff Teresa Buchanan complains of Defendants and alleges:

I. INTRODUCTION

1. Plaintiff Teresa Buchanan, a tenured professor, was fired from Louisiana State University (“LSU”) in June 2015 on the asserted ground that her occasional use of profanity constituted “sexual harassment” under LSU policies. Despite the fact that Professor Buchanan had a distinguished record of scholarship after nineteen years at LSU and had recently been recommended for a promotion, and notwithstanding the fact that the language in question was integrated into her pedagogical approach and was not directed at – nor did it disparage – any student, LSU terminated her employment. It did so under LSU policies that define “sexual harassment” without regard for First Amendment protections governing free speech and academic freedom. LSU’s flawed policies mirror a “blueprint” for campus anti-harassment policies promulgated by the U.S. Departments of Education and Justice, which unlawfully equates all speech of a “sexual nature” with sexual harassment. Under this approach, speakers may be punished – up to and including expulsion or termination – if a listener takes offense to sexually related speech for any reason, no matter how irrationally or unreasonably.

2. In its termination of Professor Buchanan, LSU lost sight of the fact that “[t]he vigilant protection of constitutional freedoms is nowhere more vital than in the community of American schools.” *Shelton v. Tucker*, 364 U.S. 479, 487 (1960). This is particularly true of public universities, where “[t]eachers and students must always remain free to inquire, to study and to evaluate, to gain new maturity and understanding.” *Sweezy v. New Hampshire*, 354 U.S. 234, 250 (1957). The United States Supreme Court has thus made clear that “state colleges and universities are not enclaves immune from the sweep of the First Amendment,” and that the freedoms of speech, assembly, and petition must be zealously guarded as “[t]he college classroom with its surrounding environs is peculiarly the ‘marketplace of ideas.’” *Healy v. James*, 408 U.S. 169, 180 (1972).

3. This is a civil rights action to protect and vindicate the First and Fourteenth Amendment rights of Teresa Buchanan and all students and faculty at LSU. By policy and practice, Defendants unlawfully restrict the LSU community’s constitutional rights to free expression and have acted in the past to restrict the Plaintiff’s constitutional rights. LSU’s policies and enforcement practices are challenged on their face and as applied to Professor Buchanan. This action seeks declaratory and injunctive relief, damages, and attorneys’ fees.

II. JURISDICTION AND VENUE

4. This action arises under the United States Constitution, particularly the First and Fourteenth Amendments, and the Civil Rights Act, 42 U.S.C. §§ 1983 and 1988.

5. This Court has original jurisdiction over these federal claims pursuant to 28 U.S.C. §§ 1331 and 1343.

6. The Court has authority to grant the requested declaratory judgment pursuant to 28 U.S.C. §§ 2201 and 2202 and Federal Rule of Civil Procedure 57, and to issue the requested

injunctive relief pursuant to 42 U.S.C. § 1983 and Federal Rule of Civil Procedure 65. The Court is authorized to award attorneys' fees and costs pursuant by 42 U.S.C. § 1988.

7. Venue is proper in the United States District Court for the Middle District of Louisiana pursuant to 28 U.S.C. § 1391(b) because the events giving rise to the instant claim occurred within this District and because at least one Defendant resides in this District.

III. PLAINTIFF

8. Plaintiff Teresa Buchanan is, and was at all times relevant to the Complaint, a resident of Husser, Louisiana. She was formerly employed as a tenured associate professor at LSU, where she taught in the School of Education for more than nineteen years. LSU terminated Plaintiff's employment in June 2015.

IV. DEFENDANTS

9. Defendant F. King Alexander is President and Chancellor of Louisiana State University. He is LSU's chief executive officer, responsible for LSU's administration and policy-making, and has ultimate authority to approve the policies and procedures challenged herein that were applied to deprive Plaintiff of her constitutional rights. Defendant Alexander acted under color of state law and is sued in both his personal and official capacities.

10. Defendant Damon Andrew is Dean of the College of Human Sciences and Education at Louisiana State University. Defendant Andrew acted under color of state law and is sued in both his personal and official capacities.

11. Defendant A.G. Monaco is Associate Vice Chancellor of the Office of Human Resource Management at Louisiana State University. Defendant Monaco acted under color of state law and is sued in both his personal and official capacities.

12. Defendant Gaston Reinoso is the Director of the Office of Human Resource Management and Executive Director of Equal Employment Opportunities at Louisiana State University. Defendant Reinoso acted under color of state law and is sued in both his personal and official capacities.

V. STATEMENT OF FACTS

13. Professor Buchanan was a tenured associate professor at LSU, teaching in the prekindergarten through third grade education program. Her students were adult undergraduate and graduate students, including students who were being trained for careers in prekindergarten and elementary education.

14. Professor Buchanan had taught at LSU for more than 19 years. Since her promotion to Associate Professor in 2001, Professor Buchanan had thirteen peer-reviewed articles published, with six of those in top tier journals. She also published three chapters in books from highly respected publishers in her field and presented her work at sixteen national or international conferences in peer-reviewed sessions. Professor Buchanan demonstrated significant success in securing funding for her research and for early childhood initiatives at LSU, obtaining \$1.2 million in funding for twelve projects. Most notably, Professor Buchanan was the recipient of funding from the National Science Foundation for her work related to early childhood educators' responses to Hurricanes Katrina and Rita. She also secured over \$93,000 from Americorps to support a Jumpstart initiative at LSU, as well as \$700,000 from the U.S. Department of Education to support the planning and development of the LSU Child Care Center. Professor Buchanan was elected as the Newsletter editor for the Early Education/Child Development Special Interest Group for the American Educational Research Association, was a proposal reviewer for this organization, and reviewed manuscripts for numerous journals in

the field, including *Early Childhood Research Quarterly*, the leading journal in the field. From 2009-2011, Professor Buchanan was appointed to serve as a national program reviewer for the National Council for Accreditation of Teacher Education (NCATE) Board of Regents.

15. In early November 2013, Defendant Damon Andrew, Dean of the College of Human Sciences & Education, recommended Professor Buchanan for promotion to full professor, citing her various accomplishments and the recommendations of the School of Education Promotion and Tenure Committee and other reviewers.

16. However, on December 20, 2013, Defendant Andrew notified Professor Buchanan that she would not be teaching in the spring semester due to complaints from students about “inappropriate comments” she allegedly made during instruction, and because a superintendent of schools for a parish where LSU placed student teachers had complained that Professor Buchanan had made “negative and inappropriate comments” about parish teachers and criticized the superintendent at a recent meeting. Andrew did not disclose the identities of the student complainants or the nature of their complaints.

17. Defendant Andrew told Professor Buchanan that his action would be referred to the Provost who was then reviewing her promotion and invited her to withdraw from consideration.

