

Regulations Library

The University of Utah

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Policy 6-002: The Academic Senate

I. Purpose and Scope

(Reserved)

II. Definitions

(Reserved)

III. Policy

SECTION 1. General Provisions

A. Authority of the Senate

The Academic Senate, hereinafter referred to as the Senate, subject to the authority of the State Board of Regents and Board of Trustees, shall have power to act for the faculty in the areas specified by University Regulations, **Policy 6-001**, and other applicable provisions of University Regulations and **Faculty Regulations**. The Senate shall have power to make rules governing its own organization and Procedure.

SECTION 2. Membership

The Senate shall be constituted as follows:

A. Ex Officio Members

The following administrative officers shall be ex officio members of the Senate: (1) The university president, and the vice president for academic affairs and the vice president for health sciences. These ex officio members shall have full rights of discussion and making motions but not the right to vote. (2) Each dean, or an associate or assistant dean designated as a dean's representative. Each dean or a dean's designee shall have full rights of discussion and making motions on matters directly associated with the dean's college or administrative responsibility, but, except for the two voting deans [see B (2) infra] not the right to vote.

B. Elected Members

1. Faculty

- a. The voting membership of the Senate shall include regular faculty members [see Faculty Regulations, **Policy 6-300**] elected from the following areas of representation: the individual colleges and the university libraries considered as a unit. All regular members of the faculty, without regard for rank or for time in rank, shall be eligible for election to membership in the Senate, except ex officio members of the Senate and members of the faculty serving in administrative positions higher than department chair. All regular members of the faculty, without regard for rank or for time in rank, shall be eligible to vote for candidates for Senate membership only in the

areas of representation where they hold primary appointments. Disputes respecting eligibility for election or eligibility to vote shall be decided by the Personnel and Elections Committee, subject to appeal to the Senate and to the faculty.

- b. Faculty membership in the Academic Senate shall be apportioned by allocating not more than 79 representatives among the colleges and university libraries* on a prorated basis of 50 percent according to the number of faculty members in each area and 50 percent according to student credit hours, including evening residence hours, taught in each area during the preceding academic year. The base allocation of not more than 79 faculty members shall be adjusted to ensure that each area of representation will have a minimum of two representatives. The Personnel and Elections Committee shall reapportion the Senate according to the foregoing formula every two years.

*Representation from the university libraries will be determined by taking the average number of student credit hours per faculty member, of all other colleges, and multiplying that value by the number of library faculty.

- c. Areas of representation which, under the foregoing formula, would contribute more than 20 percent of the voting faculty membership of the Senate may, with Senate approval, be subdivided by the Personnel and Elections Committee along department or administrative lines, into two or more separate representation areas, none of which shall contribute more than 20 percent of the voting faculty membership of the Senate. The membership of such subdivided representation areas shall be apportioned by the Personnel and Elections Committee among the areas as nearly as possible in accordance with the above prorating formula.
- d. Faculty representatives shall be elected to serve regular three-year terms, or as provided in section 5A (3), infra, to complete three-year terms of representatives who do not complete their regular terms. An annual orientation shall be provided for newly elected Senators. Beyond service in the Senate, faculty members of the Senate should expect that they may be called upon to serve on standing and ad hoc committees. Senate faculty members shall be ineligible for nomination for another term until at least one year has elapsed following the expiration of their terms of office or date of resignation therefrom. New terms shall begin on May 15.

2. Deans

The deans shall elect two deans as voting representatives in the Academic Senate. The voting deans shall be elected to serve regular two-year terms, or as provided in Section 5A (3), infra, to complete two-year terms of representatives who do not complete their regular terms. The term of one of the deans' voting representatives will begin on May 15 in even numbered years; the term of the other deans' voting representative will begin on May 15 in odd numbered years.

3. Students

- a. Each college shall elect one representative from its members to the ASUU Student Senate. (Academic Advising and Honors students shall be considered one college for purposes of equal representation.) The elected members of the ASUU Student Senate shall be entitled to attend Academic Senate meetings with full rights of discussion and vote. If a student member resigns his or her position on the ASUU Student Senate, the vacancy will be filled by the next runner-up in the affected college or otherwise according to Procedures described in the ASUU Student Handbook.
- b. The ASUU president or the ASUU vice president if designated by the ASUU

president and an additional student appointed by the ASUU President shall also be members of the Academic Senate, with full rights of discussion and vote.

- c. Student members of the Senate shall serve one-year terms dating from their installation as ASUU officers.

