

Article 6A
**EVALUATION OF PROBATIONARY (CONTRACT) FACULTY
EMPLOYEES FOR TENURE**

Purpose and Overview of the Probationary Period

6A.1 The purpose of the probationary period is to give the probationary faculty employee who is a candidate for tenure the opportunity to demonstrate to the Board of Trustees that they meet the standards established by the Board for the granting of tenure. The tenure review process is a rigorous process of evaluation during which a review of the candidate's performance is conducted and a recommendation is made to the Board of Trustees, which makes the final decision on whether to grant tenure to the candidate. This article describes the process by which the recommendation to the Board is formulated, the criteria upon which the recommendation is made, and the avenues of appeal available to the candidate. All the procedures, requirements, and timelines of the probationary period are fully delineated in the Tenure Review Handbook that is an extension of this article.

6A.1.1 The tenure review process is a four-year period, divided into three phases. Phase I is Fall and Winter quarter of the first year. Phase II is Spring quarter of the first year and Fall and Winter quarters of the second year. Phase III begins in Spring quarter of the second year and ends in Winter quarter of the fourth year. Phase I shall begin in the Fall quarter of the academic year, regardless of the probationary faculty employee's first day of service as a full-time faculty employee.

6A.1.2 Progression in the tenure review process is dependent upon the probationary faculty employee having served a complete Probationary Year for each year of the tenure review process.

6A.1.2.1 A probationary faculty employee shall be deemed to have completed a probationary contract year if they provide service for 75 percent of the academic year.

The definition of service shall include both a "days" and "load" component; that is, the probationary faculty employee must provide service for 75 percent of the contract days and 75 percent of the contract load, per academic year, for the year to count as a Probationary Year

6A.1.2.2 In Year Four, since the Board tenure decisions occur on or about March 15 of the Winter quarter, the provisions described in 6A.1.2.1 above shall be modified as follows: the probationary faculty employee must provide service for 75 percent of the contract days in Fall and Winter quarters, and 75 percent of the normal department load (loaded assignments or hourly assignments as applicable for instructional and non-instructional assignments) in Fall and Winter quarters. In extenuating circumstances related to load, such as class cancellation, program needs, a department pattern of varying load distribution over the three quarters in

the academic year, etc., this 75 percent threshold may be reduced on a case-by-case basis with mutual agreement by the appropriate Vice President and FA.

- 6A.1.2.3 Leave with pay under the following provisions shall be included in the calculation of service:
- a. Personal necessity leave under Article 16.1;
 - b. Bereavement leave under Article 16.8;
 - c. Sick leave under Article 16.13;
 - d. Article 16.12 sick leave used for maternity leave under Article 16.19; and
 - e. College assigned business leave under Article 16.30.
- 6A.1.2.4 Paid time off under the following provisions shall be excluded from the calculation of service:
- a. Excess sick leave beyond leave accrued under Article 16.13;
 - b. Donated sick leave under Article 16.20;
 - c. Additional sick leave with pay granted by the Board under Article 16.21.1;
 - d. Sick leave transferred in from other qualifying employers under Article 16.21.2;
 - e. Part-time faculty sick leave credited to a probationary faculty employee under Article 16.21.3; and
 - f. Other pay types for the following:
 1. Jury duty under Article 16.29; and
 2. Pay under income protection programs, such as extended sick leave under Article 16.22 and 16.23; long-term disability under Article 22.6; and worker's compensation under California law.
- While a probationary faculty employee may be eligible for and receive pay as identified above, such paid time shall not apply to the calculation of service toward the attainment of tenure.
- 6A.1.2.5 Unpaid leave of absence for any reason shall not count towards the calculation of service.
- 6A.1.2.6 If a probationary faculty employee serves less than 75 percent of an academic year, the year shall be considered a "prob-zero" year and shall not count toward eligibility for tenure. In any case, evaluations performed during a prob-zero year shall be destroyed and not become a part of the employee's tenure file.
- 6A.1.2.7 When the tenure process is interrupted by a prob-zero year, the tenure review process shall be resumed in the appropriate quarter of the subsequent academic year in which the

