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SR-01-02-27R FPC

Marshall University

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**FACULTY PERSONNEL COMMITTEE
RECOMMENDATION**

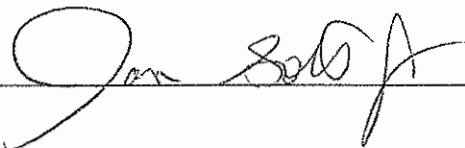
SR-01-02-27R (FPC)

Recommends that the attached policy for conducting a vote of no confidence be adopted as standard procedure.

RATIONALE:

Faculty are free to conduct a vote of no confidence at any time, but a vote of no confidence recognized by the Faculty Senate as described in the attached document is designed to ensure fairness for all parties, to lend objectivity of a disinterested third party, to standardize the process, to provide flexibility for a variety of situations and organizational structures and to suggest resolutions for vote outcomes.

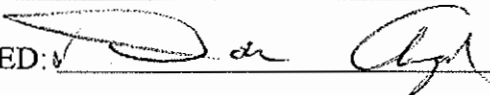
FACULTY SENATE PRESIDENT:

APPROVED BY SENATE:  DATE: 5-14-02

DISAPPROVED BY SENATE: _____ DATE: _____

UNIVERSITY PRESIDENT:

APPROVED: _____ DATE: _____

DISAPPROVED:  DATE: 5/20/02

COMMENTS: This procedure appears to formalize some sort of evaluative process for university employees to be administered by the Faculty Senate.

Since no such authority is granted in the general or faculty personnel policies or laws governing employee evaluation, it would be inappropriate to establish a formal process which purports to authorize it.

Further since the procedure appears to lead to potential modification of an individual's employment status (a property right under the state law), inadequate due process standards are in place to protect the individual employee's rights.

**Marshall University
Procedures to be followed for a
Vote of No Confidence.**

INTRODUCTION:

The Vote of No Confidence procedure should be used after exhausting all other alternatives, options, etc., and as a last resort. The individual subject to the Vote of No Confidence will be referred to as the "Person" throughout this document. "Working days" refers to working days within the nine-month academic year.

Part 1 establishes the required steps to be completed PRIOR to requesting a "Vote of No Confidence."

Part 2 directs how to CONDUCT a "Vote of No Confidence."

Part 3 describes the resolution of a "Vote of No Confidence."

Part 4 describes the records of the "Vote of No Confidence."

The Faculty Personnel Committee will initiate Part 2 (conducting the vote), Part 3 (procedure to resolve the vote), and Part 4 (records) of the procedures for a Vote of No Confidence. A Vote of No Confidence may be taken at any time but will not be recognized by the Faculty Senate unless the following procedures are followed.

Part 1 - Procedure to be followed PRIOR to a Vote of No Confidence.

The following items are preliminary steps which shall be followed prior to instituting a formal "Vote of No Confidence" in department/section chairpersons, division heads, college deans, chancellors, provosts, vice presidents or the president.

- A. Probationary Period – A newly appointed Person shall be granted a "breaking-in period," affording protection from the "Vote of No Confidence" process, during which he/she will have ample time to become familiar with the processes and policies of his/her immediate area and of the university. A No Confidence Vote process can only be invoked after the probationary period has ended, even though documentation of any problems during this probationary period can be used to build a case for the No Confidence Vote process. The probationary period will be one year from the date of the Person's appointment.

- B. Documentation - Substantial documentation of chronic problems in the workplace must occur before the No Confidence Vote process may be initiated and will take place on as many different levels as possible. A petition for a No Confidence Vote will be presented to the Faculty Personnel Committee based on the evidence presented. The Faculty Personnel Committee will decide within five days of receiving the petition, whether or not to proceed with the Vote of No Confidence process.

