ARTICLE XIV

TERMINATION, DISMISSAL, AND RESIGNATION POLICIES

A. Termination

Termination is defined as the nonrenewal of contract of a non-tenured member of the faculty and professional library staff. Due notice of intention to terminate must be provided to faculty and professional library staff by the Chancellor as follows:

Termination subsequent to the end of the second year of service: notice provided by September 15 of the year of termination.

Nonreappointment of non-tenured Unit members made at a time up to September 15 of their fourth full academic or professional year, as the case may be, shall be without the necessity of providing reasons in writing; nor shall the academic or professional judgment involved therein be subjected to Article VI (Grievance). Subsequent to September 15 of the fourth full year and in any mandatory "up or out" tenure termination, notice of nonreappointment to non-tenured Unit members shall be subject to the exercising of academic judgment and the aforesaid Grievance Article and written reasons accordingly shall be provided. After the first year, the University shall secure the advisory opinion of the Department Personnel Committee or Library Personnel Committee, as the case may require, before termination.

B. Suspension

Suspension is defined as the temporary removal of a tenured or non-tenured faculty member or librarian for just cause prior to the expiration of his or her appointment and shall not be invoked except through due process. Suspension shall not be imposed except for just cause.

C. Dismissal

Dismissal is defined as the discharging of a tenured or non-tenured faculty member or librarian for just cause prior to the expiration of his or her appointment and shall not be invoked except through due process.

1. Removal for Just Cause

Dismissal for just cause shall be for reasons stated in writing. The following occurrences shall constitute just cause, but shall not limit the foregoing.

a. Fraud or misrepresentation of professional preparation, accomplishments, or experience;

b. Conviction of a felony "malum in se" during the period of University employment or the willful concealment of such conviction of felony in making application for employment; and
c. Dereliction or incompetence in the performance of duties, which dereliction or incompetence must be directly and reasonably or substantially related to the fitness of the faculty member or librarian in his or her capacity.

2. Due Process for Dismissal Hearings

Removal of a tenured or non-tenured faculty member or librarian shall be subject to the following procedures.

a. Charges relating to dismissal must be filed with the Chancellor and may be filed only by Chairpersons or Deans to whom the individual is responsible, except that charges also may be made by the Chancellor. Such charges shall be filed only after a Departmental inquiry by the Department Personnel Committee. (See Evaluation Article.)

b. Prior to the filing of charges (but subsequent to the completion of a departmental inquiry), the faculty or library member, as the case may be, must be apprised by the complainant of the charges to be filed and shall be afforded an opportunity to rebut such charges in writing and to forward such rebuttal to a Committee of Inquiry.

c. A Committee of Inquiry (hereafter defined) may be convened by the Chancellor to review the written complaint and rebuttal, if any, and to question both parties and such other knowledgeable individuals as it may deem desirable or necessary. Upon conclusion of its inquiry, the Committee shall advise the Chancellor in writing that it has or has not found grounds to support the Chancellor's charges. The finding of the Committee is not binding upon the Chancellor, who may dismiss all charges or who may file a formal complaint against the individual with the Board of Trustees.

(1) The Committee of Inquiry shall consist of seven (7) voting members. Two members shall be faculty or librarians appointed by the Chancellor, one an academic administrator appointed by the Chancellor, and three shall be faculty or librarians appointed by the Official Designee of the MSP. The Committee shall select another faculty member, librarian, or academic administrator who shall be its presiding officer. The Committee may request an appropriate person who shall advise and counsel it on procedural matters and legal standards. With the consent of the Chancellor of the University, the individual advising the Committee shall be provided by the Massachusetts Teachers Association, but such person shall be distinct from any MTA personnel who may be advising the individual who is the object of the hearing. (And where the individual, the MSP or the University believes it would be appropriate, the University Affirmative Action Officer shall be an ex officio, nonvoting member of the Committee.)

