



Memorandum

To: Taylor Randall, President

From: Mitzi Montoya, Senior Vice President for Academic Affairs
Michael Good, Senior Vice President for Health Sciences
Sarah Projansky, Associate Vice President for Faculty, Academic Affairs
Angie Fagerlin, Associate Vice President for Faculty, Health Sciences

CC: Harriet Hopf, Academic Senate President
Allyson Mower, Academic Senate Policy Liaison
Jeff Herring, Institutional Policy Committee (IPC) Chair

Date: July 3, 2024

Subject: Proposal for Interim Policies for 6-011: Functions and Procedures of the Senate Consolidated Hearing Committee, 6-313: Terminations and Program Discontinuance, and 6-316: Code of Faculty Rights and Responsibilities.

Following the recent legislative session and in order to comply with Utah Code sections [53B-2-106.1](#) and [53B-1-118](#) the following interim revisions to Policies 6-011, 6-313, and 6-316 are recommended.

The interim revisions address the following:

1. Adding substantial program modification as a possible reason for faculty dismissal to Policies 6-011 and 6-313.
2. Identifying when the vice president should be the senior vice president.
3. Specifying additional forms of misconduct identified in Utah Code [§53B-2-106.1](#) in Policy 6-316.
4. Including failure to address deficiencies outlined in a remediation plan following a tenured faculty review as an example of an unwillingness or inability to meet the faculty member's responsibilities to the university in Policy 6-316.
5. Language modification related to "prohibited discriminatory practices" as defined in Utah Code [§53B-1-118](#).
6. Correct policy references in Policy 6-316.

We recommend approval of these interim policies effective through June 30, 2025. The policy owners will be working through the 2024/2025 academic year to guide these changes and any other required or recommended changes to these policies through the normal policy approval process.

Approval of Interim Policies 6-011, 6-313 and 6-316:



Taylor Randall, President

7/5/2024

Date

Policy 6-011: Functions and Procedures of the Senate Consolidated Hearing Committee.

Revision 21. Effective date: ~~April 12, 2022~~Pending

I. Purpose and Scope

This Policy describes the functions of the Senate Consolidated Hearing Committee and establishes the procedures for complaints and hearings in cases brought before the Committee.

II. Definitions

- A. "SCHC" or "Committee"-- is the Senate Consolidated Hearing Committee, a standing committee of the Academic Senate which is established by and has pool membership as governed by Policy 6-002, and as used here in context the term may refer either to a specific SCHC panel or the pool of SCHC members from which a panel is drawn. [User note: this committee was formerly known as the Consolidated Hearing Committee for Faculty Disputes--CHC, and earlier certain of its functions were conducted by the predecessor Faculty Hearing Committee—FHC.]
- B. "Senate Committee on Academic Freedom and Faculty Rights" ("SCAFFR")-- is the standing committee of the Academic Senate established by Policy 6-002, and with functions and procedures described in Policy 6-010 (some of which functions overlap with functions of the SCHC). [User note: this committee was formerly known as the Academic Freedom and Faculty Rights Committee--AFFRC (2006-2014), and earlier as the Academic Freedom and Tenure Committee--AFTC (pre-2006).
- C. "Office of Equal Opportunity and Affirmative Action" ("OEO/AA"), is the University office described in Policy 1-012.
- D. "Research Misconduct" or "Misconduct in Research" mean the same as those terms are defined in Policy 7-001: Policy for Research Misconduct.

E. "Research Integrity Officer" means the same as that term is defined in Policy 7-001.

F. "Committee on Student Affairs" ("COSA") is described in Policy 6-401-III-D, Students of the University.

G. "Arbitrary and Capricious" means without a principled basis or in a manner that substantially deviates from applicable policies.

G.H. "Financial Exigency", "Program Discontinuance", and "Substantial Program Modification" are defined in Policy 6-313.

III. Policy

A. Charge

1. The Senate Consolidated Hearing Committee ("SCHC") is the hearing body for grievances and complaints brought against faculty members (as defined in Policy 6-316, Section 1, Code of Faculty Rights and Responsibilities-- General Provisions) at the University of Utah or by faculty members asserting rights including appeals from retention, promotion and tenure decisions. The SCHC may also choose not to hold hearings and to dismiss complaints brought before it under certain circumstances. The SCHC may also seek the expertise and assistance of other committees or individuals it deems appropriate to facilitate the hearing process. The SCHC functions as a panel of five faculty members constituted anew for each case. Each panel is drawn from a larger pool elected by the Academic Senate. (See Part III-H below).
2. In particular, the SCHC is the hearing body for the following University proceedings:
 - a. Any authorized and timely appeal for review following the cognizant senior vice president's ("Sr. VP's") recommendation to the president at the conclusion of a formal retention/promotion/tenure review. (Policy 6-303)

- b. Formal hearings of complaints of discrimination against a faculty member or an academic unit based upon race, color, religion, national origin, sex (including claims of sexual harassment), age, sexual orientation, gender identity/expression, or protected veteran if the discrimination complaint is raised in the context of another faculty proceeding. (Otherwise, complaints of discrimination brought against faculty, students, and staff members are heard through the OEO/AA process. (Policy 1-012);
- c. Proceedings to sanction a faculty member for violations of the Code of Faculty Rights and Responsibilities, ("Faculty Code" Policy 6-316) or to review an imposed administrative reprimand. (Policy 6-316, Section 6, Administrative Reprimand);
- d. Hearings of matters involving complaints by members of the university community (including faculty members and students) when abridgement of academic freedom is alleged;
- e. Proceedings for terminations or reductions in status of faculty members for medical reasons;
- f. Appeals of a faculty member's dismissal or reduction in status in the event of financial exigency or program substantial modification or discontinuance;
- g. Appeals by faculty, students, or staff of any restrictions on speech under University speech policies;
- h. Appeals by faculty members for sanctions imposed on the faculty members for research misconduct in accordance with Policy 7-001.

B. Route to SCHC

The route to the SCHC varies with the different matters it is authorized to hear. It is the hearing body for matters initially considered but not resolved by other committees, offices, or individuals.

1. Denial of retention, promotion, or tenure.

The faculty candidate or another authorized party (see Policy 6-303-III-I. "Appeal of...RPT") may file an appeal after the Senior Vice President's recommendation at the conclusion of the RPT process. Grounds for an appeal are that the recommendation was arbitrary, capricious, unreasonable, discriminatory with respect to characteristics that are protected under law or University policies, or a result of malice; that procedural violations denied the appellant basic fairness and due process; and that the recommendation rests on a violation of academic freedom. (See Part III-D-3-b-i below. "SCHC Standard of Review...")

2. Matters that also include an allegation of illegal discrimination or harassment ("Mixed Complaints\Cases").

If a complaint or appeal contains an allegation of illegal discrimination or harassment raised in the context of another matter (e.g. denial of retention, promotion, or tenure or alleged in tandem with other violations of the Faculty Code) that claim of discrimination or harassment shall be referred to the OEO/AA for an investigation and a report back to the SCHC. Any appeal from the OEO/AA findings, conclusions and recommendations shall be made to the SCHC.

3. Complaint alleging violation of Faculty Code.
 - a. If an alleged violation of the Faculty Code is not informally resolved by proximate administrators, the aggrieved party may file a formal complaint in the office of the cognizant senior vice president. That office may also attempt informal resolution and then forward the complaint to the SCHC if no informal resolution has occurred. (See Policy 6-316-Section 6, Complaints)
 - b. A faculty member may ask the SCHC to review an administrative reprimand. (See Policy 6-316-Section 6, Administrative Reprimand)
4. Violation of academic freedom or an academic grievance.

Any concern involving an alleged violation of academic freedom or an academic grievance, as defined in Policy 6-010, is brought initially to the Senate Committee on Academic Freedom and Faculty Rights ("SCAFFR"). If the SCAFFR does not resolve the matter informally, the complainant may request a hearing from the SCHC. (See Policy 6-010.)

5. Medical termination or reduction in status.

Proceedings to terminate or to award a contract with substantially reduced status to a faculty member for medical reasons shall be preceded by discussions with a faculty member's department chairperson, dean, and/or cognizant senior vice president looking to a mutually acceptable resolution of the problem, such as an accommodation under the Americans with Disabilities Act. If no such resolution is achieved, the cognizant senior vice president files a written statement with the SCHC alleging a faculty member's inability to perform the essential functions of the job. (See Policy 6-313-Section 3. "... Termination for Medical Reasons.")

6. Appeal of a dismissal or reduction in status in the event of financial exigency or program substantial modification or discontinuance.

The faculty member first appeals such dismissal or reduction in status to the cognizant senior vice president, who makes a recommendation. The faculty member can then appeal the Sr. Vice President's decision to terminate or reduce status, but only for (1) violation of their academic freedom or constitutional rights, (2) failure to comply with the policy, with related institutional policy, or with the plan for personnel reduction approved by the Utah Board of Higher Education, or (3) illegal discrimination. (See Policy 6-313-Section 4, "Financial Exigency," and Section 5, "Program Discontinuance").

7. Appeals from restrictions on speech under University Speech Policies.

After an administrator makes a decision restricting speech, a student, staff, or faculty member may appeal the matter to the Committee on Student

Affairs. The party may appeal the decision of COSA to the SCHC only if the appellant alleges a violation of the Utah or United States Constitution or of academic freedom. (See Policy 1-007--University Speech Policy, and Policy 6-401-III-D, Students of the University—Committee on Student Affairs.)

8. Appeals of Sanctions for Research Misconduct.

The SCHC is the formal hearing body for appeals of sanctions on faculty members for research misconduct. A faculty member who receives a sanction for research misconduct described in Policy 7-001 may appeal the sanction or request a formal hearing on the sanction by filing a request with the SCHC through the Office of the Academic Senate.

C. Steps Preceding the Hearing

1. Receipt of Complaint or Appeal

The SCHC process begins upon the receipt by the Office of the Senate of an appeal or complaint in writing setting forth the pertinent issues. The SCHC shall develop an intake form to assure all issues are raised initially. Each appeal or complaint shall append the relevant file or summary report generated through the prerequisite proceedings of other processes, if any.

2. Chairperson Selection

The Office of the Senate shall select a chairperson and the members of the panel within 10 business days of receipt of the appeal and shall forward the materials to each of them. (See Part III-H below).

3. Notification

The Office of the Senate notifies other parties of the appeal or complaint, provides copies to other parties and invites written responses. The responses shall be submitted within ten business days of receipt of the notice. Copies of the responses and of all subsequent documentary submissions shall be provided to all parties by the Office of the Senate.

4. Request for Clarification.

The SCHC panel constituted to consider the matter may request written clarification of ambiguities in submitted complaints, appeals and responses.

5. Respondent's additional claims.

A respondent's written submission may contend that the respondent is entitled to relief for a matter over which the SCHC has jurisdiction. In an RPT appeal, the SCHC shall consider such evidence only as it relates to the RPT appeal and shall recommend a remedy or outcome only relating to the candidate's retention, promotion or tenure. In any other case the SCHC shall consult together and with the parties to determine whether efficiency and fairness will be promoted by permitting the parties to proceed against one another on cross complaints in one proceeding. If the SCHC determines that efficiency and fairness will be advanced by proceeding on all related claims, it shall so notify the parties and shall proceed to make findings on all relevant issues and to recommend all remedies it deems appropriate.

6. Preliminary Review, Referral, and Dismissal of the Complaint

After reviewing the complaint/appeal, the response and the appended file, if any, the SCHC shall determine whether to dismiss the complaint or whether to refer the complaint or certain allegations within it to another University entity. If informal resolution has not previously been attempted, the SCHC may refer the matter for informal resolution efforts, as it deems appropriate. (In some circumstances, such as in appeals from denial of retention, promotion or tenure, informal resolution efforts may not be appropriate).

a. Referral

i. Mixed Complaints or Appeals.

1. If a complaint or appeal raises allegations of illegal discrimination, the SCHC shall refer those allegations to OEO/AA for an investigation and report.

2. If an appeal alleges a violation of academic freedom, the SCHC shall refer those allegations to the SCAFFR for consideration and report.
3. If the SCHC receives an allegation of research misconduct, the SCHC shall refer it to the Research Integrity Officer to address pursuant to Policy 7-001.

ii. Hearing on all allegations.

The SCHC chairperson shall consult with the director of OEO/AA or the chairperson of SCAFFR as the SCHC chairperson deems appropriate to facilitate fair and prompt proceedings and the timely return of the case to the SCHC for a formal hearing on the entire matter. Any reports resulting from a referral shall be made available to all parties prior to the hearing.

b. Dismissal.