probationary faculty employee is able to perform services for 75 percent of the academic year. For example, if a probationary faculty employee starts Phase II in spring quarter of 2017 and is unable to perform services for 75 percent of the academic year in 2017-2018, Phase II will resume in Fall quarter of 2018, if the faculty member is able to perform services for 75 percent of the 2018-2019 academic year. The evaluations performed during Spring quarter 2017 shall be used in conjunction with the evaluations performed during Fall quarter, 2018, and, if any, in Winter quarter 2019 for the Tenure Review Committee's recommendation at the end of Phase II.

Early Declaration of Prob-Zero Year

- 6A.1.3 When a probationary faculty employee knows in advance of a leave of absence of such duration as to cause the service to the college, in load and/or days, to fall below the seventy-five percent threshold required for the year, that probationary faculty member may request that the year be declared a prob-zero year in advance of the leave.
- 6A.1.3.1 To request an early declaration of a prob-zero year, the faculty member must submit a letter to the President of the college by November 30 of the academic year. The letter requesting the year be declared a prob-zero year must include the anticipated dates of the leave and the reason(s) for the leave of absence.
- 6A.1.3.2 The President of the college shall review the request and may consult with the District Office of Human Resources, and/or the Dean or other appropriate administrator(s) regarding the effect of the anticipated leave on the service to the college. The President shall inform the faculty member and the Tenure Review Coordinator, in writing, of the decision regarding an early declaration of a prob-zero year within 10 working days of the request. If the request is approved, all evaluations associated with the tenure process shall be processed in accordance with Article 6A.1.2.6 and 6A.1.2.7.
- 6A.1.3.3 If after an early declaration of a prob-zero year is granted, the probationary faculty employee actually meets the 75% service threshold (e.g. due to a change in anticipated leave) the year shall remain a prob-zero year.
- 6A.1.3.4 The request for an early declaration of a prob-zero year does not constitute a leave request nor approval of same. All leave requests shall be made in accordance with Article 16.

Exception to a Prob-Zero Year

- 6A.1.4 When a probationary faculty member's service to the college falls below the seventy-five percent threshold, there may be reasons for the college to

consider the year a complete probationary year. In these cases, the college President may grant an exception to a prob-zero year.

- 6A.1.4.1 The President shall review the status of each probationary faculty member whose service has fallen or will likely fall below the seventy-five (75) percent threshold, and for whom the current academic year is, or likely will be, a prob-zero year. Prior to the end of the academic year the President shall decide whether granting an exception to the prob-zero year status is appropriate.

For faculty at the end of year two of the four-year probationary period, factors for the President to consider include, but are not limited to: the most recent Tenure Review Committee recommendation to the President and supporting materials, and any evaluations that have occurred during Spring quarter of year two (the first quarter of Phase III).

For faculty at the end of year three of the four-year probationary period, factors for the President to consider include, but are not limited to: all evaluations that have occurred during year three, as well as the number of Phase III evaluations completed to date compared to the number of evaluations required or requested by the committee by the end of Phase III. To determine the likelihood of completion of evaluations by the end of Phase III if an exception to a prob-zero year is granted, the President may consult with the Tenure Review Coordinator or the Chair of the Tenure Review Committee.

For faculty in year four at the end of Phase III of the probationary period, factors for the President to consider include, but are not limited to, the most recent Tenure Review Committee recommendation to the President and all supporting materials.

After reviewing the case of each identified probationary faculty employee, the Board shall notify the probationary faculty employee whether or not an exception to a prob-zero year is granted; i.e., if the year will or will not be counted as a complete probationary year. For faculty in year two or three, notification shall be issued in writing or by District email to the probationary faculty employee by the end of the academic year. For faculty in year four, notification shall be issued in writing or by District email by April 30.

- 6A.1.4.2 In the event an Exception to a Prob Zero Year is granted, all evaluations conducted during the year shall remain in effect and shall become part of the employee's tenure file.