C. Notification of the Vote of No Confidence Petition—

1. Within ten days of deciding to proceed with a Vote of No Confidence the chair of the Faculty Personnel Committee shall notify the Person of the petition and will give the Person a summary of the petitioners' grievances.
2. The Faculty Personnel Committee will schedule a Vote of No Confidence within 30 working days of the Person's notification of the petition. The committee strongly recommends that the Person and the grievants meet to try to resolve their differences. Petitioners may withdraw their request for a Vote of No Confidence anytime within the 30-day period.
3. Before the end of the 30-day period, the Person shall have an opportunity to respond to the charges either in a closed meeting with the respective unit or in a rebuttal letter to the faculty in the unit or to the Faculty Personnel Committee. Written responses directed to the Faculty Personnel Committee will become part of the record of the Vote of No Confidence.
4. If at the end of the 30-day period the petition has not been withdrawn the Faculty Personnel Committee will proceed with the Vote of No Confidence.

Part 2 - Procedure to Conduct a Faculty Vote of No Confidence.

- A. For a Vote of No Confidence to be recognized by the Faculty Senate, it must be administered by the Marshall University Faculty Personnel Committee.
 1. Documentation of compliance of procedures to be completed prior to the vote (see Part 1 above) must be presented to the Faculty Personnel Committee.
 2. Upon the Faculty Personnel Committee approval that all procedures prior to a vote have been complied with, the Faculty Personnel Committee will conduct the Vote of No Confidence.
- B. Procedures for a Vote of No Confidence.
 1. No later than one (1) week after the request for a Vote of No Confidence is approved by the Faculty Personnel Committee, the Committee will hold the vote as detailed below.
 - a). Once a neutral voting location has been designated and announced to the respective unit, a list of faculty/personnel will be supplied to the Faculty Personnel Committee complete with social security numbers for voter verification. The Faculty Personnel Committee will determine the length of the vote and announce the time frame to the unit. Faculty/personnel will be required to provide two forms of ID (with a picture on at least one) to receive a blank ballot. The ballot will be filled out by the individual in sight of at least one witness and deposited in a locked ballot box by the same individual.

- b). Two to four counters will be selected from within the Faculty Personnel Committee to tabulate the vote. Tabulation of votes will occur within three working days after the voting concludes. Parties with a vested interest in the Vote of No Confidence may observe the counting and tabulation in a non-disruptive manner.
 - c). After the counting and tabulation is finished, the results will be recorded and certified by the Faculty Personnel Committee. All ballots and paperwork on the vote will be retained for a period of one academic year in the Faculty Senate Office. The results of the Vote of No Confidence will be forwarded to the university archives.
2. A majority vote of the potential voters in the Person's department or section is required for a finding of No Confidence.
- C. Marshall University Faculty Personnel Committee will announce the results of the Vote of No Confidence to the Person and to members of the Person's department or sectional area on the same day the votes are counted.
1. Formal documentation of the vote outcome will be sent by the chair of the Faculty Personnel Committee to the Person, to the faculty group voting and to the Person's immediate supervisor(s) on the day the votes are counted.
 2. Results of the Vote of No Confidence and all relevant documentation will be directed to the Executive Committee of the Faculty Senate by the Faculty Personnel Committee for recording and whatever action the Executive Committee deems necessary.

Part 3 - Procedure to Resolve a Finding of No Confidence.

- A. Upon a finding of No Confidence, Faculty Senate may then suggest resolutions to immediately resolve the problem of lack of confidence.
- B. Resolutions that result from such a vote would come from university policies, in accordance with Series 9, for such a Person resulting in for example:
 - Dismissal,
 - Release,
 - Demotion,
 - Resignation,
 - Additional Training,
 - Negotiations, and
 - Bargaining.
- C. Faculty Senate will work with the department/section to resolve the problem.

Part 4 – Records of a Vote of No Confidence.

- A. In the event a Vote of No Confidence has been conducted by the Faculty Personnel Committee, the following records shall be submitted to the university archives:

Unit's Petition

Responses from the Person Subject to the Vote

Results of the Tabulation of the Vote

Minutes of the Faculty Personnel Committee related to the action

Minutes from the Faculty Senate related to the action