The SCHC may conduct a preliminary review of the written record (without the parties) to determine whether to dismiss an appeal or complaint or to decide it on its merits. The SCHC may dismiss a matter only under the limited circumstances set forth below. If a matter is dismissed, the aggrieved party may appeal to the President who can affirm the dismissal or return the matter to the SCHC with instructions.

- i. Appeal from RPT decision: The SCHC may not dismiss an appeal from an RPT decision.
- ii. Discrimination: The SCHC may dismiss allegations of discrimination only if it finds, after reviewing the OEO/AA investigation report and other submissions, that there is insufficient evidence to support a claim of discrimination or harassment, or if it finds that the issue is no longer relevant or has become moot. The SCHC shall determine whether to proceed with a discrimination claim based on a review of the

complaining party's statement, the reply of the responding party, the written request for the formal hearing and the OEO/AA's initial determination, attachments, and recommendations, and any comments of the parties received in response to the initial OEO/AA' summary.

- iii. Faculty Code Violations: The SCHC may dismiss the complaint only if it determines that the complaint is frivolous or that the complaint fails to allege facts constituting a violation of the Faculty Code.
- iv. Academic Freedom Violations: The SCHC may dismiss a complaint only if it determines that the complaint does not involve a substantial question of academic freedom or a substantial academic grievance, as defined in the rules of the Senate Committee on Academic Freedom and Faculty Rights (Policy 6-010) or that the claimant is not directly or substantially affected by the complaint matters. The SCHC must consult with SCAFFR before such a complaint is dismissed.
- v. Appeal of Dismissal or Reduction in Status Due to Financial Exigency or Program Substantial Modification or Discontinuance: The SCHC may dismiss the appeal on the written record only if it finds (after considering any report from SCAFFR) that the appeal does not raise a substantial question of academic freedom, and if it finds (after considering any report, if any, from OEO/AA) that there is insufficient evidence to support a claim of discrimination (if any), and if it finds that the appeal fails to allege sufficient facts to constitute failure to comply with University policy or with the plan approved by the Utah Board of Higher Education. Because the Procedures for the declaration of financial exigency contained in University Regulations (see Policy 6-313) require the demonstration of the need for such declaration after substantive consultations, notice, and hearing, the decision of the Board to declare financial exigency is not subject to contest by faculty

or staff in any grievance or appeal Procedure within the institution or before the Utah Board of Higher Education.

- vi. Appeal from Restrictions on Speech: The SCHC may dismiss the appeal on the written record only if it finds (after considering any report from SCAFFR) that the appeal does not raise a substantial question of academic freedom or violation of the Utah or United States Constitution.
- vii. Proceedings for Medical Termination or Reduction in Status: The SCHC may not dismiss a case seeking termination or reduction in status for medical reasons.
- viii. Research Misconduct. The SCHC may not dismiss an appeal of a sanction for research misconduct.

c. Notice to Parties if Case Dismissed.

If the SCHC decides to dismiss a case for any of the permissible reasons set forth above, it shall promptly, in writing, notify all parties of this decision and the reasons for it as well as the parties' right to appeal the dismissal to the President of the University within 10 business days. Otherwise the SCHC shall promptly notify the parties of proposed date(s) for hearing and of the parties' option to waive a hearing and to request that the SCHC decide the case on the written record. (The Office of the Senate may assist the SCHC in scheduling hearing days and times with the parties.)

- 7. Waiver of hearing. Any party may ask that the SCHC decide the case on the written record without a hearing. This request for a decision on the written record must be made in writing to the SCHC, with copies provided to other parties. If all parties so request, the SCHC may proceed to consider the written submissions and to decide the case on the written record alone. However, except as provided above in [Part III-6-b-Dismissal], unless all parties agree to waive a hearing, the SCHC shall hold a hearing. Even if all

parties agree to waive a hearing, the SCHC may, in its sole discretion, schedule a hearing of the case in order to question any and all parties and other witnesses.

8. Scheduling of Hearing. If the SCHC determines that a hearing is necessary or required, the SCHC shall notify the parties of the date set for the hearing. The hearing date shall be within a reasonable time but not fewer than 15 calendar days nor more than 40 calendar days from the date the letter of notification of the complaint was sent to the parties unless the matter has been referred to another entity for an investigation and report. Although the SCHC, through the Office of the Senate, may endeavor to find a hearing date that will be convenient for all the parties involved, the SCHC has the final authority for determining the date of the hearing. If either the complainant or the respondent fails to attend the hearing without prior notification and good cause, the SCHC may proceed with the hearing and take testimony and evidence and reach a decision on the basis of that testimony and evidence.
9. Postponement. The SCHC may postpone a hearing if (1) the issue is pending before another university official, committee, or internal or external forum and decision by such other official, committee, or other forum will render the complaint moot or will provide guidance to the committee in resolving the issues before it, or (2) there are strong reasons to conclude that present consideration of the complaint is premature. The SCHC may not consider a complaint during the RPT process until the cognizant senior vice president has issued a recommendation.
10. Notification of time and specific requirements. The SCHC shall notify the parties not fewer than 5 business days prior to the hearing of the identity of the panel members, the particular time requirements and Procedures that will be in effect and the standard(s) of review applicable in the hearing (See below Part III-D-3 SCHC Standard of Review).
11. ~~Bias or conflict of interest~~Recusal. Members of the SCHC panel shall recuse themselves for ~~bias or conflicts~~ of interest or if the member is unable to make

a fair and objective decision. If there is a dispute regarding the participation of any SCHC member, the remaining panel members shall hear that dispute and make a final decision about the participation of that member in the hearing.

- a. In order to provide an objective and fair hearing, each panel shall take precautions against real or apparent conflicts of interest on the part of panel members. Panel members shall decline to participate in the hearing of any case in which they have a personal bias or conflict of interest that would preclude their making a fair and objective decision, and shall avoid any individual communication with a party.
 - b. No panel member shall participate in any case from a department with which the panel member is associated as a faculty member or any case in which the panel member has been involved in the sequence of review.
 - c. Any party may file a written challenge to any member on these grounds within seven calendar days of the notification of the panel composition.
12. Prehearing. The SCHC may hold a prehearing with the parties in order to resolve challenges for cause, simplify the issues, effect stipulations of fact, and achieve such other prehearing objectives as will make the hearing fair, effective, and expeditious.
13. Sharing of witness lists and documents. At least 5 business days before the commencement of the hearing, the parties and the SCHC shall make available to one another a list of their witnesses, and copies of documents to be offered at the hearing.

D. Hearing Procedures

1. Foundational statement.
 - a. The Senate Consolidated Hearing Committee conducts its hearings as informal administrative proceedings rather than formal trials. The SCHC may consider any evidence that is relevant and that may have probative

value. There are no formal rules of evidence. Hearings, by their very nature, are stressful for the parties. The SCHC endeavors to conduct the proceedings with respect for all the individuals involved and requires that civility be observed by all participants.

- b. The SCHC chairperson has the authority to conduct the proceedings and to take whatever actions the chairperson deems appropriate in order to effect a fair and civil proceeding in keeping with these policies and with relevant law. The University's Office of General Counsel will provide the Chairperson and the SCHC with advice through an attorney who does not represent any of the parties.

2. Hearing.

- a. The parties have a right to be represented by any person as advisor, including legal counsel, at all stages of the proceedings (including the prehearing stage). Each party shall personally make a narrative opening statement that states their position on the issues and facts and describes the relief sought. Thereafter, either the party or their advisor (but only one of them) shall conduct the remainder of the presentation including examinations, cross-examinations and summary statements at the conclusion of the hearing. The parties (and not their advisors) must respond to questions presented by the SCHC and the opposing party.
- b. At the hearing, the parties shall have the right to confront and cross examine witnesses through the presentation of their questions to the SCHC chairperson. The parties shall have the right to present evidence and call witnesses on their own behalf, to testify, or to remain silent, and to be present with their advisors except during sessions that are closed for deliberations and voting.
- c. Parties may request that observers attend, and the SCHC may grant such request as it deems appropriate. At the request of any party or the SCHC,

a representative of a responsible educational association shall be permitted to attend the proceedings as an observer.

- d. Hearings normally will be closed to the public to the extent permitted by law. However, if a majority of the SCHC panel and all of the parties agree, a hearing may be open to the public. All persons at a closed hearing shall be asked to refrain from public statements about the matter and shall be informed of any legal requirements of confidentiality by the legal counsel for the University.
- e. Upon request by any party, and subject to applicable law, the SCHC may request the production of relevant University records and may request that witnesses appear and testify at the hearing. University employees shall comply with such requests to the extent not prohibited by law.
- f. The OEO/AA, SCAFFR, the Research Integrity Officer, or any other neutral investigative or consultative body shall provide, upon request, a written report to the SCHC and the parties prior to the hearing and a representative from the pertinent office shall be available at the hearing to answer questions and testify.
- g. Hearings (except for deliberations) shall be audio recorded (or video recorded.) Any party can obtain a copy without charge.
- h. Witnesses may be called by either party or by the SCHC. The SCHC may (in its discretion) consider telephonic (or equivalent form of) testimony. Written or recorded submissions from witnesses instead of oral testimony shall be allowed only under exceptional circumstances given the inability of the opposing party and the SCHC to cross-examine the witness.
- i. Ordinarily, any documentary evidence should be produced for SCHC and all the parties prior to the hearing. For good cause, the SCHC may nevertheless consider documents produced at the hearing itself. Any document produced at the hearing shall be provided to the all parties as well as the SCHC.

- j. The SCHC may grant adjournments to enable either party to investigate evidence to which a valid claim of surprise is made, or for other good cause, but shall avoid unnecessary delay in the proceedings.
3. SCHC Standard of Review and Actions.
- a. The SCHC's report with its determinations, rationales and recommendations will be based on the evidence submitted to it and its assessment of the credibility of witnesses.
 - b. A variety of matters can be brought to the SCHC, which may necessitate different standards of review. Some, such as the consideration of RPT decisions are appeals and, as such, the SCHC has a limited standard of review. Others, such as those alleging violations of the Faculty Code or alleging illegal discrimination may entail formal, de novo, fact-finding hearings. In all cases, 3 out of 5 panel members must agree on a finding or recommendation. The SCHC shall report its findings and recommendations to the President in all cases.
 - i. Appeals brought from recommendations of the cognizant senior vice president in retention, promotion and tenure ("RPT") decisions.

Appellant must provide clear and convincing evidence that the recommendation was arbitrary, capricious, unreasonable, discriminatory, a result of malice, or a violation of academic freedom; and/or show by a preponderance of evidence that there were procedural defects that denied the appellant basic fairness and due process. Presumption is that the recommendation was made in the best interest of the University. The appellant may prove that the vice president's recommendation was invalid because it relied on a prior recommendation in the same review process that was procedurally defective, arbitrary, capricious, unreasonable, discriminatory, a result of malice, or a violation of academic freedom. If the SCHC finds such

procedural defects or arbitrary and capricious action, it shall recommend a remedy for the appellant.

- ii. Complaint filed alleging discrimination or sexual harassment in a Mixed Case.

The SCHC holds a hearing regarding all the issues raised in the complaint and makes findings of facts pertaining to the allegations of discrimination or sexual harassment (and follows the pertinent standard of review for other allegations in the complaint). It may recommend remedial, corrective, and disciplinary action if it finds by a preponderance of the evidence that discrimination or harassment has been committed.

- iii. Complaint alleging violation of the Faculty Code.

The complainant must prove by clear and convincing evidence (in the record as a whole) that the respondent violated the Code. If the complainant so proves, the SCHC recommends sanctions.

- iv. Complaint alleging violation of academic freedom or an academic grievance.

The claimant must prove by a preponderance of the evidence that the alleged actions occurred and that they violated academic freedom or a substantial faculty right, as defined in Policy 6-010.

- v. Medical termination or reduction of status.

The University must prove the allegation of inability to perform the essential functions of the job with or without a reasonable accommodation by clear and convincing evidence.

- vi. Terminations and reductions in status from financial exigency or program substantial modification or discontinuance.

The appellant must prove by a preponderance of the evidence that the dismissal or reduction in status (1) violates their academic freedom or constitutional rights, or (2) fails to comply with the policy for such actions, with related institutional policy, or with the plan for personnel reduction approved by the Utah Board of Higher Education or (3) constitutes illegal discrimination.

vii. Appeals of restrictions on speech under University Speech policies.