6A.1.5 Progression in the tenure review process is also dependent upon the probationary faculty employee being evaluated in accordance with probationary faculty employee evaluation procedures and meeting the performance standards required of probationary faculty employees.

6A.1.5.1 The probationary faculty employee must also be evaluated in accordance with the evaluation procedures as established in Article 6A and the Tenure Review Handbook. In circumstances where the Tenure Review Committee determines that paid leave necessitates a departure from the established timelines, the Chair shall make a written request to the President outlining the process deviations and the reason(s) for the request in accordance with Article 6A.15.

6A.1.5.2 Performance standards required of a probationary faculty employee are not reduced or diminished due to absences included in the calculation of service. Further, performance standards are not reduced or diminished due to absences not included in the calculation of service, except that the number of days and percentage of load may be reduced accordingly, not to exceed 25 percent of a full-time assignment.

The reason for the probationary faculty employee's absence shall not be a consideration of the Tenure Review Committee or its deliberations in determining whether the probationary faculty employee met the standards of performance.

6A.1.6 To support the probationary faculty employee throughout the tenure review process, the college provides on-going tenure review workshops, new faculty orientations, and the assistance of the Tenure Review Coordinator (as described in Section 6A.2). In addition, the candidate is encouraged to participate in campus and District programs that promote professional growth and improvement of instruction.

Probationary faculty are advised that, while not a condition for attaining tenure, they must satisfy the professional development and professional responsibility requirements enumerated in Appendix I by the end of their first year in regular (tenured) status in accordance with Appendix A in order to continue advancement on the salary schedule.

Tenure Review Coordinator

6A.2 A Tenure Review Coordinator shall be appointed by the President of each campus with the concurrence of FA and each campus Academic Senate to a three-year renewable term to coordinate all tenure review activities including training and implementation of the District Tenure Review Handbook within the provisions of this Article. In addition, the Tenure Review Coordinator shall assist the candidate in understanding the tenure review process and/or resolving concerns they may have about the procedures or membership of the tenure review committee.

6A.2.1 The Tenure Review Coordinator position shall be a "special assignment" under Article 25.

Tenure Review Committees

6A.3 For each probationary faculty employee, a Tenure Review Committee shall be formed as follows:

6A.3.1 In Phases I and II, the Tenure Review Committee shall consist of five members: the Core Committee (described below) plus the appropriate Vice President, or Associate Vice President as delegated by the Vice President, and a third tenured faculty member from the at-large faculty outside the division. In the event the Vice President delegates Committee representation to an Associate Vice President, the Associate Vice President shall serve on the Committee for the duration of the tenure review process; except that, at the discretion of the appropriate college Vice President, may resume service in Phase III. Further, the Board shall notify the Faculty Association of such change in appointment to the Tenure Review Committee.

6A.3.1.1 The Core Committee, composed of the Division Dean or appropriate administrator, and two tenured faculty from the division, at least one of whom, whenever possible, shall be from the same department as the probationary faculty employee. Members of the Core Committee shall serve for the duration of the probationary faculty employee's tenure review period unless replaced in accordance with Section 6A.4.6.

6A.3.1.2 Two tenured faculty members (from the department where possible) shall be nominated by the appropriate division faculty and confirmed by the Academic Senate.

The third tenured faculty member from the at-large faculty outside the candidate's division shall be appointed by the Academic Senate.

6A.3.1.3 When a probationary faculty employee has a "split assignment," that is, an assignment in more than one division or program, or an assignment in one division that serves a special student population in another division, the Core Committee shall, whenever possible, have one tenured faculty member from each of the divisions or service areas.

6A.3.1.4 The Chair of the Tenure Review Committee shall be a member of, and elected by, the Core Committee. Tenured faculty members may serve as committee chair but any faculty member who wishes not to serve as chair is free to decline.