C. Alternates

Each elected member of the Senate is expected to attend its meetings regularly. When absence of a faculty or student member is unavoidable, the member shall designate in writing to the secretary of the Senate an alternative to serve with full power during the elected member's absence. The alternate so designated shall be one of the available unsuccessful candidates for that Senate seat in the previous election. In the absence of available unsuccessful candidates, any other person eligible for election to that Senate seat may be designated as an alternate.

SECTION 3. Officers

A. Presiding Officer

The President of the Senate will be elected annually by the Senate from the faculty at large excluding those who at the time of nomination to the office of Senate President are either ineligible for Senate membership or serve as chair of an academic department. The Personnel and Elections Committee will provide a slate of candidates for election. The person elected for this responsibility will serve a two-year term, the first year as President-elect, the second as President. If the President-elect is at the time of his or her selection, an elected member of the Senate, the President-elect shall be considered an ex officio member of the Senate Executive Committee with full rights of discussion and making motions but without voting privileges. If the President-elect is not, at the time of his or her selection, an elected member of the Senate, the President-elect will be considered an ex officio member of both the Senate and of the Senate Executive Committee, with full rights of discussion and making motions but without voting privileges. If the Senate President, at the time he or she takes office, is an elected member of the Senate, the President shall not, for apportionment purposes, be considered one of the faculty members representing the colleges and university libraries; and the college or area which he or she represents shall choose another member with full voting privileges to replace the President during his or her time in office. If the Senate President, at the time he or she takes office, is not an elected member of the Senate, he or she shall be considered a full member of the Senate, with voting privileges as explained in the paragraph below and in Faculty Regulations, Section 4. A .1. e., but the President shall not, for apportionment purposes, be considered one of the faculty members representing the colleges and university libraries.

Upon his or her own initiative, the President may, or upon the vote of at least two-thirds of the assembled voting members of the Senate, the President shall, with respect to a specific agenda item, relinquish the gavel to the President-elect with respect to a specific agenda item. In the absence of the President or President-elect, the Senate shall elect a president pro tempore. The President or president pro tempore shall be entitled to vote on matters before the Senate only where, after vote of the Senate, the President's vote will prevent an equal division of the Senate. The Senate President shall have a manual on Senate organization, operations, and basic Procedures prepared and distributed to all incoming Senate members.

B. Secretary

The secretary of the faculty shall be ex officio the secretary of the Senate, but the presiding officer may appoint an assistant secretary at any time.

C. Parliamentarian

Subject to the approval of the Senate, the presiding officer shall appoint a

parliamentarian of the Senate to ensure proper observance of established parliamentary Procedures.

D. Faculty Representative to the Board of Trustees

The President of the Senate will serve as a faculty representative to the Board of Trustees.

SECTION 4. Committees

A. Standing Committees

The President of the Senate, or the President's designee, shall be an ex officio, nonvoting member of all Senate Standing Committees. The Senate shall establish the following standing committees:

1. Executive Committee

- a. The President of the Senate shall chair the Executive Committee. The Executive Committee consists of the following voting members of the Senate: ten persons representing its faculty and voting dean members; three student members; the President of the Senate when the vote of the President, acting in the capacity of Chair of the Executive Committee will prevent an equal division of the committee.
- b. The Executive Committee also consists of the following ex officio, non-voting members: the university president, the vice president for academic affairs, the vice president for health sciences, or their designees; the president-elect; and the past-president of the Senate. These members have full rights of discussion and making motions.
- c. At least eight of the ten individuals elected by and from the faculty and voting-dean membership of the Senate must be full-time faculty members, and not more than two of the ten may be from the same area of representation.
- d. The student members of the Executive Committee shall consist of the ASUU President, the student chairperson of the ASUU Student Senate, and another student Academic Senator selected by the ASUU Senate. Either the Student Senate Chair or the other student senator must be a graduate student. The student members shall serve one-year terms on the Executive Committee dating from their installation as ASUU officers.
- e. No elected faculty member of the Executive Committee shall be elected or appointed to any other standing committee of the university during that individual's term of service on the Executive Committee.
- f. The Executive Committee shall meet within two weeks after commencing its term and elect a secretary from its elected membership.
- g. The President of the Senate or the President-elect shall chair the meetings of the Executive Committee, or in their absence the Executive Committee shall elect a president pro tempore. The President, or in the absence of the President, the President-elect may call meetings of the Executive Committee at any time and must call a meeting of the committee upon written petition of any three members of the committee within ten days of the date of the petition, or at such earlier time as is otherwise specified in the petition.
- h. A quorum to conduct business shall consist of a majority of the ten elected faculty members.
- i. It shall be the duty of the Executive Committee to:
 - i. Prepare the Senate agenda, assigning non-controversial items to

the consent calendar, and assigning other items to the information calendar or debate calendar, as appropriate; set time limits for debate; and make such procedural stipulations of other sorts (nonbinding) as may be necessary.