The appellant must prove by a preponderance of the evidence that the restriction on speech violates the Utah or United States Constitution or academic freedom.

viii. Appeals of sanctions for misconduct in research.

1. The SCHC may only grant an appeal of a sanction for research misconduct imposed in accordance with Policy 7-001 if the sanction resulted from a process that had procedural defects that resulted in the denial of fairness or due process or the sanction is arbitrary and capricious. SCHC deliberations and voting shall take place in closed sessions. Upon request of any member of the SCHC, votes shall be taken by secret written ballot. A three-fifths majority of members present at the hearing, including the chairperson, shall be required for any decision.

c. The SCHC shall prepare a report stating its determinations and recommendations with reference to the applicable standard of review. It shall state its rationale for its determinations and recommendations. The report shall be provided to the parties, the President of the University and the cognizant academic administrator within 21 days of the hearing.

d. Any of the parties may respond to the report within 5 business days of its receipt. The responses shall be sent to the President with copies to the SCHC, the other parties, and the cognizant academic administrator(s).

E. Final Decision by President.

1. Prior to making their decision, The President shall consider the Committee's findings and recommendations and consult with the Board of Trustees in cases where a tenured faculty member may be dismissed for cause. The President may solicit whatever counsel and advice the president deems appropriate to assist in arriving at a final determination. The president may not consider evidence outside the record unless the nature of that information is fairly communicated to the parties and a reasonable opportunity to respond is given to the parties. The president shall take one of the following actions:
 - a. Accept the findings and recommendations of the SCHC;
 - b. Return the report to the SCHC, requesting that it clarify specific matters, materials, and issues, and forward to the President a second report of its recommendations relating to the specific matters referred by the President for further explanation; or
 - c. Reject all or parts of the Committee's findings and recommendations, stating reasons for doing so and for imposing a greater or lesser sanction than recommended by the SCHC.
2. Written notification of the President's decision and the basis for that decision, if it differs from the SCHC 's recommendation, shall be communicated to all parties, the department chairperson, the academic dean, the cognizant senior vice president, and the chairperson of the SCHC panel.
3. The decision of the President is final.

F. Records of Complaints and Reporting by SCHC.

1. Copies of the recordings of hearings as well as the complete file of the hearings shall be kept in the Office of the Senate.
2. A faculty member has the right upon request to examine University records maintained or retrievable under their name or identifying numbers relating to

proceedings before the SCHC to the extent not prohibited by University Regulations or law.

3. Access to records of hearings shall be governed by applicable law.
4. Each SCHC panel that hears a case will provide a brief account of the issue(s) involved and the decision, appropriately worded or modified to protect any necessary confidentiality, to the Office of the Academic Senate. Pursuant to its duty to report, the SCHC may make a confidential report to the Academic Senate Executive Committee regarding a serious concern about the systemic operation of a program, department or college and request that the Executive Committee relay that concern to the cognizant senior vice president.

G. Remedies and Sanctions

The SCHC may recommend remedies or sanctions which it deems appropriate to the circumstances. The SCHC may consult with SCAFFR, the Research Integrity Officer, OEO/AA or other University units or officials as it deems appropriate to "craft" the remedy or sanction.

1. Remedies. The SCHC may recommend remedies to ameliorate any improper denial of academic freedom or other substantial right considered by the SCHC. Remedies may include, but are not limited to, restitution, a request for a written apology, correction of records, or prospective relief designed to eliminate the problem in the future.
2. Sanctions. Sanctions may include (but are not limited to) the following: written reprimand, imposition of a fine only as an alternative to suspension without pay, restitution, restrictions on the respondent's participation in research or other projects, reassignment of duties, mandatory training, additional supervision, probation, suspension or barring the respondent from the exercise of some or all of their duties, with or without partial pay, for a definite period of time, or dismissal from employment at the University.

H. SCHC Membership Composition and Selection

1. Members of the SCHC standing committee pool available to serve on SCHC panels are elected by the Academic Senate as described in Policy 6-002-III-D-1-e.
2. SCHC pool members available (and trained) to serve as panel chairpersons are appointed and confirmed as described in Policy 6-002-III-D-1-e.
3. The Office of the Senate will select from the SCHC pool a set of panel members for each hearing with the goal of constituting an impartial panel. A neutral process such as assigning SCHC members on a rotating or random basis will be used. The resulting panel should have diversevaried academic expertise and experience. Chairpersons shall also be selected from their separate pool through a similar neutral process. Being designated as a chairperson does not preclude serving as a regular member on another SCHC panel.
 - a. For each case/ hearing, the SCHC will normally consist of a panel of 4 faculty members and one faculty chairperson. No more than one of the five members may be faculty with administrative appointments. At the discretion of the chairperson, an alternate member may be added through the neutral selection process in order to replace a member who becomes unable to serve.
 - b. In cases in which a party is a student or staff member, or if there are substantial issues that involve students or staff members, then 2 individuals from that party's pertinent peer group(s) shall replace 2 of the 5 faculty members on the panel. Those peer members shall be selected from the pool of staff or student members, which has previously been composed pursuant to Rule 1-012A.
 - c. In all appeals from a denial of Retention, Promotion or Tenure and in any proceeding alleging a violation of the Faculty Code for which the sanction

of dismissal of the faculty member is sought, all faculty members on the SCHC panel shall be tenured faculty.

4. Parties to hearings before the SCHC may challenge any member of the SCHC panel for cause. If there is a dispute regarding the participation of any SCHC member, the remaining panel members shall hear that dispute and make a final decision about the participation of that member in the hearing. (Standards for ~~conflict and bias~~recusal are set forth above, Part III-C-11.)
5. Quorum. All 5 members of the selected panel must be present for the entire hearing and any pre-hearing discussions.
- I. General. If any other University Regulation is inconsistent with the provisions herein, this Policy shall govern.

Sections IV- VII are for user information and are not subject to the approval of the Academic Senate or the Board of Trustees. The Institutional Policy Committee, the Policy Owner, or the Policy Officer may update these sections at any time.

IV. Policies/ Rules, Procedures, Guidelines, Forms and other Related Resources

- A. Policies/ Rules. [*reserved*]
- B. Procedures, Guidelines, and Forms.
 1. SCHC Intake/Complaint Form
- C. Other Related Resources. [*reserved*]

V. References

- A. 1-007: University Speech Policy
- B. Policy 1-012: University Non-Discrimination Policy
- C. Rule 1-012A: Discrimination Complaint Process Rule Policy
- D. Policy 5-210— Discrimination and Sexual Harassment Complaint University
- E. Rule 5-210A--OEO/AA Procedures
- F. Policy 6-002 –The Academic Senate (Standing Committees)

- G. Policy 6-010—Academic Freedom, Academic Grievances, and the Senate
Academic Freedom and Faculty Rights Committee
- H. Policy 6-303 –Retention, Promotion, and Tenure
 - I. Policy 6-313—Dismissal based on Financial Exigency
 - J. Policy 6-316 –Code of Faculty Rights and Responsibilities
- K. Policy 6-401—Committee on Student Affairs –COSA
- L. Policy 7-001 -- Policy for Research Misconduct
- M. 1961 Statement of the American Association of University Professors
concerning recruitment and resignations
- N. 1940 "Statement of Principles on Academic Freedom and Tenure" of the
American Association of University Professors and the Association of American
Colleges
- O. 1967 "Statement on the Academic Freedom of Students" of the American
Association of University Professors.

VI. Contacts

The designated contact officials for this Regulation are

- A. Policy Owner(s) (primary contact person for questions and advice): Associate
Vice President for Faculty and the Associate Vice President for Health Sciences
- B. Policy Officer(s): Sr. Vice President for Academic Affairs and the Sr. Vice
President for Health Sciences.

See Rule 1-001 for information about the roles and authority of policy owners and
policy officers.

VII. History

Revision History.

- A. Current version. Revision 1.
 - 1. Approved by -- Academic Senate March 14, 2022, and Board of Trustees
April 12, 2022, with effective date of April 12, 2022.

2. Legislative History

3. Editorial Revisions

B. Previous versions.

1. Revision 0. Effective Dates. May 15, 2014 to April 11, 2022.

a. Legislative History for Revision 0.

C. Renumbering

1. Renumbered from PPM 9-3, and earlier known as Faculty Regulations Chapter III. Prior to 2014, the contents of this Policy were housed in 6-002.III Section 10.

Policy 6-313: Terminations and Program Discontinuance.

Revision 1~~1~~2. Effective date: ~~April 11, 2023~~Pending

Section 1. Termination of Appointments

[Terminology. For the purpose of this section, the terms "faculty" and "faculty member" include academic librarians.]

Grounds for Dismissal. The following are the sole grounds for dismissal of faculty members with tenure:

- A. Cause. A faculty member may be dismissed for adequate cause only if the faculty member violates one or more of the rules set forth in Part IV of the Faculty Code of Rights and Responsibilities (the "Faculty Code"). Dismissal as a sanction may be imposed only if the violation demonstrates that the faculty member is incompetent in the performance of their duties as a teacher and/or faculty member or lacks the ability or willingness to meet their responsibilities to the University. Procedures governing dismissal for cause are set forth in Part VI of the Faculty Code.
- B. Medical Reasons. In the event of a tenured faculty member's inability to perform, even with reasonable accommodations, the essential functions of duties and responsibilities as a faculty member, the faculty member may be terminated or given a renewal contract with substantially reduced status for medical reasons. Termination of employment for medical reasons is not to be considered dismissal as a sanction pursuant to the Faculty Code.
- C. Financial Exigency. A faculty member with tenure may be terminated or given a renewal contract with a substantially reduced status because of financial exigency. Termination of employment because of financial exigency is not to be considered dismissal as a sanction pursuant to the Faculty Code.

- D. Program Substantial Modification or Discontinuation (defined in Section 5 below). A faculty member with tenure may be terminated or given a renewal contract with a substantially reduced status because of bona fide substantial modification or discontinuation of a program. Termination of employment because of program substantial modification or discontinuation is not to be considered dismissal as a sanction pursuant to the Faculty Code.

Section 2. Procedures Governing Dismissal for Cause

(See Parts IV-VI of the Faculty Code of Rights and Responsibilities, Policy 6-316).

Section 3. Procedures Governing Termination for Medical Reasons

- A. Proceedings to terminate or to award a contract with substantially reduced status to a faculty member for medical reasons shall be preceded by discussions with a faculty member's department chairperson, dean, and/or cognizant senior vice president looking to a mutually acceptable resolution of the problem. The University shall offer to extend a leave to the faculty member consistent with its current leave policies before termination proceedings are initiated. In the course of the discussions the senior vice president's delegate shall notify the faculty member of the right to be examined, at University expense, by a health care practitioner chosen by the faculty member. The University also has the right to request the faculty member to submit to another examination from a health care practitioner chosen and paid for by the University.
- B. In the event of failure to reach a mutually acceptable resolution, proceedings to terminate or to award a contract with substantially reduced status to a faculty member for medical reasons shall be initiated by a written statement alleging with reasonable particularity the faculty member's inability to perform the essential functions of the job, made by the cognizant senior vice president or designee. The issue shall proceed to a hearing before the Academic Freedom and Faculty Rights Committee pursuant to the procedures set forth in paragraph C below. In addition to those procedures, if the Academic Freedom and Faculty Rights

Committee believes that the medical evidence from the two prior health examinations is inconclusive, the Academic Freedom and Faculty Rights Committee may order a third examination at the University's expense, to be conducted by a health care practitioner selected by the faculty member and the University or, if they fail to agree, by the Academic Freedom and Faculty Rights Committee.

- C. A member of the committee will remove themselves from the case, either at the request of a party or on the committee member's own initiative, if the committee member has a conflict of interest or may be unable to make a fair and objective decision ~~deems themselves disqualified for bias or interest~~. Each party will have a maximum of two challenges without stated cause.
1. Service of notice of hearing will be made at least 20 days prior to the hearing and will include a statement describing with reasonable particularity the faculty member's inability to perform the essential job functions. The faculty member may waive a hearing or may respond to the charges in writing at any time before the hearing. If the faculty member waives a hearing, but denies the charges or asserts that the charges do not support a finding of adequate cause, the Academic Freedom and Faculty Rights Committee will evaluate all available evidence and rest its recommendation upon the evidence in the record.
 2. The committee, in consultation with the senior vice president and the faculty member, will exercise its judgment as to whether the hearing should be public or private.
 3. During the proceedings the faculty member will be permitted to have an academic advisor and counsel of their own choice.
 4. At the request of either party or the committee, a representative of a responsible educational association shall be permitted to attend the proceedings as an observer.