6A.3.2 In Phase I, at least three probationary evaluations shall be performed, one by each of the Core Committee members. If the Tenure Review Committee determines that additional probationary evaluations are necessary, the Vice President, or designated Associate Vice President if serving in lieu of, and the at-large faculty member shall each perform a

probationary evaluation. At the discretion of the Tenure Review Committee, one or more members of the Core Committee may also perform an additional probationary evaluation.

6A.3.3 In Phase II, each member of the Core Committee and the at large member shall perform at least one probationary evaluation. In addition, the Vice President or designated Associate Vice President may perform an evaluation at their discretion.

6A.3.4 In Phase III, the Tenure Review Committee shall be the Core Committee who shall consult with the Vice President, or designated Associate Vice President, throughout the final phase of the tenure review process. The Vice President or designated Associate Vice President may attend meetings and provide input and consultation to the committee, but they shall not be a voting member in the committee's final recommendation.

6A.3.4.1 Each member of the Core Committee shall perform at least one probationary evaluation during Phase III.

6A.3.4.2 Notwithstanding Section 6A.13, the Vice President or designated Associate Vice President may perform a consultative evaluation during Phase III as described in the Tenure Review Handbook. The evaluation may be initiated by the Vice President or designated Vice President, the committee, or the probationary faculty employee.

6A.3.4.3 When the Vice President or designated Associate Vice President performs a consultative evaluation during Phase III, the Core Committee shall elect one of its faculty members to perform a follow-up evaluation that includes the performance area(s) evaluated by the Vice President or designated Associate Vice President. This evaluation shall be performed in addition to the three probationary evaluations required during Phase III.

Responsibilities of Tenure Review Committee Members

6A.4 The following shall apply to all Tenure Review Committee members as described in Section 6A.3:

6A.4.1 In no case shall any member of the Tenure Review Committee also serve as a formal or informal mentor to the probationary faculty employee.

6A.4.2 Tenure Review Committee members shall respect the confidentiality of the tenure review process, with evaluations and the views of members regarded as confidential information.

6A.4.3 Tenure Review Committee members shall maintain objectivity in performing their evaluative responsibilities. To that end, members shall disqualify themselves if they believe they cannot maintain impartiality toward a candidate.

- 6A.4.3.1 Whenever possible, no more than one faculty member from the candidate's hiring committee shall serve on the tenure review committee.
- 6A.4.3.2 Every effort shall be made to create tenure review committee membership with representation from different ideologies or pedagogies in the discipline.
- 6A.4.3.3 All committee members shall respect the academic freedom of the candidate to employ pedagogy or methodology appropriate to the discipline but which differs from the instructional practices of the individual committee members.
- 6A.4.4 Tenure Review Committee members shall not delegate their evaluation responsibilities, including the distribution and tabulation of student evaluations, to any other employee.
- 6A.4.5 Before beginning their evaluation duties, all Tenure Review Committee members shall have completed an in-service training session specifically designed to 1) familiarize them with timelines and procedures; 2) emphasize the constructive nature of the tenure review process; 3) review the academic freedom rights and responsibilities of the probationary faculty employee; 4) define cultural humility and increase awareness of the behaviors and attitudes that support faculty diversity; and, 5) enable members to identify and consider their biases.
 - 6A.4.5.1 Whenever substantive changes occur in Article 6A and/or the Tenure Review Handbook, Tenure Review Committee members shall complete an in-service training session.
- 6A.4.6 When extenuating circumstances (such as Professional Development Leave, long-term sick leave, scheduling conflicts, retirement, etc.) arise, the committee member shall, whenever possible, serve until the end of a phase and then be replaced.
 - 6A.4.6.1 Faculty replacements shall be nominated by the appropriate division faculty and confirmed by the campus Academic Senate.
 - 6A.4.6.2 Administrative replacements shall be appointed by the President.

Completion of Service on a Tenure Review Committee

- 6A.4.7 Faculty members who serve as members of a Tenure Review Committee shall receive four professional responsibility points and a Tenure Review Committee Chair shall receive six professional responsibility points for the completion of regular and continuous service in each designated year of the tenure review process.

