## ARTICLE XIV

PERSONNEL FILES

1. Location of Files

Personnel files for all full-time and priority adjunct members of the bargaining unit shall be kept in the Provost's Office. All other adjunct faculty files shall be kept in the appropriate dean's office.

Records involving sexual harassment shall be maintained as provided in the University's Anti-Harassment and Non-Discrimination Policy, as revised September 2014. This policy and the policy on scientific misconduct shall be circulated to bargaining unit members annually.

1. Contents

The contents of these files will be restricted to correspondence or documents received from the member of the bargaining unit or to correspondence or documents of which the bargaining unit member has received a copy, and shall include recommendations to the Board of Trustees from all Promotion and Tenure Committees that have considered the bargaining unit members for promotion and/or tenure. Bargaining unit members may reply, in writing, to any correspondence or documents placed in their files and such response shall be retained in their files as long as the correspondence or documents to which the response relates are similarly retained in the files.

1. Availability to Bargaining Unit Members

Each bargaining unit member may inspect his/her personnel file at the Provost's Office (or, if an adjunct, the appropriate dean’s office) by appointment on reasonable notice. The bargaining unit member may not remove any materials from these files but may obtain copies of any part or all of the material contained in his/her personnel file upon payment of the cost of reproduction thereof.

1. Access to Contents

Each personnel file shall be available only to the named bargaining unit member to whom it relates, the appropriate members of the administration for relevant and pertinent information in applicable situations, or Trustees of the University in appropriate or applicable circumstances, and members of the Promotion and Tenure Committee for the purpose of reviewing previous Promotion and Tenure Committee recommendations for this bargaining unit member, or officers of the Rider Chapter of the AAUP when needed to carry out the AAUP’s role as bargaining agent .

1. Pre-Appointment Files

Pre-appointment files containing information about bargaining unit members shall be maintained on a confidential basis and shall not be accessible to the bargaining unit member involved or to any committee or individuals for the purposes of reappointment, evaluation, promotion, tenure, or discipline, suspension, or discharge.

1. Other Files or Records

Other files or records pertaining to bargaining unit members shall be available, in accordance with the terms of Section C, to the bargaining unit member to whom they relate and the appropriate members of the administration for relevant and pertinent information in applicable situations, other than for the specifically excluded uses referred to in the preceding paragraph. The contents of these files will be restricted to correspondence or documents received from the member of the bargaining unit or to correspondence or documents a copy of which the bargaining unit member has received. Regardless of the time at which the material was placed in the bargaining unit member’s file, the University will provide a copy of such material to the bargaining unit member if he/she so requests. A bargaining unit member may place a response, in writing, to any correspondence or documents placed in his/her file(s) in accordance with the terms of Section B of this Article. A bargaining unit member shall be entitled to have deleted any item or items placed in his/her file(s) in accordance with the terms of Section G of this Article.

1. Deletion of Items

In the event a member of the bargaining unit requests, in writing, that any item or items be deleted from such bargaining unit member's personnel file, and if the University agrees to such deletions, such item or items shall thereafter be deleted. Documents relating to unadjudicated matters which a tenured bargaining unit member requests, in writing, be removed from his/her personnel file shall be removed at the expiration of a two-year period from the date of such request, unless the University agrees to such removal at an earlier time. Matters that had reached final adjudication may not be removed without mutual consent. However, notwithstanding the foregoing, in no event shall the following documents be subject to such removal:

* 1. appointment letters and non-reappointment letters;
  2. staff information forms;
  3. any report(s) from Promotion and Tenure Committees concerning such individual.

1. Allegations of Professional Misconduct

In the event the University receives an allegation of professional misconduct or any other allegation that may lead to an adverse employment action against a bargaining unit member, the following shall apply:

* 1. Confidential File
     1. Where the allegation concerns professional misconduct that could result in liability for the University, or in any other circumstance in which the University believes that it needs to preserve documents in order to defend against a legal claim, the Provost shall determine whether the document or documents concerning the allegation shall be placed in a confidential file in the office of the University’s General Counsel. If the Provost decides to place the document(s) in the confidential file, he/she shall so advise the bargaining unit member, and shall provide the bargaining unit member with copies of the document(s). The Provost shall also notify the AAUP and provide the reason or basis for placing the document in the confidential file. The bargaining unit member may elect to schedule a meeting with the Provost (at which time he/she may have union representation) to discuss the matter, submit a written response for inclusion in the confidential file, or both. The document (and any response) may be retained in the confidential file for at least four years. In the event that a bargaining unit member requests in writing that it be removed from the file after the four years, it will be removed unless the University is legally obligated to retain it, in which event the University will so advise the bargaining unit member and the AAUP. However, documents relating to adjudicated matters may be permanently retained unless the Parties agree otherwise. Only the General Counsel, Provost, Affirmative Action Officer, and outside counsel will normally have access to documents in the confidential file.
     2. In the event that a Promotion and Tenure Committee requests the personnel file of a bargaining unit member for whom there is a confidential file, the Provost shall determine whether any of the documents in the confidential file have relevance to the applicable promotion and tenure criteria. Where the Provost does so determine, he/she shall add a copy of those documents (and any response) to the contents of the personnel file that is made available to the Committee. However, after the expiration of a two-year period following the request by a tenured faculty member that any document in the member’s Confidential File not be made available to the Promotion and Tenure Committee,a document relating to a non- adjudicated matter in the member’s Confidential File shall not be made available to the Committee.
     3. Documents contained in a member’s Confidential File may be used against a bargaining unit member in a future case of discipline; except that no document in the Confidential File relating to a non-adjudicated matter may be used for that purpose more than two years following a request by a faculty member that the document not be used for that purpose.
  2. Personnel File

In all other cases, the Provost will evaluate such allegation and make a preliminary determination as to whether statements of such allegation shall be placed in the bargaining unit member’s personnel file. If he/she determines that such statements shall be placed in the personnel file, he/she shall so advise the bargaining unit member and shall provide the bargaining unit member with copies of the statements, who may either elect to schedule a meeting with the Provost to discuss the matter or to submit a written response to the allegation for inclusion in his/her file. If such a meeting is held and, thereafter, the statements of such allegation are placed in the file, the bargaining unit member may then submit a written response to the allegation for inclusion in his/her file. If the Provost chooses not to place the allegation in the bargaining unit member’s personnel file, that allegation and the facts that led to the allegation shall not be used against the bargaining unit member in any future case of discipline. Allegations that reference events that occurred more than one year prior to the date of receipt of the allegations shall not be placed in a bargaining unit member’s personnel file.

Material that is in the control of any higher administrative employee that is not placed in a bargaining unit member’s official personnel file when it is initially received may not be used in a future disciplinary hearing. “Higher administrative employee” is defined as the list of exempt administrators in Article I.D, plus the Director of Public Safety, the Director of Student Housing, and the Director of Community Standards.

* 1. Subsection (2) above would apply to any allegation that a bargaining unit member is a poor teacher (or coach or trainer) unless a legal claim has been asserted.