18. On December 23, 2013, Defendant Andrew informed LSU Executive Vice Chancellor and Provost Stuart Bell that he was rescinding his recommendation that Professor Buchanan be promoted to full professor based on the allegations in his December 20, 2013 communication to Plaintiff.

19. In particular, Defendant Andrew told Bell that an unidentified student had complained regarding Professor Buchanan’s purported “use of sexual terms in the classroom,

profanity, and belittling and embarrassing statements.” Andrew further noted that a local parish superintendent had complained that Professor Buchanan “use[d] vulgarities (for example, she used the word “Pussy” three times during one meeting.”

20. On January 15, 2014, Professor Buchanan met with LSU Human Resource Management administrators, including Defendant Gaston Reinoso, to discuss the allegations. Professor Buchanan explained that she used language referenced in the complaints for pedagogical purposes, that no student or faculty member had ever formally complained to her about her practice, and that she would have modified her approach had anyone expressed concern. Professor Buchanan was not notified of any charges at that time.

21. In the months that followed, and without any formal charges or further disciplinary actions taken against her, Professor Buchanan was informed that Bell would not recommend her for promotion and that the LSU Board of Supervisors subsequently rejected her recommendation for promotion.

22. On May 26, 2014, Professor Buchanan received a memorandum from Defendant Reinoso finding her “actions and behavior” to be “inappropriate, unwelcome and a direct violation of the University’s Policy Statements on Sexual Harassment, PS-73 and PS-95.” Reinoso stated: “Beyond your sexually oriented comments, your reported communication style with students, faculty, and outside administrators has been found to be inappropriate, as you often use profanity in your communication.”

23. LSU policy PS-73 defines sexual harassment as “speech and/or conduct of a sexually discriminatory nature, which was neither welcomed nor encouraged, which would be so offensive to a reasonable person as to create an abusive working or learning environment and/or impair his/her performance on the job or in the classroom.” *See Exhibit A.*

24. LSU's policy on sexual harassment of students, PS-95, defines sexual harassment as "unwelcome verbal, visual, or physical behavior of a sexual nature." It includes quid pro quo harassment and hostile environment harassment, which "has the purpose or effect of unreasonably interfering with an individual's academic, work, team or organization performance or creating an intimidating, hostile or offensive working environment." *See* Exhibit B.

25. PS-95 lists examples of hostile environment harassment, including, "unwelcome touching or suggestive comments, offensive language or display of sexually oriented materials, obscene gestures, and similar sexually oriented behavior of an intimidating or demeaning nature."

26. No suggestion has ever been made that Professor Buchanan engaged in any kind of "physical behavior of a sexual nature," "quid pro quo harassment," or "sexual discrimination" of any kind. Rather, the purported violations of LSU policies were based entirely on occasional comments that some later claimed offended them.

27. LSU's policies on sexual harassment, PS-73 and PS-95, do not implement the criteria for harassment set forth by the Supreme Court in *Davis v. Monroe County Bd. of Educ.*, 526 U.S. 629, 652 (1999), that the alleged harassment must be "severe, pervasive, and objectively offensive."

28. Instead, LSU implemented a definition of harassment that mirrors the definition that has been proposed by the U.S. Departments of Education and Justice in what they have called "a blueprint for colleges and universities throughout the country to protect students from sexual harassment and assault." Under this "blueprint," sexual harassment is defined as "any

unwelcome conduct of a sexual nature” and there is no requirement that it be “objectively offensive.”

29. The May 26, 2014 Memorandum also informed Plaintiff that the Office of Human Resource Management had determined that she had violated the Americans with Disabilities Act (“ADA”) by disclosing a student’s medical condition to the student’s entire class. The Office inexplicably made this determination despite the fact that the student had herself referred to her condition in class on several occasions. Defendant Reinoso did not inform Plaintiff of which LSU policy was violated by this alleged conduct, and none appear to be applicable to this situation.

30. Defendant Reinoso’s identification of charges and specific harassment policies in his May 26, 2014 memorandum led to a June 12, 2014 meeting between Professor Buchanan and Defendant Andrew. Professor Buchanan explained to Andrew that her choice of language was based on her specific pedagogical strategy.

31. On June 17, 2014, Defendant Andrew said he agreed with the Office of Human Resource Management’s findings, noting that he did “not condone any practices where sexual language and profanity are used when educating students.” Andrew also told Professor Buchanan that he was “considering pursuing” dismissal for cause proceedings against her under LSU policy PS-104.

32. Professor Buchanan responded on July 2, 2014, stating that she still had not received specific information about the allegations made against her and that LSU’s procedures had not been followed in finding a violation of the university’s sexual harassment policies.

33. On July 14, 2014, Defendant Andrew recommended to Bell that Professor Buchanan be dismissed for cause from the university. Plaintiff was informed of this decision ten days later.

34. Professor Buchanan wrote to Bell on August 3, 2014, to reiterate her due process concerns and explain how her complained-of speech was part of her pedagogical strategy, noting: “[Profanity] is part of the common vernacular even among very young children today, and teacher-education students need to be aware that they will be confronted with that language and professionally decide how they will respond. I have never had a student tell me that it was offensive or that they were uncomfortable with my language.”

35. Professor Buchanan informed Bell that she utilizes humor to help student teachers recognize their “own feelings regarding dress and sexuality” to prepare them for their future interactions with “children from family backgrounds that are different from their own” and their responsibility “for establishing and maintaining effective and reciprocal relationships with all families.”

36. In the over five-month period that followed, Professor Buchanan attended two pre-hearing meetings where she was not provided detailed information about the charges against her, the evidentiary bases for those charges, or witnesses who had participated in the Office of Human Resource Management investigation.

37. On March 9, 2015, a faculty committee conducted a twelve-hour hearing to consider whether Professor Buchanan should be dismissed for cause under PS-104. The committee heard testimony on the allegations against Professor Buchanan, including:

- a) allegedly using profanity with student teachers, but not in front of any elementary students;
- b) using the word “pussy” in discussing with student teachers how parents might use the word and other profanity as part of their everyday language;

- c) discussing the impact of becoming pregnant on any student's ability to complete the teacher training program;
- d) joking about the decline in sex over the course of a relationship; and
- e) joking about stereotypical lesbian clothing to demonstrate sexual stereotyping.

38. On March 20, 2015, the hearing committee issued a determination that Professor Buchanan's conduct violated PS-73 and PS-95, LSU's sexual harassment policies "through her use of profanity, poorly worded jokes, and sometimes sexually explicit 'jokes' in her teaching methodologies," but that charges of ADA violations were not substantiated. The committee recommended that Professor Buchanan not be dismissed, in part because she was not given an opportunity to change her behavior before disciplinary proceedings were conducted against her.