- 6A.4.7.1 In order to receive the appropriate professional responsibility points for the designated year, the faculty member shall complete in a timely manner all evaluation duties delegated to them by the Tenure Review Committee. Failure to provide completed evaluation documents in accordance with the established timelines may result in loss of points.
- 6A.4.7.2 If the Tenure Review Coordinator is concerned about a Tenure Review Committee member's performance of their committee responsibilities in a timely manner, the Tenure Review Coordinator shall request to meet with the committee member in an attempt to resolve the issue. If necessary, the Tenure Review Coordinator may consult with the committee member's Dean or administrative supervisor, who may remove the member from the Committee if, in their professional judgment, the committee member's continuation could seriously impair the tenure review process. In such a case, the Tenure Review Coordinator shall seek a replacement on the committee as provided by Section 6A.4.6.1 or Section 6A.4.6.2, as appropriate.
 - 6A.4.7.2.1 The Tenure Review Coordinator, along with the committee member's Dean and/or other appropriate administrator(s), may further decide that the committee member be disallowed from service on any tenure review committees for up to three years.
- 6A.5 The Tenure Review Committee Chair shall be responsible for calling meetings, coordinating activities of the committee, representing the committee to the Tenure Review Coordinator and any management employees, and other officially designated duties.
- 6A.6 At the end of each phase, the Tenure Review Coordinator shall consult with the Chair of each Tenure Review Committee and compile a list of faculty members who completed their committee responsibilities in a timely manner.
 - 6A.6.1 If a committee member does not complete their committee responsibilities in a timely manner, the Coordinator will discuss the circumstances with the faculty member and consult with the appropriate Vice President. The faculty member may be denied professional responsibility points for the year and/or may be removed from their current committee in accordance with Article 6A.4.7.1 and 6A.4.7.2

Evaluation Criteria Used by the Tenure Review Committee

- 6A.7 Criteria to be considered in the official evaluation and tenure review of probationary faculty have been developed by District faculty and administrators. These criteria, which serve as standards for the evaluation itself, are elaborated in the Tenure Review Handbook. These criteria shall include:

- 6A.7.1 Performance in classroom teaching or in the fulfillment of other primary responsibilities specifically listed in the employment job description;
 - 6A.7.2 Demonstration of respect for students' rights and support of student success;
 - 6A.7.3 Demonstration of respect for colleagues and the teaching profession;
 - 6A.7.4 Professional contributions; and,
 - 6A.7.5 Professional growth activities. (Requirements for step advancement are specified under "Professional Growth Activities" in Appendix A of this *Agreement*.)
- 6A.8 Criteria not included in Section 6A.6 shall not be used in the evaluation process nor be a part of the Tenure Review Committee's recommendations unless such exceptional criteria have been discussed with and agreed upon in writing by the probationary faculty employee.
- 6A.8.1 The use of these exceptional criteria in the evaluation process shall be determined by the peculiar situation or demands related to the probationary faculty employee's primary assignment.
 - 6A.8.2 The appropriate Vice President or Dean shall inform the Tenure Review Committee and the probationary faculty employee of any program requirements or standards related to the probationary faculty employee's assignment(s).
- 6A.9 The evaluation may be based upon information obtained through the use of videotape or other recording devices only with the written permission of the probationary faculty employee.
- 6A.10 No anonymous letters or material shall be used in the tenure review process in any form nor shall such materials be referenced in any evaluation or Tenure Review Committee records.
- 6A.11 No evaluation shall be based upon information unrelated to the probationary faculty employee's performance as specified in Sections 6A.6 and 6A.7. All evaluation materials shall be in writing and shown to the probationary faculty employee, who has the option of signing or not signing the material. If the employee chooses not to sign the material, the decision shall be so noted and dated by the evaluator.
- 6A.12 The private life of a probationary faculty employee, including religious, political, and organizational affiliations, or sexual orientation, shall not be a part of the probationary faculty employee's evaluation and tenure review process in any manner whatsoever.