(2) After convocation of the Committee by the Chancellor, the presiding officer shall secure a copy of the written charges from the Chancellor and a copy of any written rebuttal from the defendant shall interview both parties and shall on the basis of such interviews request other knowledgeable parties to provide evidence. The Chancellor may designate an appropriate representative to assist in developing the University's case, but the Committee alone shall determine the
order of proof, conduct the questioning of witnesses, and secure the presentation of evidence important to the case.

The unit member shall have the option of assistance of counsel and/or academic advisor. The Committee may require the production of documents and the attendance of persons who have already involved themselves in the situation. All witnesses who testify orally may be cross-examined. The unit member has the right to confront all witnesses. Outside statements by named individuals can be taken and used only when made necessary by unusual and urgent circumstances and only when coupled with reasonable protections designed to maximize fairness. The proceedings shall be tape-recorded: this tape coupled with a compilation of documentary evidence shall be the official record of the Inquiry. (In addition, either party may request and underwrite the cost of a stenographic record.) A copy of the official record shall be made available to the parties or to further hearing bodies, if any, at no or minimal cost. Proceedings shall be formal but the following of formal court rules shall not be required. The burden of proof by clear preponderance of the evidence is on the Chancellor. The Committee shall make explicit findings as to each ground of removal. Publicity shall be avoided until final disposition. All parties and the MSP shall be notified of the decision in writing.

(3) Individuals not already involved may be asked to come before the Committee of Inquiry but they may not be required to testify before the Committee of Inquiry and may not be required to provide evidence which may be self-incriminatory.

d. Following the decision of the Chancellor to file a complaint against an individual with the Board of Trustees and prior to filing such a complaint, he shall so notify the individual and forward to the Board the report of the faculty Committee of Inquiry.

e. Upon receipt of complaint filed by the Chancellor, the Board of Trustees shall convene a Committee of its members to investigate all charges. On written request of the individual, such Board Committee will grant the individual charged a full hearing and will provide such individual charged with at least thirty (30) days notice of such hearing. The individual charged may be represented by counsel and a transcript of the proceedings of all hearings will be made available to the individual upon written request. The hearing shall be held in conformance with the State Administrative Procedure Act (Chapter 30A) and full due process rights shall be accorded. If the Board Committee disagrees with the Committee of Inquiry, it shall return the matter to the Committee of Inquiry with its stated objections. The Committee of Inquiry shall take these into account, and consider new evidence if it deems it necessary, and then issue another report.

f. The recommendations of both committees shall be forwarded to the Full Board for final disposition. The individual and counsel may be present for such final deliberations of the Board, and a transcript of the proceeding of such deliberations will be made available to the individual upon written request.

g. If the Board of Trustees votes to terminate employment for just cause, within thirty (30) academic work days of such notification, the individual shall have the right
to initiate an arbitration of said decision under Section E, Article VI of this Agreement.

3. Suspension from Professional Duties

Following the filing of charges against a member of the faculty or library staff, as the case may be, the Chancellor may suspend such individual from his or her professional duties with pay and without prejudice pending completion of the due process procedures, or he may reassign such individual to other professional duties pending completion of due process.

C. Resignations

A faculty member or librarian who wishes to resign a University appointment shall give notice thirty (30) days after receiving notice of appointment for the succeeding academic year or by May 15th, whichever is later. The faculty member or librarian may request a waiver of this requirement of notice in the case of hardship. In such cases, the University reserves the right to require written substantiation of an alleged hardship and reserves to itself all contractual rights when in the view of the Board of Trustees such hardship is insufficient or unsubstantiated.

D. Review of Article XIV

A committee comprised of the MTA/MSP Representative, a Human Resources Representative plus two additional MSP members (appointed by the MSP President) and two additional members of the administration (appointed by the University) shall be convened to develop a revised Discipline and Dismissal article. Review and recommendations should consider effectiveness and efficiency of process, ensure fairness and due process, and provide clarity of process. The parties agree that review and recommendations shall be complete by April 1, 2016.