5. A verbatim record of the hearing or hearings will be taken and a typewritten copy will be made available to the faculty member without cost upon request.
6. The burden of proof that adequate cause exists rests with the institution, and shall be satisfied only by clear and convincing evidence in the record considered as a whole.
7. The committee will grant adjournments to enable either party to investigate evidence to which a valid claim of surprise is made.
8. The faculty member will be afforded an opportunity to obtain necessary witnesses and documentary or other evidence, and the administration will, insofar as it is possible for it to do so, secure the cooperation of such witnesses and make available necessary documents and other evidence within its control.
9. The faculty member and the administration will have the right to confront and cross-examine all witnesses. Where the witness cannot or will not appear, but the committee determines that the interests of justice require admission of the statement, the committee will identify the witness, disclose the statement and if possible provide for interrogatories.
10. The committee will not be bound by strict rules of legal evidence, and may admit any evidence which is of probative value in determining the issues involved. Every possible effort will be made to obtain the most reliable evidence available.
11. The findings of fact and the decision will be based solely on the hearing record.
12. Except for such simple announcements as may be required, covering the time of the hearing and similar matters, public statements and publicity about the case by either the faculty member or administrative officers will be avoided so far as possible until the proceedings have been completed, including

- consideration by the President. The president and the faculty member will be notified of the decision in writing and will be given a copy of the record of the hearing. A report of the decision will also be made by the committee to the Academic Senate for its information.
13. Committee deliberations and voting shall take place in closed session. The Committee shall decide whether by a preponderance of evidence, the faculty member is unable to perform the essential job functions with or without reasonable accommodations. The Committee shall report in writing its findings and recommendations within twenty (20) working days after the conclusion of the hearing to the President.
 14. The President shall consider the record and the findings and conclusions of the Committee. Based upon such review and without conducting a further hearing, the President shall within ten (10) working days, accept the decision unless the President determines that the matter should be referred back to the Committee for further proceedings or that the Committee's findings are contrary to the evidence. If the President rejects the report, the President will state the reasons for doing so, in writing, to the Academic Freedom and Faculty Rights Committee and to the faculty member. The decision of the President is final.

Until the final decision upon termination of an appointment has been reached, the faculty member may be suspended temporarily, or assigned to other duties in lieu of suspension, only if immediate harm to the faculty member or others is threatened by the faculty member's continuance. Before suspending a faculty member, pending an ultimate status determination through the hearing machinery set forth above, the administration will consult with the Academic Freedom and Faculty Rights Committee. Salary will continue during the period prior to final decision by the Board of Trustees.

Section 4. Procedures Governing Terminations Required by Financial Exigency

- A. Purpose. This section specifies the conditions under which the university would declare a state of financial exigency, the process by which such a condition would be declared and the process by which program substantial modification, reduction, or discontinuance would proceed under a condition of financial exigency. It also specifies the process to be followed in termination or reduction in status of faculty members due to program reduction necessitated by financial exigency. Termination or reduction in status of faculty members due to program substantial modification or discontinuance unrelated to financial exigency is governed by the procedures of section 6 of this chapter.
- B. Definitions.
1. Declaration and Definition of Financial Exigency. The Utah Board of Higher Education (Board) may declare a bona fide financial exigency at one or more institutions in the Utah System of Higher Education. A declaration of financial exigency for all of the System institutions would be in effect a declaration of financial exigency for the System as a whole. A bona fide financial exigency is an existing or imminent financial crisis which, if uncorrected, would threaten the survival of the institution as a whole and which could not be alleviated reasonably by less drastic means. 'Survival of the institution as a whole' is expressly defined for purposes of this policy as the availability of adequate appropriated funds to enable the institution substantially to fulfill its mission as approved by the Board. A declaration by the Board of financial exigency may authorize the president, with the approval of the Board of Trustees, to recommend and implement, subject to Board approvals as provided herein, reductions in force of faculty and staff personnel through layoffs.
 2. Academic Program. A program is a unit within the university with an identifiable teaching, research, or other academic mission. For the purposes of these regulations "program" is to be determined by existing academic standards, and "programs" are never to be declared with the aim of singling out individual faculty members. For a unit to be designated as a "program," it shall fulfill one or more of these criteria:

- a. whether the unit has "program" in its title or has otherwise been designated as a program by a specific faculty decision;
- b. whether the unit offers or administers a degree, certificate, or some other credential;
- c. whether the unit has an identifiable curriculum or is formally described in current university catalogs or other publications;
- d. whether the unit has a separate budget;
- e. whether the unit has an identified group of faculty.

C. Declaration of Financial Exigency.

1. A financial exigency exists after it has been formally declared by the Utah Board of Higher Education. The president of the university, with the advice of the Academic Senate, may recommend that the Board declare a state of financial exigency. The president and Academic Senate shall make recommendations to the Board concerning financial exigency in accordance with the procedures set forth herein.
2. As early as is feasible after the declaration of financial exigency appears to be a possibility, the president shall inform the Faculty Budget and Planning Advisory Committee and the Academic Senate concerning the causes and possible consequences of the crisis, reasons why the university's financial circumstances may require academic program substantial modification, reduction, or discontinuance ~~or reduction~~, and the options investigated by the university short of a declaration of financial exigency.
3. Within the time period established by the president, the Academic Senate shall receive and consider the comments and advice of the Faculty Budget and Planning Advisory Committee as well as timely presented views of any other faculty or administrative body, or individual faculty members, before making its recommendation to the president on whether financial exigency should be declared.
4. Within the time period established by the president and before making a recommendation to the Utah Board of Higher Education, the president shall receive and consider the comments and advice presented on the matter by

- the Faculty Budget and Planning Advisory Committee and by the Academic Senate.
5. The president shall submit a final recommendation on the declaration of financial exigency in writing to the Utah Board of Higher Education and shall attach the written comments and advice of the Academic Senate.
- D. Time Considerations. Time considerations may be critical when the university must judge whether a financial exigency exists; whether or not programs must be substantially modified, reduced, or eliminated ~~or reduced~~; and whether faculty must be reduced in status or terminated. To the extent that such judgments must be made in a brief time frame for a given situation, the time periods for the consultative process provided for in these regulations shall be specified by written notice from the president, giving those for whom the consultative processes were provided in these regulations the fullest possible amount of time under the circumstances to use such processes. In that regard, the president shall use best efforts to secure the fullest period of time possible for the consideration of these matters and the responses hereto. The failure of parties to fulfill the participation opportunity within the time frame provided shall not be deemed an absence of such opportunity.
- E. Program Substantial Modification, Reduction, or Elimination ~~or Reduction~~ because of Financial Exigency.
1. Iterative Process. After a declaration of financial exigency by the Utah Board of Higher Education, an iterative process of university program substantial modification, reduction, or elimination ~~or reduction~~ may begin. The first step in this process shall be for each administrative and academic structural component of the university to assess its programs with regard to quality and essentiality to the mission of the university. All components of the university community make important contributions in enabling the university to fulfill its mission. This process should be carried out in a manner that best ensures the continuing integrity of academic programs.

2. Administrative and Support Services. The president will ask the cognizant senior vice presidents to develop reduction plans in the areas of support services. Such plans will be reviewed by the Council of Academic Deans, the Budget and Planning Advisory Committee, and the Administrative Policy Advisory Committee, and will be integrated with academic substantial modification, reduction, or ~~discontinuance or reduction~~ plans in light of the overall academic mission of the university.

As the iterative process continues, academic functions should take priority, and support services shall be reduced to the extent necessary and feasible without significantly impairing the university's ability to pursue its basic academic purposes.

3. President's Direction. The president, at their discretion, and after consultations with the Council of Academic Deans and the Budget and Planning Advisory Committee shall direct the cognizant senior vice president(s) to develop academic program substantial modification, reduction, or ~~discontinuance or reduction~~ plans according to procedures set forth below in this section 5, part E, 4, 5 and 6.
4. Academic Program Substantial Modification, Reduction, or ~~Elimination or Reduction~~ Plans. The development of academic program substantial modification, reduction, or ~~elimination or reduction~~ plans must involve consultation among departmental and college faculties to identify areas under consideration for academic program substantial modification, reduction, or ~~eliminations or reductions~~. The following criteria and information sources shall be considered by those making judgments about which programs should be substantially modified, reduced, or ~~eliminated or reduced~~ because of financial exigency: (i) the general academic quality of the program with regard to scholarship, teaching and service (ii) the extent of importance the program has for the mission of the university; and, insofar as they relate to academic quality and the mission of the university, the following: (iii) Graduate Council

- Review; (iv) findings by national accreditation bodies; (v) reports by appropriate national ranking sources; (vi) such other systematically derived information, based on long-term considerations of program quality, as may be available; (vii) the capacity of the program to generate external funding; (viii) faculty/student ratios; (ix) cost/effectiveness analysis; and (x) relationship to the Utah Board of Higher Education Master Plan for Higher Education in the State of Utah.
5. Discontinuance of Administrative and Support Services. If an academic program is substantially modified, reduced, or discontinued ~~or reduced~~, then administrative and support services associated with it shall be re-evaluated and reduced if appropriate. These reductions shall precede further substantial modification, reduction in, or elimination of academic programs. This iterative process between reduction in administrative and support services and staff and substantial modification, reduction, or elimination ~~or reduction~~ of academic programs shall proceed until the necessary level has been reached.
6. Review. If a plan calls for the substantial modification, reduction, or elimination ~~or reduction~~ of a specific program, department, school or college, that element of the plan shall be reviewed by the Faculty Budget and Planning Advisory Committee; the Graduate Council; the faculty members and/or the faculty committee most directly involved in the academic program proposed for substantial modification, reduction, or elimination ~~or reduction~~, the cognizant director, department chairperson, and/or dean; relevant college committees or councils; and relevant student advisory committees. The views of these bodies shall be forwarded to the Academic Senate for its consideration within the time periods prescribed by the president. The conclusions of the above bodies and the Academic Senate shall be forwarded to the president, who shall consider these views when reviewing the proposed plan. When the president's recommendations are submitted to the Utah Board

of Higher Education, they shall be accompanied by the Academic Senate's recommendations.

F. Faculty Termination or Reduction in Status Because of Financial Exigency.

1. Plan for Faculty Reduction. The dean of each school or college, in consultation with the departments, department chairpersons and the school or college executive committee, or other appropriate standing committees established by the school or college Council Charter, shall devise an orderly sequence of steps which shall constitute the school's or college's faculty reduction plan. Included in such a plan will be explicit criteria by which individual faculty will be identified with the various programs under consideration for substantial modification, reduction, or elimination.
2. Voluntary Incentives. Insofar as feasible, the plan will emphasize the creation of various incentives such as voluntary retirement, early retirement, partial retirement, partial resignation, resignation, extended leaves, salary reductions, severance pay, or similar actions that will result in immediate or eventual cost savings for the university, and that are voluntarily entered into by individual faculty members rather than imposed by university authority.
3. Priorities. When non-voluntary faculty reductions are necessary, unless explicitly stated and compelling academic reasons exist to the contrary, consideration will be given to not filling existing faculty vacancies and not filling vacancies from resignations, retirement, or death. Consideration should next be given to the elimination of instructional positions occupied by teaching assistants/fellows, associate instructors and adjunct and visiting faculty members. Next, consideration should be given to the termination of career-line (lecturer, clinical, or research) faculty members. Next, consideration should be given to the termination of tenure-track or tenured faculty members.
4. Tenure System. The integrity of the tenure system will be respected and tenured faculty members will not be terminated unless there are explicitly

stated, compelling academic reasons. The appointment of a faculty member with tenure will not be terminated in favor of retaining the faculty member without tenure except in extraordinary circumstances where a serious distortion of the academic program would otherwise result. A serious distortion will be determined in accordance with sections E. 4. and F. 1. above.