39. Defendant F. King Alexander, LSU's President, overruled the recommendation of the hearing committee and, on April 2, 2015, recommended to the Board of Supervisors that Professor Buchanan be dismissed for cause for violating LSU's sexual harassment policies and for violating the ADA. Defendant Alexander failed to disclose that the faculty hearing body had recommended that Professor Buchanan not be dismissed and had concluded that no ADA violation had occurred.

40. Professor Buchanan timely appealed Defendant Alexander's decision to seek her dismissal for cause. However, Defendant Alexander denied her appeal and declined to change his recommendation that she be dismissed for cause.

41. On June 19, 2015, the Board of Supervisors acted on Defendant Alexander's recommendation and dismissed Professor Buchanan.

42. In statements to the press regarding Professor Buchanan's dismissal from LSU, Defendant Alexander explained the University's need to follow its Title IX policies, which

mirror the Department of Education’s “blueprint.” Specifically, he cited the connection between the university’s action and Title IX federal funding, stating: “The behavior of the faculty member places the university at a substantial risk. A university that tolerates, inadequately addresses or is deliberately indifferent toward sexual harassment may be subject to loss of federal funds and/or may be liable for money damages under Title IX or The Civil Rights Act.”

VI. CAUSES OF ACTION

COUNT I

As-Applied Violation of Plaintiff’s Rights to Free Speech Under the First and Fourteenth Amendments (42 U.S.C. § 1983) – Sexual Harassment Policies (Defendants Alexander, Andrew, Monaco, and Reinoso)

43. Plaintiff repeats and realleges each of the foregoing allegations in this Complaint.

44. The First and Fourteenth Amendments extend to campuses of state colleges and universities. *Healy v. James*, 408 U.S. at 180.

45. Academic freedom is a “special concern of the First Amendment.” *Keyishian v. Board of Regents*, 385 U.S. 589, 603 (1967). LSU’s own policies recognize that “[e]xercise of academic freedom, including intellectual dissent, advocacy of controversial ideas or pursuit by an individual of his/her legal rights, shall not be grounds for dismissal or disciplinary action.” See Exhibit C (LSU PS-104).

46. Professor Buchanan engaged in constitutionally protected expression and was dismissed in response to her exercise of constitutional rights. *Mt. Healthy City Sch. Dist. Bd. of Educ. v. Doyle*, 429 U.S. 274 (1977). Professor Buchanan’s exercise of academic freedom is itself an issue of public concern protected by the First Amendment. *Sweezy v. New Hampshire*,

354 U.S. 234, 250 (1957); *Silva v. University of New Hampshire*, 888 F. Supp. 293, 315 (D. N.H. 1994).

47. Professor Buchanan's speech involved a matter of public concern insofar as she employed a pedagogy for training student teachers for the rigors of providing educational services to communities that may use profanity in common expression, express hostility in interactions with teachers, or express sexual diversity. Her interest as a public citizen in training elementary school teachers outweighed the university's interest in forbidding the occasional use of sexual and profane language by its faculty. *Pickering v. Board of Education*, 391 U.S. 563 (1968); *Hardy v. Jefferson Cnty. Coll.*, 260 F.3d 671 (6th Cir. 2001).

48. These basic First Amendment principles cannot be cast aside simply by labeling speech as "harassment" or "discriminatory." "There is no categorical 'harassment exception' to the First Amendment's free speech clause." *Saxe v. State Coll. Area Sch. Dist.*, 240 F.3d 200, 204 (3d Cir. 2001). The government may not prohibit the expression of an idea simply because it is considered offensive or disagreeable, *Texas v. Johnson*, 491 U.S. 397, 414 (1989), and the First Amendment "leaves no room for the operation of a dual standard in the academic community with respect to the content of speech." *Papish v. Board of Curator of the Univ. of Missouri*, 410 U.S. 667, 671 (1973).

49. The Supreme Court has long recognized that "words are often chosen as much for their emotive as cognitive force," and that "we cannot indulge the facile assumption that one can forbid particular words without also running a substantial risk of suppressing ideas in the process." *Cohen v. California*, 403 U.S. 15, 26 (1971). The First Amendment forbids the government from censoring speech based on "personal predilections," and "the State has no

right to cleanse the public debate to the point where it is grammatically palatable to the most squeamish among us.” *Id.* at 21, 25.

50. Defendant Alexander explicitly cited Plaintiff’s speech in explaining his decision to recommend dismissal for cause to the Board of Supervisors.

51. Defendant Andrew cited Plaintiff’s speech as the basis for his recommendation that Plaintiff be dismissed for cause.

52. On information and belief, Defendant Monaco approved Defendant Reinoso’s findings that Plaintiff’s speech violated LSU’s sexual harassment policies.

53. Defendant Reinoso cited Plaintiff’s speech as the basis for finding that she violated LSU’s sexual harassment policies.

54. Defendants Alexander, Andrew, Monaco, and Reinoso violated a clearly established constitutional right of which all reasonable college administrators and staff should have known, rendering them liable to Plaintiff under 42 U.S.C. § 1983.

55. The denial of constitutional rights is irreparable injury *per se*, and Plaintiff is entitled to declaratory and injunctive relief.

56. Professor Buchanan suffered from a loss of employment, lost income, and diminished professional prospects as a consequence of the Defendants’ unconstitutional acts.

57. Additionally, Professor Buchanan experienced emotional injury as a consequence of being denied her First Amendment rights.

COUNT II

As-Applied Violation of Plaintiff’s Due Process Rights Under the Fourteenth Amendment (42 U.S.C. § 1983) – Dismissal for Cause Under PS-104 (Defendants Alexander, Andrew, Monaco, and Reinoso)

58. Plaintiff repeats and realleges each of the foregoing allegations in this Complaint.

59. Professor Buchanan was a tenured professor at LSU, had a property interest in her continued employment at the university, and therefore should have been afforded constitutional due process before her position was terminated.

60. Professor Buchanan was unconstitutionally denied oral or written notice of the charges against her, an explanation of Defendants' evidence until after she was found guilty of violating LSU's sexual harassment policies, or a meaningful opportunity to be heard in her own defense within a reasonable time. *Cleveland Bd. of Educ. v. Loudermill*, 470 U.S. 532, 546 (1985); *Levitt v. University of Texas*, 759 F.2d 1224, 1227-28 (5th Cir. 1985).

61. The LSU Office of Human Resource Management, including Defendants Monaco and Reinoso, conducted an investigation regarding whether Professor Buchanan could be found in violation of LSU sexual harassment policies instead of proceeding from the outset in accordance with LSU's applicable PS-104, Dismissal for Cause for Faculty policy.