- ii. Report to the Senate at each regular meeting, noting matters which it has and has not placed on the agenda and the reasons and voting on each question of calendaring.
- iii. Study the actions of committees and college or area councils (preferably with a representative of the committee or council involved present in a given instance), and in appropriate cases return any report by such a body to that body for re-examination, where the Executive Committee judges that the report is unclear, is inadequately developed, or suffers from other significant problems. Such return by the Executive Committee shall be nonbinding on the committee or council involved.
- iv. At its discretion, identify questions in connection with a committee or council report, or item from the administration, which it thinks the Senate should consider and which it accordingly conveys to the Senate members in advance of the meeting involved.
- v. Refer to an appropriate committee for its consideration items which may be urgent, or in extremely urgent cases, make a recommendation itself directly to the Senate.
- vi. Recommend to the Senate the creation of an ad hoc committee to study a specific important issue, where the topic involved does not fall under the jurisdiction of an existing ad hoc or standing committee, with or without recommendations on the design and specific wording of the charge to such a committee.
- vii. Act in behalf of the Senate on urgent matters which cannot wait for action by the Senate in regular sessions, and act on behalf of the Senate during vacation periods and the summer semester, providing that a full report of such action is made to the Senate at its next regular meeting. Any substantive decisions shall be subject to reconsideration when they are presented to the Senate at this time.
- viii. Initiate studies and legislation for Senate action on matters not assigned to other university committees, nor assignable to them.
- ix. Take such other action or assume such other duties as may be assigned or referred to the Executive Committee, upon resolution of the Senate or upon request of the university administration with the consent of the Executive Committee and the Senate.

2. Academic Freedom and Faculty Rights Committee

- a. The **Academic Freedom and Faculty Rights Committee** consists of twelve members elected by the Senate from the university faculty members other than ex officio members of the Senate.
- b. In addition to its role, prescribed in Section 11 of this policy, the committee will oversee the application and updating of the **Policy 6-316**, Code of Faculty Responsibility and will review for Senate consideration all legislative matters concerning faculty rights and responsibilities.

3. Academic Policy Advisory Committee

- a. The Academic Policy Advisory Committee consists of eight faculty members and three students. Faculty members shall be elected by the

Senate for two-year terms, with four of these terms beginning each June 16. Student members shall be selected for one-year terms in accordance with Procedures established by the ASUU, with terms beginning each June 16.

- b. The Academic Policy Advisory committee is authorized to consider any matter relating to academic policy which may be suggested by members of the committee, members of the faculty, administrative officers, or students. Upon its selection of a subject for study, the committee shall notify all interested agencies within the university, including standing committees, and invite their cooperation. At least once each academic year, the committee shall submit a written report of its studies and recommendations, if any, to the Senate.

4. Annuities and Salaries Committee

- a. The Annuities and Salaries Committee consists of six members of the regular faculty, elected by the Academic Senate to serve for three-year terms. The terms of two committee members shall end each year on June 15, and the terms of newly elected committee members shall begin on June 16. Members of the committee shall represent the university faculty as a whole and not any particular area or college. The Director of Human Resources shall be an ex officio nonvoting member of the committee.
- b. The Annuities and Salaries Committee shall function in a research and advisory capacity and shall report to the Senate and from time to time make recommendations to the Senate on matters relating to sabbatical leaves, salaries, salary schedules, cost of living, faculty retirement plans, annuities, health and life insurance, and other benefits. The committee shall not, however, exercise budgetary or administrative powers in relation to these subjects. The committee shall advise the administration on matters pertaining to annuities and salaries and report the advice they gave to the next regular meeting of the Senate.

5. Consolidated Hearing Committee

See Section 10 of this policy for full description of this committee.