5. Procedures for Faculty Termination or Reduction in Status due to Program Substantial Modification, Reduction, or Discontinuance. Termination or reduction in status of tenured or tenure-track faculty members due to program substantial modification or reduction short of program discontinuance shall follow the procedures set forth below in this section F, 6 through 14. Termination or reduction in status of tenured or tenure-track faculty members due to program substantial modification, reduction, or discontinuance necessitated by financial exigency is not governed by these procedures but shall follow the procedures set forth in University Regulations, Chapter VII, section 6 paragraph 3.
6. Departmental and College Review. Proposed faculty reduction plans shall be reviewed by affected department and college faculties in light of the future strength, balance, quality of teaching, research, service and mission of the department and college tempered by concern for individual circumstances. Faculty response to such reduction plans shall be forwarded to the appropriate department chairperson and dean in a timely manner.
7. Notice. The dean shall give timely written notice to any faculty member who is the subject of a recommendation for reduction. A faculty member so identified may respond in writing at any point in the process with the faculty member's comments becoming part of the record to be forwarded to the next level of review. The dean, after considering any such response, shall add separate recommendation(s) and forward the complete file to the cognizant senior vice president.

8. Intent to Appeal. If a faculty member chooses to respond to the proposed dismissal or reduction in status, the faculty member must submit, within thirty days of receipt of a recommendation for termination or reduction in status from the dean, a written notice of intent to appeal to the senior vice president.
9. Appeal. A faculty member who intends to appeal, and who has submitted notice of such intent, must file a formal written appeal to the senior vice president within ninety days of receipt of proposed termination notice. The faculty member's written appeal to the senior vice president should state, as precisely as possible, the grounds for the appeal.
10. Review by the Senior Vice President. The file, including any appeal submitted by the faculty member, will be reviewed by the cognizant senior vice president who will add separate recommendation(s) and forward the complete file to the President.
11. Hearing. If the cognizant senior vice president recommends termination or reduction in status, the faculty member, within fifteen (15) days after receiving a copy of the cognizant senior vice president's final recommendation to the president, may submit a written request to the cognizant senior vice president for a hearing on the pending action. A hearing will then be conducted in a timely manner by the Academic Freedom and Faculty Rights Committee.
12. Standard of Review. An affected faculty or staff member may contest a layoff only for (a) violation of their academic freedom or constitutional rights, or (b) failure to comply with this policy, with related institutional policy, or with the plan for personnel reduction approved by the Board. Because the procedures for the declaration of financial exigency contained herein require the demonstration of the need for such declaration after substantive consultations, notice, and hearing, the decision of the Board to declare financial exigency is not subject to contest by faculty or staff in any grievance or appeal procedure within the institution or before the Board.

If the faculty member requesting the hearing believes that the recommendation is associated with prejudicial treatment, harassment, or illegal discrimination, based upon race, color, ethnic or national origin, sex, religion, age, lack of American citizenship, sexual preference, handicapped status, or status as a veteran of the military service, the faculty member may also consult with the Director of the Office of Equal Opportunity and an additional, separate hearing may be conducted by a Discrimination Hearing Panel (see Policy and Procedures No. 2-32). The decisions and conclusions of such hearing committees and panels will be communicated in writing to the faculty member.

13. Hearing Procedure. In conducting a hearing on a faculty member's appeal of dismissal or reduction in status due to financial exigency, the hearing committee will follow the guidelines set forth in University Regulations, Chapter VII, Section 3A, and the president shall respond to the committee's recommendation according to these guidelines.
14. Notice of Termination or Reduction in Status. Notice from the president will be given to a faculty member who is terminated due to program reduction because of financial exigency as follows: Should either (1) the faculty member fail to request a hearing on the pending action as provided in paragraph (11) and the president decide in favor of termination or reduction status or (2) the faculty member request a hearing as provided in paragraph (11) and such hearing be timely initiated, then the president shall give written notice of termination or reduction in status to the affected faculty member.
15. Form of Notice. The notice must include the following:
 - a. The effective date of layoff;
 - b. A statement of the reasons for the Board's action to declare a financial exigency;
 - c. The basis, the procedures, and the criteria used to lay off faculty and staff;

- d. Any opportunity for reconsideration or appeal including access to appropriate documentation, and the issues that may or may not be considered; and
- e. The reinstatement rights of the faculty and staff.

If the appointee is untenured and in the first year of service, notice shall be given at least three months prior to the termination or reduction in status of the existing appointment. If the appointee is tenured or is in the second or subsequent year of service, the intended termination or reduction in status shall not become effective sooner than twelve months after the date upon which notice is served.

- 16. Relocation. With the assistance of cognizant academic administrators (e.g., department chairs, deans, senior vice presidents) and the consent of the receiving department or college, every reasonable effort will be made to enable faculty members affected, who wish to do so, to obtain suitable positions elsewhere in the university.

Section 5. Procedures Governing Terminations Because of Bona Fide Program Substantial Program Modification or Discontinuance for Academic Reasons

- A. Purpose. This section specifies the procedures to be followed in substantially modifying or discontinuing a program for academic reasons. It also specifies the procedures for termination, should that be necessary, of the faculty and staff of a program when the program is substantially modified or discontinued for any reason.

- B. Definitions.

- 1. Substantial Program Modification means the modification of an existing program to such a degree that it results in faculty and/or nonfaculty positions in the program being no longer needed.

2. Program Discontinuance means the termination of a program, center, institute, department, school, or college for reasons based upon educational and academic considerations. For the purpose of this section, educational and academic considerations do not include cyclical or temporary variations in enrollment, but must reflect long-range judgments that the basic educational mission of the university will be strengthened by the discontinuance of the program, center, institute, department, school or college. This does not preclude the reallocation of resources to other academic programs with higher priority based on academic and educational considerations.

4.3. A program is a unit within the university with an identifiable teaching, research, or other academic mission. For the purpose of these regulations, "program" is to be determined by existing academic standards, and "programs" are never to be declared with the aim of singling out individual faculty members. For a unit to be designated as a "program," it shall fulfill one or more of these criteria:

- a. whether the unit has "program" in its title or has otherwise been designated as a program by a specific faculty decision;
- b. whether the unit offers or administers a degree, certificate, or some other credential;
- c. whether the unit has an identifiable curriculum or is formally described in current university catalogs or other publications;
- d. whether the unit has a separate budget;
- e. whether the unit has an identified group of faculty.

C. Process of Program Substantial Modification or Discontinuance for Academic Reasons.

1. Timing. Program substantial modification or discontinuance may occur at any time.
2. Initiation. Formal consideration of possible substantial modification or discontinuance of an academic program may be initiated by (1) the faculty of that program; (2) the faculty or an appropriate committee of the faculty of the center, institute, department, school, or college of which the program in question is a part; (3) the Graduate Council; or (4) the cognizant director, department chairperson, dean, ~~or senior~~ vice president, or president of the university, after consultation with the Board of Trustees.
3. Memorandum. In the event that a program substantial modification or discontinuance may result in the termination of faculty, the faculty group or committee or the administrative officer initiating the formal consideration of substantial modification or discontinuance of an academic program shall prepare, and submit to the cognizant senior vice president ~~for academic affairs or health sciences~~, a memorandum ~~which that~~ (1) clearly identifies the program; (2) states explicit criteria by which faculty are identified with the program under consideration for substantial modification, reduction, or elimination; (3) states the reasons for recommending substantial modification or discontinuance in light of the university's academic mission; (4) assesses the probable consequences for faculty, related programs, and the university in general resulting from substantial modification or discontinuance; and (5) suggests a time-table for accomplishing the substantial modification or discontinuance.
4. Procedure for Considering Program Substantial Modification or Discontinuance. In the event that a program substantial modification or discontinuance may result in the dismissal of faculty, the following process shall apply:
 - a. Solicitation of Comments. Copies of the memorandum embodying an initial or amended proposal for program substantial modification or

discontinuance shall be distributed for comment and recommendation to (i) the faculty members and/or faculty committee most directly involved in the academic program proposed for substantial modification or discontinuance; (ii) relevant departments or colleges; (iii) the cognizant director, department chairperson, and/or dean; (iv) relevant college committees or councils; (v) the Faculty Budget and Planning Advisory Committee; and (vi) relevant student advisory committees.

- b. Dean's Recommendation. After receiving and considering any comments, the dean shall forward a recommendation to the Graduate Council for its review and recommendation.
- c. Graduate Council Recommendation. The Graduate Council's recommendation shall be submitted to the cognizant senior vice president for review and recommendation.
- d. Senior Vice President's Recommendation. After receiving and considering the comments, the cognizant senior vice president shall submit the proposal and comments, together with a recommendation regarding the continuation or discontinuance future of the program, to the Academic Senate. The senior vice president's recommendations shall be subject to review and debate by the Academic Senate according to University Regulations Faculty Regulations, Chapter III.
- e. Academic Senate's Recommendation. The Academic Senate's recommendation shall be forwarded with the senior vice president's recommendations to the president for consideration.
- e.f. President's determination. The president shall review the proposal and recommendations from the prior levels and consult with the Board of Trustees, and determination of the recommendation to be made to the Utah Board of Higher Education. The Board of Trustees president shall then review the president's recommendation before it is submitted to notify

the Utah Board of Higher Education. The recommendations of the Academic Senate shall accompany the ~~recommendations of the president to the Board of Trustees and the~~ Utah Board of Higher Education notification.

- D. Termination of Faculty and Staff Due to Substantial Modification or Discontinuance of a Program, Center, Institute, Department, School or College.
1. Notice of Program Substantial Modification or Discontinuance. After the ~~Utah Board of Higher Education~~ president has approved a proposal ~~by the university~~ to substantially modify or discontinue a program, center, institute, department, school or college, the cognizant administrative officer (dean or senior vice president) shall give written notice of that substantial modification or discontinuance to all persons in the program, center, institute, department, school or college.
 2. Notice of Reduction in Status. In addition to the general notice from the cognizant administrator (see previous paragraph), the president shall give tenured and untenured faculty members in the program, center, institute, department, school or college scheduled for substantial modification or discontinuance formal notice of termination or reduction in status as follows: If the appointee is untenured and in the first year of service, notice shall be given at least three months prior to the termination or reduction in status of the existing appointment. If the appointee is tenured or is in the second or subsequent year of service, the intended termination or reduction in status shall not become effective sooner than twelve months after the date upon which notice is served.
 3. Relocation. With the assistance of cognizant academic administrators (e.g. department chairs, deans, senior vice presidents) and the consent of the receiving department or college, every reasonable effort will be made to enable faculty members affected, who wish to do so, to obtain suitable positions elsewhere in the university.

4. Effect Upon Faculty and Staff. A minimum of one full calendar year, beginning July 1, shall pass from the time when a final decision is made to substantially modify or close an academic program until program substantial modification or discontinuance. During that interval good faith efforts must be made to relocate affected faculty and staff in other suitable positions in the university.
5. Rights of Appeal. In any instance where it is not possible to continue the appointments of tenure-line faculty members, the established procedures for ending faculty appointments, including rights of appeal, will be observed in accord with University Regulations. ~~(See University Regulations, Chapter VI, Section 3, and Chapter VII, Section 3.)~~

Section 6. Effect Upon Students

Although opportunity for completion of a degree or transfer to another program cannot be guaranteed when an academic program is substantially modified or discontinued because of financial exigency or program substantial modification or discontinuance, every effort will be made to accommodate the needs of students already enrolled in the program. After the senior vice president submits a recommendation to the Academic Senate for substantial modification or discontinuance of an academic program, no new admissions to that program will be permitted, unless and until a final decision ~~to retain the program~~ is made.

Section 7. Academic Freedom

If a faculty member, facing termination because of financial exigency or program substantial modification or discontinuance, believes that such substantial modification or termination involves a violation of their academic freedom, the faculty member may file a complaint with the Academic Freedom and Faculty Rights Committee, which shall deal with the complaint according to its established rules of procedure. The complaint should specify as precisely as possible the conditions and/or circumstances which are believed to limit the faculty member's academic freedom.

Section 8. Employment after Terminations

Tenured faculty members terminated because of financial exigency or substantial modification or discontinuance of a program, department, school or college, for a period of three years following the date on which they received their final salary payment, shall receive special consideration among candidates with comparable qualifications for any vacant and funded university positions for which they apply and are qualified.

A. Reinstatement Rights.

1. For Tenured Faculty. In cases of layoff of tenured faculty members, a relevantly similar position may not be filled by replacement within a period of three (3) years from the effective date of the layoff unless the tenured faculty member has been offered a return to employment in that position and has not accepted the offer within thirty (30) calendar days after the offer was extended. Tenured faculty will be offered reinstatement to such positions before offers are made to untenured faculty.
2. For Nontenured Faculty and Nonfaculty Employees. In cases of layoff of nontenured faculty members and all other salaried employees a relevantly similar position may not be filled by replacement within a period of one (1) year from the effective date of the layoff unless the person laid off has been offered a return to employment in that position and the person laid off has not accepted the offer within thirty (30) calendar days after the offer was extended.
3. Offers of Reinstatement Not Accepted. If an offer of reinstatement is not accepted the institution and the Board have no further obligation to the person laid off. After the expiration of the applicable reinstatement period as provided herein, the institution and Board have no further obligation to the affected faculty and staff.