62. Defendants, including Defendant Andrew and Defendant King, elected to await the conclusion of the lengthy and opaque Office of Human Resource Management investigation before turning to LSU's PS-104 procedure, which calls for the administration to demonstrate adequate cause in a hearing of record before a body of faculty peers.

63. Plaintiff was also denied full documentation regarding the allegations against her and the specific conduct that allegedly violated LSU sexual harassment policies, as well as an expeditious disciplinary process, in violation of university policy PS-104.

64. Plaintiff was also denied written documentation regarding the specific conduct that allegedly violated the ADA, as well as any indication of what university policy relating to ADA obligations she had violated.

65. Defendants Alexander, Andrew, Monaco, and Reinoso violated a clearly established constitutional right of which all reasonable college administrators and staff should have known, rendering them liable to Plaintiff under 42 U.S.C. § 1983.

66. The denial of constitutional rights is irreparable injury *per se*, and Plaintiff is entitled to declaratory and injunctive relief.

67. Plaintiff is entitled to a declaration that Defendants violated her Fourteenth Amendment rights and reinstatement to her position as tenured associate professor at Louisiana State University.

68. Additionally, Plaintiff is entitled to damages in an amount to be determined by the evidence and this Court, and the reasonable costs of this lawsuit, including reasonable attorneys' fees.

COUNT III

Facial Challenge to Violation of Right to Free Speech Under the Plaintiff's First and Fourteenth Amendment Rights (42 U.S.C. § 1983) – Sexual Harassment Policies (Defendants Alexander, Andrew, Monaco, and Reinoso)

69. Plaintiff repeats and realleges each of the foregoing allegations in this Complaint.

70. Any regulation of harassment to prevent a hostile learning environment must be drafted with narrow specificity to avoid violating the First Amendment. *Cohen v. San Bernardino Valley Coll.*, 92 F.3d 968, 972 (9th Cir. 1996).

71. A prohibition on "harassment" is overly broad unless it is specifically confined to acts that are "severe, pervasive, and objectively offensive." *Davis v. Monroe County Bd. of Educ.*, 526 U.S. 629, 652 (1999).

72. LSU's sexual harassment policies are unconstitutional because they mirror recent pronouncements of the Department of Education that define sexual harassment as

“unwelcome verbal … behavior of a sexual nature,” without any requirement of objective offensiveness or interference with a reasonable person’s access to his or her education. The more recent pronouncements of the Department of Education discard carefully drafted language in previous policy statements, and its current definitions of harassment encompass potentially any sex-related speech as long as someone deems it “unwelcome,” even if that person is uniquely sensitive.

73. LSU’s sexual harassment policies are unconstitutionally overbroad, do not serve a significant governmental interest, are not narrowly drawn, and impermissibly restrict student and faculty expression. They burden far more speech than is necessary to serve the asserted interest of minimizing sexual harassment at the university.

74. As a direct result of the Defendants’ sexual harassment policies, students and faculty at LSU are deprived of their right to free speech under the First and Fourteenth Amendments to the Constitution.

75. As a legal consequence of the Defendants’ violation of Professor Buchanan’s and other similarly situated individuals’ First and Fourteenth Amendment rights, as alleged above, all of which is irreparable injury *per se*, Plaintiff is entitled to declaratory and injunctive relief, damages, and the reasonable costs of this lawsuit, including reasonable attorneys’ fees.

COUNT IV

Declaratory Judgment and Injunction (28 U.S.C. § 2201, et seq.)

76. Plaintiff repeats and realleges each of the foregoing allegations in this Complaint.

77. An actual controversy has arisen and now exists between Professor Buchanan and Defendants concerning Plaintiff’s rights under the United States Constitution. A judicial declaration is necessary and appropriate at this time as to Counts I through III above.

78. Professor Buchanan desires a judicial determination of her rights against Defendants as they pertain to Plaintiff's right to speak without being subjected to unconstitutional sexual harassment policies that impose prior restraints on speech, give school officials unfettered discretion whether to allow expression and under what conditions, and that are vague, overbroad, and not narrowly tailored to serve a substantial governmental interest.

79. To prevent further violation of Professor Buchanan's constitutional rights by Defendants, it is appropriate and proper that a declaratory judgment issue, pursuant to 28 U.S.C. § 2201 and Fed. R. Civ. P. 57, declaring LSU's sexual harassment policies unconstitutional.

80. Pursuant to 28 U.S.C. § 2202 and Fed. R. Civ. P. 65, this Court should issue a permanent injunction prohibiting the Defendants from enforcing their restrictions on LSU faculty and students' expressive activities to the extent they are unconstitutional, to prevent the ongoing violation of constitutional rights. LSU faculty and LSU students are suffering irreparable harm from continued enforcement of LSU unconstitutional policies, monetary damages are inadequate to remedy their harm, and the balance of equities and public interest both favor a grant of injunctive relief.

VII. PRAYER FOR RELIEF

WHEREFORE, Plaintiff Teresa Buchanan respectfully requests that the Court enter judgment against Defendants and provide Plaintiff the following relief:

A. A declaratory judgment stating that Defendants' sexual harassment policies, facially and as-applied to Professor Buchanan, are unconstitutional, and that they violated Plaintiff's rights as guaranteed under the First and Fourteenth Amendments to the United States Constitution;

- B. A permanent injunction restraining enforcement of Defendants' unconstitutional sexual harassment policies and their underlying enforcement practices;
- C. A declaratory judgment that Defendants' censorship of Plaintiff's expressive activity violated her First and Fourteenth Amendment rights;
- D. A declaratory judgment that Defendants failed to follow their own policies for dismissing a tenured professor for cause and violated Professor Buchanan's Fourteenth Amendment due process rights;
- E. Monetary damages in an amount to be determined by the Court to compensate Professor Buchanan for the impact of a deprivation of fundamental rights;
- F. Monetary damages in an amount to be determined by the Court to compensate Professor Buchanan for loss of employment and professional prospects;
- G. Reinstatement to the position of tenured professor at Louisiana State University;
- H. Plaintiff's reasonable costs and expenses of this action, including attorneys' fees, in accordance with 42 U.S.C. § 1988, and other applicable law; and
- I. All other further relief to which Plaintiff may be entitled.

VIII. DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury of all issues properly triable by jury in this action.

DATED: January 20, 2016

Respectfully submitted,

/s/ Robert Corn-Revere
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EXHIBIT A

Sexual Harassment
PS-73

PURPOSE

To state the University policy and responsibility regarding sexual harassment as related to its employees and to its students who believe they have been harassed by an employee.

POLICY

The University reaffirms and emphasizes its commitment to provide a workplace free from sexual harassment and to provide a means to remedy sexual harassment that employees may have experienced.