Evaluation of Probationary Faculty Employees

- 6A.13 The evaluation of probationary (contract) faculty employees shall be performed by the Tenure Review Committee and shall take place according to the provisions and timelines contained in this article and as elaborated in the District Tenure Review Handbook, a copy of which shall be given to each employee upon their employment in the District.
- 6A.13.1 Any changes in the District Tenure Review Handbook shall be subject to the negotiations process. The probationary faculty employee's tenure review process shall be governed by Article 6A and the District Tenure Review Handbook current at the time of their hire, unless otherwise negotiated. If such a negotiated change occurs, all affected probationary faculty employees, tenure review committee members, the Tenure Review Coordinators, the Academic Senate Presidents, and senior administrators involved in the tenure review process shall be notified of an applicable change and the way in which it will be implemented.
- 6A.13.2 Probationary evaluations by committee members shall be performed and recorded on the "Administrative and Peer Evaluation Form for Faculty" (Appendix J1 of the *Agreement*) in accordance with the timelines established in the Tenure Review Handbook for each phase of the tenure review process. The duration of the evaluation shall be in accordance with Article 6.2.4.4.
- 6A.13.3 Student evaluations shall be performed and recorded on the "Student Evaluation Form" (Appendix J2 of the *Agreement*).
- 6A.13.3.1 The Student Evaluation Form shall be distributed and collected by a member of the Tenure Review Committee and completed in the absence of the faculty candidate. The committee member shall process the responses to "Part A" of the Student Evaluation Form, attach the scantron Tally Sheet to Appendix J3, complete and sign J3, and give these materials (normally within five school days following administration of the J2) to the chair of the committee who shall meet with the committee and the candidate to review the results.
- 6A.13.3.2 "Part B" of the Student Evaluation Form shall be given to the chair of the committee. The Part B responses shall be reviewed by the members of the Tenure Review Committee and by the candidate after submission of final grades for the quarter. In no case shall such materials become part of the written reports and recommendations of the committee.
- 6A.13.3.3 After the committee and candidate review the Part A and Part B responses, the original student scantrons and narratives shall be given to the candidate.

- 6A.13.3.4 The number and timing of student evaluations for each phase in the tenure review process is described in the Tenure Review Handbook.
- 6A.13.3.5 A probationary evaluation and a student evaluation shall not be performed at the same time, i.e., on the same day and during the same academic hour(s).
- 6A.13.3.6A Tenure Review Committee member responsible for performing both a probationary evaluation and a student evaluation during the same quarter shall provide the completed probationary evaluation to the candidate before conducting the student evaluation.

6A.13.4 Administrators, faculty or staff members with first-hand knowledge of a probationary faculty employee's professional performance may voluntarily share that knowledge with the Committee in person or through a signed statement, but such information shall not be construed as an official evaluation of the employee nor become part of the employee's personnel file. When such information is provided, the committee shall determine whether it is timely, relevant, valid, and substantive, and decide whether to pursue corroborative investigation through first-hand evaluation by one or more committee members.

Schedule of Evaluation Activities and Timelines

- 6A.14 The Schedule of Activities and Timelines within which the evaluation and tenure review process shall occur are delineated in the Tenure Review Handbook. While these timelines are not meant to be understood or interpreted as rigid and absolute, they are essential to a fair, professional, and objectively administered process.
 - 6A.14.1 To provide needed flexibility, the written timelines shall be adhered to within a period of five working days before and five working days after the stated times and dates, except for the conditions specified in Section 6A.15.
- 6A.15 The Tenure Review Committee shall meet with the probationary faculty employee to review the criteria and performance areas that will be evaluated, including any program requirements and external standards related to the probationary faculty employee's assignment(s). The Tenure Review Committee Chair, as specified in Section 6A.5, shall be responsible for the construction of a written schedule of meetings and evaluative activities so as to conform to Sections 6A.13 and 6A.13.1. A copy of this schedule shall be delivered to the probationary faculty employee, the committee members, and the Tenure Review Coordinator within five working days of the committee's first meeting with the probationary faculty employee.
 - 6A.15.1 When a probationary faculty employee has a "dual assignment" that is a primary assignment for instruction, counseling, or learning resources that also includes program coordination or direction,

program responsibilities shall be evaluated by at least one administrator and one faculty member of the committee during each phase of the tenure review process.