4. Status Following Reinstatement. A faculty member who has been laid off and who accepts reinstatement in the same position will resume the rank and tenure status held at the time of layoff, be credited with any sick leave accrued prior to the date of layoff, be paid a salary commensurate with the rank and length of previous service, and will be credited with any annual leave which the faculty member had accrued prior to the date of layoff and for which the faculty member has not received payment.

Section 9. Decision-Making with Regard to a Major Financial Crisis Which is Short of a Financial Exigency

- A. Purpose. This section applies to the process of determining whether at a particular time the university faces a major financial crisis, which is not definable as a situation of financial exigency, and to the process of making decisions in response to such a crisis.

This section does not preclude the substantial modification, reduction, or discontinuance ~~or reduction~~ of programs for academic reasons at any time.

- B. Identifying a Major Financial Crisis.
 1. Definition. To constitute a major financial crisis, a situation facing the university shall:
 - a. be significantly and demonstrably more than a minor, temporary, and/or cyclical fluctuation in operating funds; and
 - b. involve substantial risk to the survival of departments, colleges, schools, or other major academic components of the university.
 2. Decision-making about the Existence of such a Crisis.
 - a. When the president of the university identifies a major financial crisis, the president shall inform the Faculty Budget and Planning Advisory Committee and the Academic Senate concerning the causes and possible

consequences of the crisis. The president shall also identify the measures considered by the university up to that point for dealing with the crisis, possible strategies which may be alternatives to program substantial modification, program reduction (short of termination), or program termination, and, as warranted, reasons why the university's financial circumstances may necessitate academic program substantial modification, reduction, or termination, and the time frame by which decisions on these matters must be made by all those entitled to participate in the consultative process. In that regard, the president shall use best efforts to secure the fullest period of time possible for the consideration of these matters and the response thereto.

- b. The Academic Senate shall receive and consider the comments and advice of the Faculty Budget and Planning Advisory Committee, as well as timely presented views of any other faculty or administrative body, on whether the president should declare the existence of a major financial crisis. After consulting with the president regarding whether a major financial crisis exists, the Senate shall express its view in writing to the president.
- C. Implementation. When the president declares the existence of a major financial crisis, the university's actions in response to the crisis shall be governed by the provisions of Sections D,E,F, and G of this section.
- D. Consideration of Strategies. When the president has declared the existence of a major financial crisis, the central administration shall consult with the Council of Academic Deans, the Graduate Council, and Administrative Directors, the Faculty Budget and Planning Advisory Committee concerning strategies for dealing with the crisis. Consideration of strategies shall include examination of the feasibility of restrictions on enrollment, reductions in non-academic staff, budget reductions which are across-the-board, using phased reductions, using attrition, reductions in supplies, and program substantial modification, reduction,

or termination. The administration will then submit a plan to the Academic Senate describing strategies it proposes to follow in developing a specific plan for coping with the crisis. The Senate will make whatever recommendations it deems appropriate to the president regarding such strategies.

E. Program Substantial Modification, Reduction, or Termination because of a Major Financial Crisis. This section applies when the president after receipt of the recommendation of the Academic Senate has concluded that a declared major financial crisis entails program substantial modification, reduction, or termination.

1. Academic Program. An academic program is a unit within the university with an identifiable teaching, research, or other academic mission. For the purposes of these regulations "program" is to be determined by existing academic standards, and "programs" are never to be declared with the aim of singling out individual faculty members. For a unit to be designated as a "program," it shall fulfill one or more of these criteria:
 - a. Whether the unit has "program" in its title or has otherwise been designated as a program by a specific faculty decision;
 - b. Whether the unit offers or administers a degree, certificate, or some other credential;
 - c. Whether the unit has an identifiable curriculum or is formally described in current university catalogs or other publications;
 - d. Whether the unit has a separate budget;
 - e. Whether the unit has an identified group of faculty.
2. Criteria for Academic Program Cutbacks. The following criteria and information sources shall be the bases for decision-making about which programs should be reduced or eliminated because of a major financial crisis:
 - (i) the general academic quality of the program with regard to scholarship, teaching and service;
 - (ii) the importance the program has for the mission of

the university; and, insofar as they relate to academic quality and the mission of the university, the following: (a) Graduate Council Reviews; (b) findings by national accreditation bodies; (c) reports by appropriate national ranking sources; (d) such other systematically derived information, based on long-term considerations of program quality, as may be available; (e) the capacity of the program to generate external funding; (f) faculty/student ratios; (g) cost/effectiveness analysis; and (h) relationship to the Utah Board of Higher Education master plan for higher education in the State of Utah.

3. Iterative Process. The process of University program reduction, substantial modification, or termination should be an iterative one between academic programs and their support services.
4. Program Reduction, Substantial Modification, or Termination Plans. The president shall direct the cognizant senior vice presidents to assist the academic departments in developing plans regarding academic program substantial modification, reduction, or termination. The individual academic departments of the university shall be asked to reevaluate their programs, consider alternatives to program substantial modification, reduction, or termination, and examine possible time frames (including multi-year) for accomplishing potential budget reductions. The dean of each college or school involved shall review the departmental reports resulting therefrom, and comment on them. The departmental reports and dean's comments shall be forwarded to the university administration, the Council of Academic Deans, and the Graduate Council for their review and statement of reactions. The president shall direct the cognizant senior vice presidents to assist the administrative units of the university in developing plans regarding program substantial modification, reduction, or termination in the area of support services. In reassessing programs, the individual academic and administrative departments of the university shall endeavor to identify those which might most appropriately be considered for substantial modification, reduction, or termination, given the financial crisis faced by the university.

5. Review. If plans call for the substantial modification, reduction, or termination of specific programs, departments, schools, or colleges, those elements of the plans shall be reviewed by the faculty members and/or faculty committees most directly involved in the academic programs proposed for substantial modification, reduction, or termination~~or reduction~~; the cognizant directors, department chairpersons, and/or deans; relevant college committees or councils; relevant student advisory committees; the Council of Academic Deans; and the Graduate Council. Within the time frame specified by the president, the plans, and the views of the review bodies regarding them, shall be forwarded to the Faculty Budget and Planning Advisory Committee for its consideration. The views of the Faculty Budget and Planning Advisory Committee shall be reported to the Senate and to the university administration for consideration. The views of the Senate on the plans shall be forwarded to the president and to the Board of Trustees, and/or to such other body as may be required by state law or university policy.

F. Making Adjustments in Academic Staffing Levels in Response to a Declared Major Financial Crisis.

Among the methods available to the organizational units of the university of adjusting academic staffing levels, for financially driven (short of financial exigency) program substantial modification or reduction short of program elimination, are:

1. Voluntary retirement
2. Voluntary partial retirement
3. Voluntary early retirement
4. Voluntary resignation
5. Voluntary reductions in FTE
6. Severance pay

7. Extended leaves
8. Salary reductions not tantamount to dismissals
9. Not filling existing faculty vacancies
10. Not filling vacancies resulting from resignation, retirement or death
11. Elimination of instructional positions occupied by teaching assistants/fellows, associate instructors, and career-line, adjunct, and visiting faculty

This list is not intended to be in any order of priority, since it is recognized that particular needs and preferences vary among organizational units of the university and overtime.

Unless financial exigency has been declared, tenured and tenure-track(4) faculty members may not be terminated because of program reduction except when program substantial modification or discontinuance occurs.

In the event that a program or academic unit of the university is substantially modified or discontinued, then adjustments to academic staffing levels may be made according to the methods listed above, as well as those in Chapter VII, Section 6. Moreover, that Section, "Procedures Governing Terminations because of Bona Fide Program Substantial Modification or Discontinuance for Academic Reasons," will govern in the event of the termination of a tenured or tenure track faculty member.

G. Time Considerations.

Time considerations may be critical when the university must judge whether a major financial crisis exists, what its effects may be, and what the responses to it should be. When the president declares that a major financial crisis exists, the president shall also determine the maximum amount of time available to the university for preparing a response or recommendation to the Utah Board of Higher Education for such crisis and shall establish time periods for each step in

the consultative process which afford the fullest time possible for each step. In that regard, the president shall use best efforts to secure the fullest period of time possible for the consideration of these matters and the response thereto.

Contacts

The designated contact officials for this Regulation are:

- A. Policy Owners (primary contact person for questions and advice): Associate Vice President for Faculty and the Associate Vice President for Health Sciences.
- B. Policy Officers: Sr. Vice President for Academic Affairs and the Sr. Vice President for Health Sciences

History

Revision History

A. Current version. Revision 142

- 1. Approved by – Academic Senate March 13, 2023 Pending, and Board of Trustees April 11, 2023 Pending, with effective date of April 11, 2023 Pending.
- 2. Legislative History for Revision 142.
- 3. Editorial Revisions [reserved]

B. Previous Versions.

1. Revision 11. Effective Dates. April 11, 2023 to Pending

i. Legislative History

4.2. Revision 10. Effective Dates. June 18, 2008 to April 10, 2023

- i. Editorially revised version of Revision 9
- ii. Editorially revised to remove gendered language on April 11, 2022.
- iii. Editorially revised January 5, 2023 to remove outdated faculty terms.

2.3. Revision 9.

i. Legislative History

3.4. Revision 8.

4.5. Revision 7.

5.6. Revision 6.

6.7. Revision 5.

Policy 6-316: Code of Faculty Rights and Responsibilities

Revision 1~~2~~3. Effective Date: ~~April 12, 2022~~Pending

Section 1. General Provisions

- A. The document which follows is a code of responsibility adopted by the faculty of the University of Utah.

For the purposes of this document, the expression "the university" refers to the University of Utah, an institution of higher learning and research, chartered by the State of Utah and governed under the authority of a Board of Trustees and the State Board of Regents. It is a corporate entity, consisting essentially of a faculty, a student body, and an administration. Thus, when reference is made to the university, it should be understood that, as the context indicates, either the corporate entity itself or a designated element of it is intended

The university is not just a corporate body created by operation of law. It is also a community of people associated in activities related to thought, truth, and understanding. It must therefore be a place where the broadest possible latitude is accorded to innovative ideas and experiments, where independence of thought and expression are not merely tolerated but actively encouraged. Because thought and understanding flourish in a climate of intellectual freedom; because the pursuit of truth is primarily a personal enterprise, a code of faculty responsibility must be strongly anchored to principles of intellectual freedom and personal autonomy. This code should be interpreted and applied with these principles firmly in mind.

- B. The standards of conduct set forth in this code are stated in terms of ethical canons and rules. The ethical canons state precepts of aspiration; breaches of their provisions are not a basis for disciplinary sanctions. Violations of the rules are sanctionable. Conduct which is not in violation of a rule of this code is not subject to disciplinary sanction under this code.

- C. As used in this code, the term "faculty member" includes a person employed by the university as the president, vice president, director of libraries, dean, professor, associate professor, assistant professor, instructor, librarian, associate librarian, and assistant librarian, including a person holding a career-line (research, clinical, lecturer), adjunct, or visiting appointment, whether or not that person is employed by the university in a full-time capacity. All provisions of this code apply to faculty members.

- D. Except as otherwise expressly provided in this Code, suspension or dismissal from the university may be imposed on a faculty member as a sanction only for violation of one or more rules of this code and only in accordance with the procedures laid down in Policy 6-011, Consolidated Hearing Committee. Termination for medical reasons, financial exigency, or program discontinuation are not considered sanctions under this code, and are governed by procedures explained in other parts of the University Regulations Library [see Policy 6-313].

- E. The university endorses the American Association of University Professors statement on recruitment and resignations (1961), Statement of Principles on Academic Freedom and Tenure (1940), and Statement of the Academic Freedom of Students (1965). See University Regulations, Section 1.

Section 2. Academic Rights of Faculty Members

- A. Faculty members have the legal rights and privileges of citizens. They may not be subject to punishment or reprisal for the exercise of such rights and privileges.

- B. Faculty members have the right to academic freedom and the right to examine and communicate ideas by any lawful means even should such activities generate hostility or pressures against the faculty member or the university. Their constitutionally protected exercise of freedom of association, assembly, and expression, including participation in political activities, does not constitute a violation of duties to the university, to their profession, or to students.