The intent of this policy is to express the University's commitment and responsibility to protect its employees and students from sexual harassment and from retaliation for participating in a sexual harassment complaint. It is not intended to infringe upon constitutionally guaranteed rights nor upon academic freedom. In considering allegations of sexual harassment, the University must be concerned with the rights of both the complainant and the accused.

All complaints of sexual harassment must be reported to the Office of Human Resource Management. All proven cases of sexual harassment shall result in appropriate disciplinary or other corrective action. The severity of the disciplinary action shall be consistent with the seriousness of the act of sexual harassment. Additionally, under appropriate circumstances, the University may take action to protect its employees and students from sexual harassment by individuals who are not employees of the University.

DEFINITIONS

Sexual harassment: is a form of unlawful sexual discrimination. It is defined as speech and/or conduct of a sexually discriminatory nature, which was neither welcomed nor encouraged, which would be so offensive to a reasonable person as to create an abusive working or learning environment and/or impair his/her performance on the job or in the classroom.

Sexual harassment may involve a situation where unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature are made either explicitly or implicitly a term or condition of an individual's employment and submission to or rejection of such conduct by an individual results in a tangible and adverse employment action. Examples of such potential relationships include supervisors and subordinates, employers and job applicants and other relationships in which one person has the potential to reward or penalize another in regard to his or her employment role.

Sexual harassment is also defined as unwelcome verbal or physical conduct of a sexual nature or gender-based conduct in which the conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment. Examples include unwelcome touching; persistent, unwanted sexual/romantic attention or display of sexually oriented materials; deliberate, repeated gender-based humiliation or intimidation, and similar sexually oriented behavior of an intimidating or demeaning nature.

Employees: as used herein are defined as all persons having any employment relationship with the University.

PROCEDURES

A. Reporting

Any member of the University community who believes that he or she has been subjected to sexual harassment has a right and an obligation to report it to any University official, supervisor, or the Office of Human Resource Management. No student or employee is required to report or make a complaint of sexual harassment to the person who is engaging in the problematic conduct.

To insure that situations that may involve sexual harassment are handled appropriately, any University administrator or supervisor who is a recipient of a complaint or report of possible violation of the policy will immediately notify the Office of Human Resource Management for advice and assistance on how to respond to the complaint. The Office of Human Resource Management (Room 304, Thomas Boyd Hall, phone, 578-8200) can provide further information regarding filing procedures for complaints and regarding investigations of complaints. The Office of the Dean of Students is responsible for addressing sexual harassment complaints involving student on student harassment.

B. Complaint Options

Because sexual harassment may involve a wide range of sexually oriented behaviors and is, in part, a function of the way in which such behaviors are perceived, the way in which a given incident is appropriately treated depends on its effect upon the recipient as well as upon the specific behavior itself. For example, simply informing the initiator through verbal or written communication that the behavior is unwelcome and should cease may be sufficient to end it. On the other hand, the situation may be such or the behavior may be so extreme that the recipient is unwilling or unable to deal with it in this way.

To help the recipient determine how best to remedy sexual harassment, as well as to insure that appropriate measures are taken when warranted, anyone who believes himself or herself to have been subjected to sexual harassment may make use of both informal and formal resolution procedures.

Informal Procedure - Under the informal procedure, a complaint may be filed with the Office of Human Resource Management or any academic or administrative official of the University (i.e., vice chancellor, dean, chairperson or director). Use of the informal

procedure is optional and a person can chose to bypass, discontinue, or initiate a formal complaint at any time during the informal process. The complainant, the person receiving the informal complaint, and the Office of Human Resource Management will jointly determine how best to handle the complaint. The information reported to the University related to a complaint will be treated as confidential as possible with only those with a need to know being informed of the complaint.

Formal Procedure - Under the formal procedure, the complainant should file the complaint with the Office of Human Resource Management. A formal investigation of the complaint will be conducted to determine if sufficient evidence exists to conclude that a violation of the University's sexual harassment policy has occurred.

Both procedures will operate under the general principles of fairness and confidentiality and must attempt to ensure that a charge of sexual harassment is carefully reviewed to determine whether the conditions in the preceding definition have been met and to further provide that the rights of both the complainant and the accused are protected. No University disciplinary action for sexual harassment shall be imposed on a University employee except in accordance with the provisions of this policy statement.

Additionally, the individuals involved in the complaint will be notified about its resolution.

Retaliation

Employees, students, witnesses, and/or other participants involved in a sexual harassment complaint or investigation are protected from retaliation of any form. Any employee violating the prohibition against retaliation may be subject to disciplinary action up to and including termination.

Other relevant policies and procedures:

Refer to PS-95 for the University's policy on sexual harassment of students by other students.

EXHIBIT B

PURPOSE

To state the University position, policy, and responsibility regarding sexual harassment as related to its students.

POLICY

The University reaffirms and emphasizes commitment to provide an educational and work environment free from sexual harassment and to provide a means to remedy sexual harassment that students may have experienced.

The intent of this policy is to express the University's commitment and responsibility to protect its students from sexual harassment. It is not intended to infringe upon constitutionally guaranteed rights nor upon academic freedom. In considering allegations of sexual harassment, the University must be concerned with the rights of both the accused and the accuser.

All proven cases of sexual harassment shall result in appropriate disciplinary action. The severity of the disciplinary action shall be consistent with the seriousness of the act of sexual harassment. Additionally, under appropriate circumstances, the University may take action to protect its students from sexual harassment by individuals who are not students of the University.

DEFINITIONS

Sexual harassment: is a form of unlawful sexual discrimination. It is defined as unwelcome verbal, visual, or physical behavior of a sexual nature. It can also include unwelcome gender-based conduct. A man or a woman may be the victim of sexual harassment or the initiator of sexual harassment. The victim does not have to be of the opposite sex of the initiator. Sexual harassment includes both "quid pro quo" and "hostile environment" unlawful discrimination. Both are defined below.

Quid pro quo sexual harassment: involves a situation where unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature are

made either explicitly or implicitly a term or condition of an individual's academic achievement, employment, or position within the group or team and submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting the individual's academic, employment, or membership standing. In these situations, the student is forced to choose between submission to sexual demands or the loss of impartial treatment and evaluation as a student, employer, or member of the group. Quid pro quo sexual harassment typically involves an authority relationship in which the recipient is vulnerable with respect to academic advancement or standing, employment or membership so that objection to the demands may have negative consequences.

Examples of such potential relationships include student and teacher, teaching assistant, lab assistant, grading assistant, advisor, counselor, coach, administrator, or tutor and other relationships in which one person has the potential to reward or penalize another in regard to his or her student role. Examples may also include supervisors and subordinates, employers and job applicants, active member and pledge, organization officer and member, team leader or captain, and team member, etc.