- 6A.16 In the event of unusual or unforeseen circumstances that might cause the Tenure Review Committee to be unable to adhere to the timeline schedule as specified in Section 6A.14.1, the committee, on the basis of a majority vote, may make a request to alter the timelines. The Tenure Review Committee Chair, after informing the probationary faculty employee, shall submit a written request to change the timeline schedule, along with the probationary faculty employee's comments, if any, to the President or designee and to the Tenure Review Coordinator, outlining the reasons and conditions for the request. The President or designee shall respond to the chair's request within two working days stating reasons for either granting or denying the request. A copy of this written response shall be delivered to the probationary faculty employee.

Changes to membership of Tenure Review Committee

- 6A.17 In the event that member(s) of the tenure committee change mid-phase, each new member of the core committee shall conduct a J1 evaluation prior to the end of the phase and before signing a recommendation for continued employment, as described in 6A.23. A new Vice President or a new at-large member shall use their professional judgment regarding completion of a J1 evaluation prior to the end of the phase. Nevertheless, in the case of a recommendation not to continue employment, the new Vice President and/or new at-large member shall, whenever possible, conduct a J1 evaluation prior to signing the recommendation.

Tenure Review Due Process Panel

- 6A.18 A Tenure Review Due Process pool shall be formed during the Spring Quarter of each academic year for the following academic year. FA and the Academic Senate shall each appoint two tenured college faculty members, and the President shall appoint two college administrators to the pool. Each college pool shall then elect its own chair. Each member of the pool shall complete the Tenure Review Committee in-service training described in Section 6A.4.5 before serving on a due process panel.
- 6A.19 From each college pool, as specified in Section 6A.17, a three-member Due Process Panel consisting of one representative from each of the three units shall be appointed by the chair to serve as a hearing body. When appropriate, the chair may serve as one of the three members of the panel. The Due Process Panel shall exist to act as a hearing body in the event that a probationary faculty employee, a Tenure Review Committee member, the Tenure Review Coordinator, or other staff member alleges that a due process complaint should be filed. A complaint may be so filed if it alleges that:
- 6A.19.1 A probationary faculty employee is being subjected to biased treatment during the tenure review process; or
 - 6A.19.2 Board policy and/or the process/ timelines established in the Handbook are not being followed.

- 6A.19.3 Prior to invoking the due process procedure, complainants shall make a good faith effort to resolve issues within the committee or with the assistance of the committee chair and the Tenure Review Coordinator.

During the tenure review process, the Due Process Panel shall not be responsible for the substantive issues involving recommendations to grant or deny tenure. Substantive issues involved in a negative decision on tenure by the Board during the third or fourth probationary year shall be reviewable through a special grievance. This grievance shall be governed by applicable provisions of Article 5 (Grievance Procedure) commencing with Section 5.3. Nothing in this process shall be inconsistent with legal requirements; furthermore, Education Code Section 87610.1(c) and (d) shall specifically apply.