- C. Where their rank and status are appropriate, faculty members have the right to vote on faculty appointments, promotions, and tenure, and to vote for representatives to college and university legislative bodies.
- D. Faculty members have a right to due process and peer judgment in any disciplinary matter involving the possibility of substantial sanctions. This includes a right to be heard, a right to decision and review by impartial persons or bodies, and a right to adequate notice. The Consolidated Hearing Committee is the appropriate body to hear charges of a violation of this Code of Faculty Responsibility, unless some other hearing body is specified in this Code.
- E. Faculty members have a right to support and assistance from the university in maintaining a climate suitable for scholarship, research, and effective teaching and learning. Faculty members are entitled to an academic environment free from violence or systematic disruption, and to a teaching environment adequately equipped for meeting the teaching mission of the university.
- F. Consistent with state law, faculty members have a right to university support in professional activities inside and outside the classroom, both on and off campus, both in defense of academic freedom, and in defense of any resulting litigation, including funds for legal assistance. Professional activities are those described or required by each Department's RPT and/or financial compensation criteria.
- G. Faculty members have a right to assistance from the university in improving their skills and developing their talents as teachers and scholars.
- H. Faculty members have a right to fair and equitable financial remuneration commensurate with their rank, duties, performance, and professional stature.
- I. The above list of rights is not exhaustive. Other rights, such as the faculty's right to a meaningful role in the governance of the university, including primary responsibility for course content and materials, degree requirements, and curriculum, are found in the Policies and Procedures Manual.

Section 3. Ethical Canons

- A. The Basic Aspiration A faculty member is primarily a teacher and a scholar. Above all the single overriding canon is: to strive for excellence and to inspire excellence in others.
- B. Duties to Students University teaching should reflect consideration for the dignity of students and their rights as persons. Students as well as faculty are entitled to academic freedom and autonomy in their intellectual pursuits and development. Teachers must therefore treat students with courtesy and respect. They must not require students to accept their personal beliefs or opinions and must strive in the classroom to maintain a climate conducive to thinking and learning. They must not misuse their position, authority, or relationship with students.
- C. Professional Obligations Faculty members should seek knowledge and value the pursuit of truth. They should strive to contribute to their discipline, and should support and encourage the efforts of others. Faculty members should maintain and improve their effectiveness as teachers and scholars.
- D. Obligations to the University A faculty member's position is one of trust and responsibility to the university and the students, faculty, and staff who constitute the university community. Faculty members should merit such trust and responsibility by devoted service. They should strive to maintain and improve the academic quality of their department, college, and the university. When called upon to serve in administrative posts or on committees, faculty members should strive to achieve the legitimate purposes of the university with due consideration for the interests of other persons involved.

Section 4. Rules

- A. General Duties
 - 1. Faculty members must conduct themselves, in their interactions with other faculty members, administrators, staff members, students, and participants in

accordance with reasonable standards of professionalism. Examples of inappropriate behavior include but are not limited to requiring the performance of inappropriate personal services; assigning tasks for punishment rather than for educational or job-related reasons; intentional disruption of teaching, research or administrative activities; and intentional neglect of necessary communications.

2. Faculty members must not discriminate against, harass, or impose prejudicial treatment upon other faculty members, staff members, students, or participants because of race, color, religion, national origin, gender, sexual orientation, gender identity/expression, country of citizenship, age, political beliefs, or status as a person with a disability, protected veteran, or because of any other criterion or characteristic that is an impermissible basis, under applicable constitutional or statutory provisions. This injunction includes decisions or recommendations concerning admissions, employment, promotion, retention, tenure, grading, and other professional matters. [For policies on discrimination and sexual harassment, see Policy 1-012, Rule 1-012, and Policy 5-106.]
3. Faculty members must not intentionally violate current university rules and regulations including but not limited to regulations addressing abusive conduct, research misconduct, and academic freedom.
4. Faculty members must comply with reasonable and appropriate instructions of their chair, dean, cognizant vice president, president or other authorized university officer respecting the timely performance of their essential duties.
5. Faculty members must competently perform their responsibilities as teachers and members of the faculty. Decisions related to a faculty member's competence in the areas of teaching, scholarship, responsibility, and service will be based on regulations and guidelines outlined in [Policy 6-30](#), [6-310](#), and [6-321](#) and consistent with relevant college or departmental criteria.

Competence issues related to a faculty member's medical condition will be handled under Policy 6-313.

B. Duties to Students

1. Faculty members are expected to meet their regularly scheduled classes. Failure to meet scheduled classes without prior notice to students is excusable only for reasons beyond the control of faculty members. Alteration of schedules, cancellation or rescheduling of classes may be done only for valid reasons and after adequate notice to students.
2. Faculty members shall engage in reasonable and substantial preparation for the teaching of courses assigned to them, consistent with their scope and nature and appropriate to the educational objectives sought to be achieved.
3. Faculty members must maintain regular office hours during which they are available for consultation with students or otherwise assure their accessibility to students.
4. Faculty members must, at the beginning of a course, give reasonable notice to students of the general content of the course, what will be required of the students, and the criteria upon which their performance will be evaluated. Evaluations must be performed promptly, conscientiously, without prejudice or favoritism, and consistently with the criteria stated at the beginning of the course. The criteria for evaluating student performance must relate to the legitimate academic purposes of the course. Grade appeals submitted by students are not considered charges of misconduct under this code. [For the appeals procedure, see the student code, Policy 6-400.]
5. Faculty members must not misuse the classroom by preempting substantial portions of class time for the presentation of their own views on topics unrelated to the subject matter of the course. Where faculty members find it pedagogically useful to advocate a position on controversial matters, they must exercise care to assure that opportunities exist for students to consider

other views. Faculty members must not reward agreement or penalize disagreement with their views on controversial topics.

6. Faculty members must not use their position, authority, or relationship with students to obtain uncompensated labor for their own personal or pecuniary gain. They may not ask students to perform services unrelated to legitimate academic requirements of a course unless the student is adequately compensated for such services. Faculty members must not solicit gifts or favors from students. They must not accept gifts or favors where they have reason to believe that such gift or favor is motivated by a desire to secure some academic advantage.
7. Faculty members must not plagiarize the work of a student. Where a faculty member and a student work together, appropriate credit must be given to the student. Faculty members may not limit or curtail the right of a student to publish or otherwise communicate the result of the student's own scholarly activities.
8. Faculty members shall not reveal matters related in explicit confidence by a student to any person, except as required by law or permitted according to this policy. Faculty members may, report their assessment of a student's academic performance and ability to persons making legitimate inquiry provided such disclosure is in accordance with the Family Educational Rights and Privacy Act ("FERPA"). Faculty members should report to the Dean of Students Office any information regarding the behavior of a student that raises concerns regarding the student's health or safety or the health or safety of others. Faculty members must report to the Department of Public Safety (585-COPS) the behavior of any student or other individual that poses an imminent risk to the health or safety of the student or other individuals.
9. Faculty members have the same duties to students in clinical and research settings, in distance learning, and in other non-traditional settings as they do in the traditional classroom.

10. Any faculty member or employee of the University of Utah with authority to assign or recommend course materials for any course offered by the university shall do so based on sound academic values, without any prospect of personal financial gain.
 - a. Self-authored course materials are encouraged and may be assigned; but, except for reimbursement of out-of-pocket costs, faculty may not accept or retain royalties or any other personal compensation or material benefit from the sale or furnishing of self-authored course materials to students in their own classes, or in any classes in their department or single-department college for which they have authority to assign or recommend course materials.
 - b. Prior to completion of any course or teaching unit for which a faculty member has assigned or recommended self-authored materials that may generate any royalty or other author's compensation, the faculty member shall request, from all students subject to that assignment or recommendation, an anonymous statement of the number of new copies of such materials purchased by each student. This requirement can be satisfied by a form used for student course evaluations that includes the above inquiry, or by a separate survey submitted for anonymous student response before the end of the course or teaching unit. Upon completion of the survey, the faculty member shall file with their department chair or dean a brief statement of the number of new materials purchased as reported in the above survey and the rate of royalty or compensation last paid or contracted by the publisher to be paid. The obligation to avoid prospect of personal financial gain shall be satisfied by including with the above report a written commitment to contribute a sum, equal to the number of new books purchased by students multiplied by the reported royalty or compensation rate, to a tax exempt organization (which may include the University of Utah) not later than six months following completion of the course. Alternatively, the requirement can be satisfied

by reporting an arrangement under which the author professor's royalty is deducted as a discount from the price of the new book.

- c. For purposes of this policy, the term "course materials" shall be interpreted to include not only books or similar traditional format of bound printed pages typically used in university courses at the time of adoption of this policy, but also materials, information, teaching instruments or data collections distributed in any media form, including but not limited to audio and videotapes, digital storage media such as optical or magnetic disks, and internet or similar transmittal for which fees are typically charged and author compensation provided.
- d. Faculty compliance with the above procedures shall constitute complete and satisfactory demonstration that any self-authored course materials were not recommended or assigned for purposes of personal financial gain.

C. Professional Obligations

- 1. Faculty members are responsible for insuring that approval has been obtained from the appropriate review committees prior to initiating or becoming involved in research that involves human subjects, vertebrate animals, radiation or radioactive compounds, biohazards, toxic substances, or any other material or activity covered by university, state or federal regulation. Faculty members are also responsible for monitoring ongoing research and teaching activities under their supervision to ensure that they continue to be conducted in accord with approved protocols. In addition, faculty must ensure that all personnel involved in such activities under their supervision are fully trained in accordance with relevant regulations.
- 2. Faculty members must avoid any form of misconduct in sponsored research, non-sponsored research, and in other forms of professional activity. When reporting the results of their research or professional activities, faculty

members must be honest in the presentation of the data and in the description of the work. Misconduct is defined as fabrication or falsification of data and/or results, plagiarism, or other practices that seriously deviate from those practices that are commonly accepted within the research community for proposing, conducting, or reporting research. It does not include honest error or honest differences in interpretations of judgments of data and/or results. Misconduct also includes but is not limited to illegal misconduct that is substantially related to the performance of duties, as well as the conviction of a crime affecting the fitness of the faculty member to engage in teaching, research, service, outreach, administration, or other assigned duties. [For policy on research misconduct, see Policy 7-001.]

3. Faculty members must not plagiarize or permit the appearance that they are the author of work done by others.
4. When faculty members are engaged in joint research or other professional efforts with colleagues, they must exercise reasonable care to discharge their agreed obligations.
5. Faculty members whose commitments to the university include research, publication, or other professional endeavors must exercise reasonable care to discharge their agreed commitments.
6. When faculty members serve as supervisors of the professional work of other persons, they must not exploit their position for personal or pecuniary gain.

D. Obligations to the University

1. Faculty members must not purposely mislead the university by misrepresenting their qualifications as a faculty member or eligibility for university benefits.
2. Faculty members must not utilize their relationships with students or other university professional relationships, their status as a faculty member, or their

access to university facilities and services, in a manner which involves or is part of a course of conduct constituting knowing participation in a criminally punishable violation of law and which is likely to interfere substantially with effective fulfillment of university functions or obligations, including the obligations and duties imposed by this Code of Faculty Responsibility. No sanctions, however, may be imposed under this provision in a manner that will deprive any faculty member of the rights of free expression and association, as guaranteed by the constitutions of the United States, and the State of Utah.

3. Faculty members must avoid exploiting the university's name or their own relation with the university for personal reasons unrelated to their legitimate academic or professional activities. They must not intentionally create the impression, in public appearances or statements, that they are representing the university, unless in fact, they are.
4. Faculty members must not misappropriate university property. They must not knowingly use university property in violation of state or federal law. They must not use university property or facilities for pecuniary gain, or for personal advantage, if the use of such property or facilities has no legitimate relationship to the faculty member's academic service. For purposes of this section, professional activities which serve to maintain or improve a faculty member's academic skills and which do not violate university restrictions on outside activities have a legitimate relationship to a faculty member's academic service.
5. Faculty members must not maliciously destroy university property, purposely disrupt university programs, purposely inflict physical injury on other persons on campus, or purposely interfere with the legitimate activities of other persons on the university campus. Faculty members must not purposely and unlawfully incite others to engage in such destruction, disruption, injury, or interference. However, mere advocacy or expression shall not be considered

incitement unless the advocacy or expression poses a clear and present danger of the imminent occurrence of such destruction, disruption, injury, or interference.