Hostile environment sexual harassment: is unwelcome verbal or physical conduct of a sexual nature or gender-based conduct in which the conduct has the purpose or effect of unreasonably interfering with an individual's academic, work, team or organization performance or creating an intimidating, hostile or offensive working environment. Hostile environment sexual harassment may exist even in the absence of quid pro quo sexual harassment or the absence of an authority relationship.

Examples include unwelcome touching or suggestive comments, offensive language or display of sexually oriented materials, obscene gestures, and similar sexually oriented behavior of an intimidating or demeaning nature.

Employee: is defined as any person having an employment relationship with the University.

Student: is defined as any person enrolled in a credit or non-credit instructional program offered by any unit of the University.

PROCEDURES

Because sexual harassment may involve a wide range of sexually oriented behaviors and is, in part, a function of the way in which such behaviors are perceived, the way in which a given incident is appropriately treated depends on its effect upon the recipient as well as upon the specific behavior itself. For example, simply informing the initiator through verbal or written communication that the behavior is unwelcome and should cease may be sufficient to end it. On the other hand, the situation may be such or the behavior may be so extreme that the recipient is unwilling or unable to deal with it in this way.

To help the recipient determine how best to remedy sexual harassment, as well as to insure that appropriate measures are taken when warranted, anyone who believes himself or herself to have been subjected to sexual harassment may make use of both informal and formal resolution procedures. Both sets of procedures will operate under the general principals of fairness and confidentiality and must provide that a charge of sexual harassment is carefully reviewed to determine whether the conditions in the preceding definition have been met and to further provide that the rights of both the accuser and the accused are protected. No University disciplinary action for sexual harassment shall be imposed on a University student except in accordance with the provisions of this policy statement and **Code of Student Conduct**.

A. Informal Procedures

A student who believes he/she has been subjected to sexual harassment or who believes a fellow student, a member of the faculty or staff, or an individual working on or visiting the Campus may be sexually harassing him or her may bring it to the attention of an administrative officer responsible for the unit in which the harassment occurred or the alleged harasser

works.

Examples of the appropriate administrative officer, depending upon where the alleged harassment occurred, are the faculty member responsible for the class, the department chairperson or the dean of the college, a residence hall staff member, the Director of Greek Affairs, the head coach or the Athletic Director, the Director of University bands, the employee's supervisor, the Director of Recreational Sports, the organization's advisor, etc.

The student may prefer, however, to discuss the matter initially with the University personnel designated to assist in the resolution of sexual harassment matters. The designated individual for alleged sexual harassment by a University employee (including a member of the faculty or academic staff) is the Assistant Director of Employee Relations in the Office of Human Resource Management. The designated individual when the alleged sexual harasser is a fellow student is the Dean of Students or his or her designee in the Office of the Dean of Students. When the designated office receives a complaint, the unit head or supervisor of the person against whom the complaint is made if the person is an employee of the University, will be immediately notified. If appropriate, that unit head or supervisor should immediately suspend any authority relationship between the complainant and the accused. If the alleged harasser is a fellow student, the Dean of Students may take steps to immediately end all required contact between the accused and the accuser, and instruct the accused to cease all contact with the accuser.

The person receiving the complaint must provide the complainant with a copy and explanation of this policy statement. Any administrative officer receiving a complaint under this policy must provide notice to the University's Human Resource Management Office that an allegation of sexual harassment has been made. If the alleged harasser is a student, the Dean of Students Office must be notified of the complaint.

Although considerable latitude exists in how a charge of sexual

harassment is addressed informally, informal resolution requires that the accuser, the accused and, if appropriate, the accused's administrative superior all be willing to seek informal resolution of the matter. Any of the parties may decline informal resolution process. If the matter is resolved informally, both the accused and the accuser should signify in writing their agreement with the terms of informal resolution and this agreement should be witnessed in writing by the Dean of Students and the accused's administrative superior, if appropriate. The Dean of Students Office or, in the case of an employee, Human Resource Management, must be consulted prior to written resolutions and receive a copy of the resolution.

B. Formal Procedures

If an attempt at informal resolution is unsatisfactory to the complainant, the accused, the unit head, or the accused's superior; if the sexual harassment continues after informal procedures have been exhausted; or if the complainant, the accused, the unit head, or the accused's superior is unwilling or unable to deal with the situation under the guidelines for informal procedure, the complainant may file a formal charge of sexual harassment.

Formal procedures require the complainant to file a signed, written statement alleging sexual harassment, which must include the following: the name of the complainant; the name of the accused; the nature of the alleged violation as defined in this policy statement; the date(s) of the occurrence(s); the names of any witnesses to the occurrence(s), the place(s) of the occurrence, and the resolution(s) sought.

The Dean of Students and the Director of Human Resource Management are responsible for administration of the University's policy on sexual harassment. Specific responsibility to investigate a charge of sexual harassment brought against an employee (including member of the faculty and academic staff) under PS-73 has been delegated to the Assistant Director for Employee Relations (304 Thomas Boyd Hall, 504/388-8434). Responsibility to investigate a charge of

sexual harassment brought against a student under PS-95 rests with the Dean of Students Office (122 Johnston Hall, 504-388-4307). The individual investigating the charge will advise and assist the student in understanding the review procedure. Formal charges of sexual harassment brought against a student will be investigated and resolved in accordance with the provision of the **Code of Student Conduct**.

The individual receiving the statement will immediately notify the unit head or supervisor of the person against whom the allegation is made. If appropriate, that unit head or supervisor should immediately suspend any authority relationship between the complainant and the accused.

The use of this formal procedure in no way limits a resolution that is agreeable to all parties at any stage. However, any such mutually agreed resolution must be documented in writing and signed by the accuser, the accused, and the unit head or administrative superior of the accused. For both the formal and informal procedure: when a member of the faculty or academic staff is charged with sexual harassment, the Vice Chancellor for Academic Affairs and Provost will be informed.

RETALIATION:

Employees, students and other individuals involved in a sexual harassment complaint or investigation are protected from retaliation of any form. Any individual violating the prohibition against retaliation may be subject to disciplinary action.

EXHIBIT C

Title/Topic: Dismissal for Cause for Faculty

Number: 104

Functional Classification: Faculty & Staff Employment

Monitoring Unit:

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DISMISSAL FOR CAUSE FOR FACULTY

General Policy

The University recognizes that membership in the academic profession carries special responsibilities and that faculty must be afforded academic freedom in teaching and research. Further, the University endorses the idea promulgated by the American Association of University Professors (AAUP) that "a close positive relationship exists between the excellence of colleges, the strength of their faculty and the extent of faculty responsibility in determining faculty membership." However, the University also recognizes that a question may arise as to the fitness of a tenured faculty member or a faculty member whose term appointment has not expired. In such cases, the University has a responsibility to establish procedures to determine the validity of such questions and, if appropriate, take necessary and reasonable steps to resolve the matter. It is the intent of this policy to establish procedures that preserve the integrity of the institution and the rights of the faculty member.