- 6A.20 Due process complaints shall be filed in writing with the Tenure Review Coordinator of the respective college. The Tenure Review Coordinator shall immediately notify the panel chair and the President or designee.
- 6A.20.1 If the Tenure Review Coordinator is part of the complaint, the complaint shall be filed directly with the panel chair who shall then notify the President.
- 6A.20.2 Due process complaints shall be filed before the end of the fourth week of the Winter Quarter of the academic year. During the fourth academic year, Phase III due process complaints shall be filed by the fourth week of the Fall Quarter. If an untimely complaint is raised, the person filing the complaint shall demonstrate why they could not have discovered the alleged violation in a timely manner. The panel shall then make the decision whether to act on the complaint or reject it as untimely.
- 6A.21 The college due process chair shall direct the three-member Due Process Panel as specified in Section 6A.17 to act on the complaint. The party filing the complaint shall provide the Due Process Panel with a written statement specifying the alleged bias or procedural violation. The Due Process Panel shall examine the complaint(s), meet with members of the Tenure Review Committee and others deemed necessary, and confer with the respective probationary faculty employee. The Due Process Panel shall not be required to conduct a “trial-type” evidentiary hearing.
- 6A.21.1 All discussions and deliberations shall be held in strict confidence. Information in writing or otherwise regarding an issue brought before the Due Process Panel should not be shared with anyone not directly involved in the process. Decisions to include others on a need-to-know basis shall be made by the panel. No unsigned material shall be considered. Any person against whom allegations are made within the due process procedure has a right to examine the allegation and to respond accordingly.
- 6A.22 The Due Process Panel shall, within 15 working days following the filing of a complaint as specified in Section 6A.20, render its findings and

recommendations in a written report to the President with copies to the probationary faculty employee, the Tenure Review Committee Chair, the Tenure Review Coordinator, and the faculty member(s) and/or administrator(s) named in the complaint.

- 6A.22.1 If the panel unanimously finds the complaint to be valid, the President shall, in a timely manner, direct the implementation of the recommendations contained in the report to the extent permitted by law. If the recommendations are inconsistent with any legal statutes or regulations the President shall provide both the panel and the Faculty Association with a rationale for not implementing the recommendations and shall work with the panel to reach acceptable recommendations.
- 6A.22.2 If the panel's recommendation is not unanimous, it shall separately state a recommendation by the majority and by the minority and be signed by the respective Panel members. After conferring with the panel, the President shall make and implement the final decision. The complaint(s) and the findings and recommendations of the panel shall be forwarded to the Board itself if the President makes a recommendation not to continue employment of the respective probationary faculty employee.
- 6A.22.3 If the Due Process Panel, in accordance with Section 6A.21.1, or the President, in accordance with Section 6A.21.2, determines that a member be removed from the Tenure Review Committee, a replacement shall be selected in accordance with Section 6A.4.6.1 or 6A.4.6.2, as appropriate.

Recommendation for Continued Employment of Probationary Faculty Employee

- 6A.23 The Tenure Review Committee shall make its recommendation regarding the continued employment of the respective probationary faculty employee to the President of the college and all materials involved in this recommendation, pursuant to this article, shall be in writing. The Committee shall make its recommendation based on the Appendix J1 and J2 evaluations, written criteria known to the candidate in accordance with section 6A.7, and performance areas identified to the candidate as needing improvement.
 - 6A.23.1 The Committee recommendation, if not unanimous, shall separately state a recommendation by the majority and by the minority and be signed by the respective committee members.
 - 6A.23.2 In recommending a probationary faculty employee for continued employment, the President may submit a summary paragraph of the probationary faculty employee's performance with the written recommendation.
 - 6A.23.3 In the event that the President recommends to not continue employment, all written materials provided to the President together with the President's written recommendation, and any materials produced under Section 6A.20, shall be presented to the Board for its

final action. A copy of all of these materials shall be given to the employee at least one week prior to their presentation to the Board.

- 6A.24 After the Board has acted, all materials presented to the President by the Tenure Review Committee and any other official evaluations on file with the Tenure Review Coordinator shall be placed in the employee's personnel file. All other materials produced during the Tenure Review process shall be given to the faculty employee except that the originator of a material may keep a copy of that material.

Resignation and Grievance Rights

- 6A.25 In the event that a probationary faculty employee resigns before the tenure review materials are submitted to the Board, the only material to be placed in the employee's personnel file shall be the administrative evaluation(s).
- 6A.26 Other than section 6A.17, nothing in this article shall limit the probationary faculty employee's right to grievance under Article 5.

Re-opener

- 6A.27 Either the Board or FA may reopen negotiations on this article at any time by delivering a written request to reopen to the other party.