6. Faculty members must comply with current university regulations restricting the amount of time they may spend on nonuniversity commitments, outside consulting or other nonuniversity employment. [For policy on consulting, see Policy 5-204.] They must also comply with state law and university regulations relating to conflicts of interest. [For policies on conflicts of interests, see Policy 1-006.]
7. Faculty members must not intentionally make false assertions in initiating or in the course of any university disciplinary proceedings.
8. Faculty members may also be subject to discipline for violation of the Drug-Free Workplace Policy (Policy 5-113) and the Field Trip Policy (Policy 10-003) in accordance with the procedures described in those policies.

Section 5. Sanctions

- A. The remedies and sanctions that may be imposed for violations of this code are set forth in Policy 6-011.

Notwithstanding any contrary provisions of this code, violations of this code involving misconduct in research shall be governed by and handled in accordance with the provisions of Policy 7-001, and violations involving discrimination or sexual harassment shall be governed by and handled in accordance with the provisions of Policy 1-012 consistent with Policy 6-011.

Sanctions or remedies may be imposed for a violation of this code following a decision of the President in accord with the Consolidated Hearing Committee (CHC) procedures in Policy 6-011.

- B. A written reprimand may be imposed by an appropriate administrator for a violation of this code without the invocation of those procedures. In such a case, the procedures in "Administrative Reprimand", shall be followed.
- C. Suspension means the barring of a faculty member from the exercise of their duties for a definite period of time.

The President of the University may impose an interim suspension with full pay on a faculty member if the President, in their discretion, reasonably believes that such action is necessary to prevent substantial harm to the university or to some member of the university community. The President of the University may impose an interim suspension without pay if the President determines that the faculty member intentionally and clearly refuses to perform essential duties of a faculty member. The President shall immediately give the faculty member written notice of the interim suspension, specifying the rule or rules violated and setting forth briefly the relevant facts and supporting evidence. If the interim suspension is without pay the President shall provide the faculty member with an opportunity to meet with the President to present the faculty member's views and the reasons the faculty member objects to the suspension prior to its imposition. The faculty member's insurance benefits shall continue during the interim suspension without pay. An interim suspension is not to be considered a sanction but rather a temporary device for protecting the university's interests. It should be used with utmost caution.

When a faculty member has been subjected to an interim suspension, a complaint shall immediately be filed in accordance with Policy 6-011. An interim suspension may last until charges have been brought before the Consolidated Hearing Committee and it has concluded its deliberations. The CHC may recommend to the President that a suspension without pay be revoked and/or pay be reinstated if it finds that the faculty member is not then refusing to perform essential duties and that allowing the faculty member to perform those duties is in the best interests of the university. When the CHC has concluded its deliberations and the President

has made a final decision, the interim suspension should cease, to be replaced with one of the sanctions listed in Policy 6-011 or with no sanction, in accord with the President's decision. If an interim suspension was imposed without pay, a faculty member shall be entitled to reimbursement of lost salary and retirement benefits unless the faculty member is suspended or terminated as a result of CHC proceedings.

- D. Dismissal means the termination of employment of a tenured faculty member at any time, or of a tenure-track faculty member other than by non-retention, or of a career-line, adjunct, or visiting faculty member other than by non-renewal of their contract. Dismissal may be imposed only if the faculty member's violation of this code demonstrates that the faculty member is incompetent in the performance of their duties as a teacher and faculty member or lacks the ability or willingness to meet their responsibilities to the university.
- E. Termination from employment may also occur as a result of financial exigency, medical disability, or program substantial modification, reduction, or discontinuation. See "Termination for Other Reasons" and Policy 6-313. These are not to be considered dismissal as a sanction under this code.
- F. Combinations of sanctions may be imposed where appropriate.
- G. Sanctions may be imposed on a faculty member when it has been determined by proceedings pursuant to Policy 6-011 that the faculty member violated a rule of this code, if the imposition of sanctions will serve one or more of the following purposes:
 - 1. To induce self-improvement and reform by a faculty member.
 - 2. To indicate to the faculty member the seriousness of the violation and thereby deter the faculty member from future violations.
 - 3. To reassure the university community that violations of the rule which the faculty member has broken will not be tolerated, thereby serving to maintain

respect for and commitment to the rules by other members of the university community.

4. To dismiss from university employment a faculty member who has demonstrated by conduct an inability or an unwillingness to meet the faculty member's responsibilities to the university including but not limited to the failure to address deficiencies outlined in a remediation plan following a tenured faculty review.

H. Sanctions are at best a painful necessity. In deciding on sanctions, the following factors should be considered:

1. Whether the purposes set forth in Paragraph 7 above can be adequately served by less severe measures;
 2. Whether the sanction is disproportionately severe in relationship to the rule violation for which it is imposed;
 3. Whether the imposition of the sanction is fair and just to the faculty member involved, giving due consideration to their situation, to the faculty member's prior service to the university, and to any relevant matters tending to mitigate the seriousness of the violation; and
 4. Whether the imposition of the sanction is necessary to protect the integrity and effective operation of the University or any of its colleges, departments, faculty, staff, or students.
- I. When non-punitive measures such as guidance, counseling, therapy, leave of absence, voluntary resignation, or early retirement are available and will provide reasonable assurance that the faculty member will not repeat the violation of the rule, and if the faculty member consents thereto, such measures should be taken in lieu of disciplinary sanctions under this code unless substantial university interests would thereby be undermined.

- J. No faculty member shall be twice subject to proceedings under this code for the same act.

Section 6. Procedures

A. Concerns

1. As a public institution, the university, including its faculty, is open to comments and criticisms from students, faculty, staff, administrators, and other interested citizens. Such comments and criticisms should be directed to appropriate university officials. The official will respond to such comments in a timely and appropriate fashion.
2. The University encourages informal resolution of problems and affected persons are urged to discuss their concerns with the involved faculty member, with the relevant department chair and dean (unless either is the complainant or respondent). Informal resolution of concerns by mutual consent of all parties is highly desired and is appropriate at any time. Use of a qualified mediator should also be considered.

B. Complaints

1. If informal resolution is inappropriate or not achieved within 30 days, any person directly aggrieved by the allegation or any faculty member, student or staff member may file a complaint alleging a violation of the rules of this code by a faculty member. Complaints alleging illegal discrimination, including sexual harassment, will be handled in accordance with Policy 1-012. Complaints alleging charges of misconduct in research will be handled in accordance with Policy 7-001. Other complaints of violations of this code may be filed in the office of the Senior Vice President for Academic Affairs or the Senior Vice President for Health Sciences depending on the department of the responding faculty member. If either vice president is the complainant or the respondent, the other vice president shall act under these rules. The complaint shall be in writing and signed, shall set forth briefly the relevant

facts, shall specify the rule or rules violated, and shall describe any previous effort to resolve the complaint. Instructions and forms for filing complaints, shall be available from the vice presidents' offices and the Academic Senate office and published electronically in an Appendix to the Policy and Procedures Manual. All parties shall comply with such instructions and use the proper forms. The cognizant Vice President shall provide the responding faculty member with a copy of the complaint.

2. In consultation with the appropriate dean(s) and chair/director (unless either is the complainant or respondent), the cognizant vice president shall determine whether efforts at informal resolution are appropriate and, if so, shall take whatever steps are useful to that end. These steps may include delegation of the informal resolution process to another person, meetings with the complainant and respondent, or any other processes that the vice president believes will assist in reaching an informal resolution.
3. If informal resolution is inappropriate, or if additional efforts at informal resolution are not successful within 30 days of the filing of the complaint, the vice president shall forward the complaint, with a description of efforts at informal resolution, to the Consolidated Hearing Committee (hereafter "CHC") and notify the respondent and the complainant, and the cognizant department chair/director and dean of the same. From this point forward the office of the vice president shall be a party to the proceedings.
4. From the outset, the university, the Committee, and all participants shall take reasonable steps to protect the rights and, to the extent appropriate, the confidentiality of all parties involved, including individuals who in good faith report perceived misconduct.

C. Administrative Reprimand

1. At any time, the President, Senior Vice President for Academic Affairs, the Senior Vice President for Health Sciences, deans and department chairs may impose written reprimands on faculty members who report to them.
2. Prior to imposing a reprimand, the administrator shall provide the faculty member with a copy of the proposed reprimand, the reasons for it, and provide the faculty member with an opportunity to respond, including a written response to be placed in the faculty member's file. The response shall be received within 15 calendar days of the letter of intent to impose the reprimand and shall be considered by the administrator prior to the imposition of the reprimand.
3. A faculty member may ask the CHC to review an imposed reprimand. In that event the reprimand shall be withdrawn and the administrator may make a complaint under (B) (1) above which shall thereafter be handled in the same way as any other formal complaint. If at the conclusion of such proceedings the reprimand is judged to be unwarranted, all references to the reprimand, including the faculty member's response, shall be removed from the faculty member's file at the request of the faculty member.

Section 7. Termination for Other Reasons

- A. A faculty member may be terminated or may receive a contract with substantially reduced status for reasons other than violation of this code in the following situations:
 1. Medical reasons which result in the faculty member's inability to perform, even with reasonable accommodations, the essential functions of the faculty member's duties and responsibilities as a faculty member. [See Policy 6-313]
 2. Financial exigency or bona fide substantial modification or discontinuance of a program. [See Policy 6-313]

- B. Proceedings to terminate or to award a contract with substantially reduced status to a faculty member for medical reasons as per 1.
1. (a) above shall be preceded by discussions with the faculty member s department chairperson, dean, and/or cognizant vice president looking to a mutually acceptable resolution of the problem. The university shall offer to extend a leave to the faculty member consistent with its current leave policies before termination proceedings are initiated. In the course of the discussions the vice president or the vice president's delegate shall notify the faculty member of the right to be examined, at university expense, by a health care practitioner chosen by the faculty member. The university also has the right to request the faculty member to submit to another examination by a health care practitioner chosen and paid for by the university.
 2. In the event of failure to reach a mutually acceptable resolution, proceedings to terminate or to award a contract with substantially reduced status to a faculty member for medical reasons shall be initiated by a written statement alleging with reasonable particularity the faculty member s inability to perform the essential functions of the job, made by the president or the president s delegate. The issue shall proceed to a hearing before the Consolidated Hearing Committee ("CHC"). In addition to the procedures specified in 8-7 (4), if the CHC believes that the medical evidence from the two prior health examinations is inconclusive, the CHC may order a third examination at the university s expense, to be conducted by a health care practitioner selected jointly by the faculty member and the university or, if they fail to agree, by the CHC.
- C. For proceedings pursuant to 1.(b) above, the administration shall consult with and give consideration to advice offered by the Executive Committee of the Academic Senate and other appropriate bodies of the faculty prior to terminating or awarding a contract with substantially reduced status to a faculty member for financial exigency or bona fide discontinuance of a program or department of instruction.

Section 8. Applicability

- A. This code does not preclude nor does it apply to proceedings to terminate the employment of a nontenured faculty member at the end of their contract period by nonrenewal of the contract.
- B. Conduct which would breach a rule of this code committed prior to the final adoption of the code shall not be a basis for proceedings under this code. Where such conduct would constitute a basis for dismissal for cause under a previously applicable regulation proceedings may be brought in accordance with such regulation.

[Note: The Contact and History section of this Regulation (and all other University Regulations) are Regulations Resource Information – the contents of which are not approved by the Academic Senate or Board of Trustees, and are to be updated from time to time as determined appropriate by the cognizant Policy Officer and the Institutional Policy Committee, as per Policy 1-001 and Rule 1-001.]

Contacts:

The designated contact officials for this Policy are:

- A. Policy Owners (primary contact person for questions and advice): Associate Vice President for Faculty and the Associate Vice President for Health Sciences.
- B. Policy Officers: Sr. Vice President for Academic Affairs and the Sr. Vice President for Health Sciences.

See University Rule 1-001 for information about the roles and authority of policy owners and policy officers.

History

Renumbering: Renumbered as Policy 6-316 effective 9/15/2008, formerly known as PPM 8-12.4, and formerly as University Regulations Chapter XII Part IV.

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1. Current version: Revision 123

Approved [pending], with the effective date [pending]

Legislative History of Revision 13

~~Approved by Academic Senate: March 14, 2022~~

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~~Legislative History of Revision 12~~

~~Editorially revised January 5, 2023 to remove outdated faculty terms.~~

2. Earlier versions:

Revision 12

Legislative History of Revision 12

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Revision 11

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Legislative History of Revision 9

Revision 8: effective dates July 1, 2008 to June 30, 2009

Legislative History of Revision 8

(see side bar for links to earlier versions)