This policy applies to individuals who meet the Board of Supervisors definition of faculty (i.e., full-time members of the academic staff having the rank of instructor or higher or equivalent ranks). This policy has no application to the decision not to reappoint a faculty member upon expiration of a term appointment.

Reasons

Every member of the faculty of whatever rank shall at all times be held responsible for competent and effective performance of appropriate duties. No principle of tenure shall be permitted to protect any person from removal from a position after full and careful investigation according to the procedures of due process has revealed that the person has not met and does not give promise of meeting the responsibilities of the position as defined by the job assignment.

Dismissal for cause may result from any conduct seriously prejudicial to the University. Dismissal for cause procedures will be initiated because:

- (1) The faculty member has been found responsible for specific misconduct or has evidenced serious deficiencies in his/her performance as covered in other University policies (e.g., the policies on misconduct in research and sexual harassment). Such findings may lead the appropriate administrator to initiate dismissal for cause procedures.

(2) The faculty member may be responsible for an act or acts of commission or omission, including serious nonperformance of duties, deemed sufficient reason to initiate dismissal for cause procedures.

Exercise of academic freedom, including intellectual dissent, advocacy of controversial ideas or pursuit by an individual of his/her legal rights, shall not be grounds for dismissal or disciplinary action.

Procedures

The following steps shall be followed in requesting review for dismissal for cause. No policy is suspended during a dismissal for cause process and no policy operates to protect a faculty member from dismissal for cause. The process shall be carried out in an expeditious manner allowing adequate time for thorough review and consideration at each step. Every effort should be taken to ensure confidentiality at all stages of the process. Time frames provided in parentheses are recommendations.

A. Personal Conference

The process for requesting review for dismissal for cause may be initiated when any administrator with authority over the faculty member's unit recognizes or is made aware of the concern as described above. If the concern was raised at a level beyond chair/head, the administrator who receives the report will notify the chair/head and/or dean/director as appropriate. In all cases where it is feasible and appropriate, the chair/head should inform the faculty member of the concern in a personal conference, as well as in writing. Administrators shall consult with the Office of Human Resource Management regarding the scope and substance of such a conference.

After the conference (within 1 week), the chair/head should give the faculty member a written summary of his/her findings and recommendations. The faculty member has an opportunity to respond in writing (within 2 weeks after receiving the written summary and recommendations).

If the concern was raised by the dean/director or above, the chair/head will advise the administrators previously involved of the outcome of the conference and consult with them regarding the appropriate action. When the concern was raised by a group or individual other than an administrator with authority over the faculty member's unit, the initiator of the complaint will be kept informed, to the extent judged appropriate by the administrator, of actions related to the complaint.

B. Review for Formal Proceedings

If an administrator concludes that dismissal proceedings are necessary, he/she shall request to meet (within 2 weeks of receiving the faculty member's written response or within 4 weeks of the chair/head's written summary and recommendations in the absence of a faculty response) with the dean/director, and, where applicable, the Vice Chancellor with administrative authority over the faculty member's unit and the Executive

Vice Chancellor and Provost. The administrator shall be prepared to provide the Executive Vice Chancellor and Provost with all written documentation regarding the issue. This should include:

- (1) Documentation detailing the grounds for the removal;
- (2) Any response provided by the faculty member;
- (3) Documentation detailing any attempts made to correct the situation; and
- (4) Justification for the request to dismiss for cause.

The Executive Vice Chancellor and Provost shall make all of the foregoing documents available to the faculty member.

The Executive Vice Chancellor and Provost may wish to schedule a personal conference with the faculty member to discuss the charges (within 1 week of the meeting with the administrator). The Executive Vice Chancellor and Provost may also institute one (or more) of the following measures:

1. Reassignment of the Faculty Member During the Proceedings

If the Executive Vice Chancellor and Provost determines it is unreasonable for the faculty member to continue in his/her capacity, the Executive Vice Chancellor and Provost may assign other duties for the duration of the proceedings. The Executive Vice Chancellor and Provost will consult with the Faculty Senate President and notify the Chancellor prior to taking the action. The faculty member will be afforded the opportunity to meet with the Executive Vice Chancellor and Provost before the reassignment and provided the reasons for the reassignment in writing (within 3 working days of the meeting, or of the reassignment if the opportunity to meet is declined).

2. Suspension of the Faculty Member During the Proceedings

If the Executive Vice Chancellor and Provost determines that the faculty member poses a threat to himself/herself or others, a suspension with pay may be necessary. The Executive Vice Chancellor and Provost will consult with the Faculty Senate President and notify the Chancellor prior to taking the action. The faculty member will be afforded the opportunity to meet with the Executive Vice Chancellor and Provost before the suspension and be provided the reasons for the suspension in writing (within 3 working days of the meeting, or of the suspension if the opportunity to meet is declined).

3. Deny the Request for Dismissal for Cause

If, in the judgment of the Executive Vice Chancellor and Provost, the reasons given by the appropriate administrator(s) do not justify dismissal for cause, the Executive Vice Chancellor and Provost may decline to proceed with dismissal. This decision shall be communicated to the Chancellor and other appropriate administrator(s) in writing (within 1 week of receipt of documentation and recommendation for dismissal or after conference with faculty member). The faculty member shall also receive written notification as to the disposition of the case at the same time.

4. Committee Hearing

The Executive Vice Chancellor and Provost may forward a statement of the charges and ask the Chancellor (within 1 week of receipt of documentation or the conference with the faculty member, whichever occurs later) to appoint a committee of objective faculty members to hear the evidence for dismissal for cause (hereafter referred to as the Committee of the Faculty). At the same time, the Executive Vice Chancellor and Provost shall appoint a senior faculty member with some experience with the process to act as the University's presenter at the hearing. The faculty member under review, also known as the respondent, may invite a faculty member from this campus to serve as his/her advisor at the hearing. The faculty member shall be provided with a comprehensive list of faculty who have served as presenters and/or advisors.

The Committee of the Faculty will hear the case, take appropriate testimony, review all evidence and make a recommendation to the Chancellor as to the appropriate action to be taken (within 60 calendar days of being appointed).

There should be a period of at least 20 calendar days between the faculty member receiving written charges and the committee hearing. However, if the faculty member agrees, preliminary hearings may be held during this time to simplify the issues, effect stipulations of facts, provide for the exchange of documentary or other information, and achieve such other appropriate pre-hearing objectives as will make the hearing fair, effective, and expeditious.

C. Procedures for the Committee Hearing

Appointing the Committee of the Faculty

- a. The faculty member will be notified, in writing, by the Chancellor that a Committee of the Faculty is being appointed. Such notice must include the reason(s) for the recommendation to dismiss in sufficient detail to enable the faculty member to prepare a defense. It is the faculty member's responsibility to arrange for his/her own advisor if he/she wishes to have someone present his/her case at the hearing. The role of advisor is voluntary and the advisor may not be held responsible for the outcome of the hearing. The respondent may act as his/her own advisor, if desired.
- b. The Chancellor shall solicit names of at least eight possible committee members from the Faculty Senate Executive Committee (FSEC) and at least eight from the AAUP campus representative.
- c. Appointment to the Committee of the Faculty will be made from tenured faculty equivalent or senior in academic rank to the respondent and who are impartial toward the faculty member and the charges. Faculty members who are serving in an administrative capacity at the level of chair or equivalent and above at the time of the hearing may not serve on the Committee of the Faculty.
- d. The Committee of the Faculty will be comprised of no fewer than five (5) members and no more than seven (7) members. The Chancellor will select all of the committee members from the lists of individuals provided by the FSEC and AAUP. The committee

must have at least five (5) members to render a final decision, except with the consent of both parties (the University and the respondent).

e. Before the hearing, the faculty member shall be afforded a reasonable opportunity to challenge, to the Chancellor, the appointment of any committee member for cause. Cause sufficient to sustain a challenge may include, but is not limited to, a demonstrated lack of objectivity due to potential or demonstrated conflict of interest. The faculty member also may challenge the appointment of up to two committee members without stating cause.

f. The Committee of the Faculty will elect a chairperson.

Purpose of the Committee of the Faculty

The Committee of the Faculty is established to provide meaningful due process to the faculty member and is charged with the responsibility of conducting a hearing to evaluate the evidence. The committee is to make a recommendation to the Chancellor with respect to (1) whether the charges are supported by clear and convincing evidence, and (2) if so, what action is recommended as appropriate.

Committee Proceedings

Prior to the hearing, the chair of the Committee of the Faculty shall establish a pre-hearing schedule for disclosure of names of witnesses and exhibits on the part of the faculty member as well as the presenter. The chair may hold pre-hearing conferences with the faculty member and the presenter and/or their representatives.

Proceedings of the hearing are not open to the public unless otherwise requested in writing by the respondent. In that case, the Committee of the Faculty decides whether the proceedings should be kept closed due to the nature and circumstances of the case. The respondent has the right to appeal this decision to the Chancellor. The respondent's right to a hearing may be waived by failure to appear. Should the respondent fail to appear, the Committee of the Faculty shall make its recommendation based on the available evidence.

In addition to having an advisor, the faculty member has the right to be advised by his/her legal counsel at the hearing. If the respondent so requests, a representative of the AAUP will be invited to attend the hearings. A court reporter will be present during the evidentiary hearing and will make available to the Committee of the Faculty, the presenter, and the faculty member a transcription of the proceedings, at no charge to the faculty member.

Legal counsel may not cross-examine witnesses or address the Committee of the Faculty, but rather are allowed only to advise their clients. The committee, the presenter, the faculty member and his/her advisor have the right to question witnesses. Further, the committee, at the request of either party or its own initiative, has the obligation to secure

or request relevant evidence concerning the charges, and to request that the Chancellor compel the attendance of witnesses at the hearing to the extent of his/her authority.

The presenter's responsibility is to present the evidence supporting the charges. When the faculty member is advised by his/her legal counsel, the University shall provide legal counsel to the presenter, and separate legal counsel to the Committee of the Faculty, subject to the same restrictions.

D. Committee of the Faculty Recommendation

The Committee of the Faculty, in closed session, will reach its recommendation based only on the evidence presented in the hearing. The recommendation of the committee shall be communicated, in writing, to the Chancellor and must contain explicit findings with respect to each charge, a clear recommendation of appropriate action, and minority opinions. The Committee of the Faculty may recommend no action, dismissal, or an alternative action that may involve, but is not limited to, reduction in rank, reduction in salary, suspension without pay or a combination of these actions. The committee recommendation will be based on a majority vote. The recommendation should contain a full statement of the dissenting opinions. The Executive Vice Chancellor and Provost, the faculty member, the advisor and the presenter shall be furnished copies of the recommendation, at no charge to the faculty member.

E. Consideration by the Chancellor

The final recommendation for dismissal for cause or alternative action rests with the Chancellor. The Chancellor will make such a recommendation based on the recommendation of the Committee of the Faculty and the evidence presented in the hearing (within 2 weeks of receiving the committee's recommendation). The Chancellor must accept written argument, which constitutes an appeal, from either side (written arguments must be submitted to the Chancellor within one week of receiving the committee's recommendation). However, the Chancellor need not respond to such arguments if he/she finds them unconvincing. The Chancellor also has the option to return the case to the Committee of the Faculty for further review or to take an alternate action.

A recommendation to dismiss the faculty member requires approval of the President of the LSU System and confirmation by the Board of Supervisors. The Chancellor shall provide the President of the LSU System and the Board of Supervisors with all documentation regarding the issue including the report of the Committee of the Faculty and dissenting opinions, evidence presented at the hearing, and written responses by the faculty member. The faculty member may appeal the Chancellor's recommendation to the President of the LSU System and to the Board of Supervisors.

F. Final Notification to the Faculty Member

The faculty member shall be notified by the Chancellor, in writing, of the final decision of the Board of Supervisors.

G. Restoration of Reputation

If the review proceedings do not result in dismissal or other disciplinary action, appropriate action will be taken to ensure that the faculty member is enabled to continue his/her career. In this case, steps will be taken by the Executive Vice Chancellor and Provost, after consultation with the respondent, to restore the reputation of the faculty member. Depending on the particular circumstances, the Executive Vice Chancellor and Provost will consider notifying those individuals aware of or involved in the investigation of the final outcome and publicizing the final outcome in forums in which the consideration of dismissal was previously publicized. Any institutional actions to restore the respondent's reputation must first be approved by the Chancellor and the respondent. In addition, appropriate action will be taken by the University administration against any parties whose involvement in bringing the unfounded concerns was demonstrated to have been malicious or intentionally dishonest.

H. Due Process

This policy establishes procedures to afford the faculty member with due process in consideration of dismissal for cause. If the faculty member believes that the appropriate procedures are not being followed, the faculty member shall immediately notify, in writing, the Executive Vice Chancellor and Provost and, if elected, the chair of the Committee of the Faculty. A deviation from the procedure shall be grounds for challenging a decision only if such notice was given and the procedures followed deprived the faculty member of the due process required by law.