6. Faculty Budget and Planning Advisory Committee

- a. The Faculty Budget and Planning Advisory Committee consists of eight members of the regular faculty, elected by the Academic Senate to serve four-year terms. The terms of two committee members shall end each year on June 15, and the terms of newly elected members shall begin on June 16. Members of the committee shall represent the university faculty as a whole and not any particular area or college. Not more than two committee members may be from the same area or college.
- b. Despite the general duties assigned to the Personnel and Elections Committee, all nominations for the Faculty Budget and Planning Advisory Committee, except nominations made from the floor during a formally convened meeting of the Academic Senate, shall originate from the Executive Committee of the Academic Senate.
- c. The Faculty Budget and Planning Advisory Committee may establish its own rules which shall provide that individual faculty members are entitled to submit information to the committee, that no committee member is permitted to participate in discussions or to vote on matters directly affecting the member's own college, and that committee members will hold in strict confidence all budget information which the committee receives on a confidential basis from the university president or other

administrative officers of the university.

- d. The Faculty Budget and Planning Advisory Committee should respond to directions from the Academic Senate, while retaining the freedom to set its own agenda. The committee's principal role is one of consultation with the university administration, and of presenting and arguing for the views and interests of the whole faculty in the administration's long-range academic and budgetary planning. The committee should strive to persuade the administration to make critical budgetary and academic policy decisions in as open and public a way as possible.
- e. The Faculty Budget and Planning Advisory Committee shall perform the functions assigned to it by applicable provisions of **Policy 6-313**, University Regulations, Section 5.

7. Library Policy Advisory Committee

- a. The Library Policy Advisory Committee consists of one faculty representative from each College and one from the University Libraries elected by the Academic Senate for three-year terms, and six students (including at least one graduate student) selected by ASUU. The directors of the Marriott Library, the Eccles Health Sciences Library, and the S.J. Quinney Law Library are ex officio, non-voting members of the committee.
- b. The Library Policy Advisory Committee confers with and advises directors of the Marriott Library, the Eccles Health Sciences Library, and the S.J. Quinney Law Library concerning library policies and practices. It provides liaison between the libraries and the faculty and student body. The Library Policy Advisory Committee reports to the Academic Senate and the cognizant vice presidents.

8. Personnel and Elections Committee

- a. The Personnel and Elections Committee consists of eighteen persons elected by the Senate from its members, and shall include one faculty representative from each Senate area of representation and two students. Faculty shall be elected for three-year terms. A member of the Personnel and Elections Committee must be a senator at the time of election, but can remain on the Personnel and Elections Committee for three years even though his or her term of service on the Senate may expire during that three-year period of time. The President of the Senate, may serve, at the election of the committee, as its chair.
- b. This committee shall make nominations for elected standing committees of the Senate and for all other Senate committees, and if the Senate is requested to make nominations or recommendations for a committee to be appointed by the university administration, the Personnel and Elections Committee shall prepare the list of nominees. It will review university standing committees on a 5-year rotating schedule. This review will use self-study Procedures, and include an assessment of perceived appropriateness of committee membership, charter, functions, meetings and others. The committee shall review any new university-wide standing committee charters or changes to university standing committee charters. In alternate years, it will apportion Senate membership according to Section 2.B.1.b. of this policy. The committee will also review the necessity of retaining existing university committees, recommending to the Senate any possible excisions. It shall pursue an affirmative action program to secure significant representation of women, minorities, and nontenured ranks in positions of responsibility within the university, and to seek a distribution of

committee nominations among colleges and departments in order to obtain a range of backgrounds among the members of each committee.

9. University Diversity Committee

- a. Membership. The University Diversity Committee will consist of 10 members of the regular faculty, 3 staff members, and 3 student members. The faculty members will be elected by the Senate for three year terms. The staff members will be nominated by UUSAC and approved by the Senate Executive Committee for three year terms. The student members shall be selected for one year terms in accordance with Procedures established by the ASUU. Terms will begin each August 1. Non-voting ex-officio members shall include: Associate VP for Diversity, Associate VP for Diversity for Health Sciences, UUSAC Chair, ASUU President, Academic Senate Past-president, Director of Equal Opportunity and Affirmative Action, and two representatives from the community. The Chair of the University Diversity Committee will be invited to serve by the Senate President, with installation (vote) by the committee each year.
- b. Charge. This committee shall provide leadership and expertise to the University of Utah community in promoting diversity in their various roles and activities; serves as a forum for the exchange of ideas within the University. The University Diversity Committee should respond to directions from the Academic Senate, while retaining the freedom to set its own agenda. The committee's principal role is to identify issues, projects, and proposals that would further a positive climate of diversity on the University of Utah campus, would enhance relations with diverse elements in the community, and would promote appreciation of diversity in the wider community. The committee's role includes forwarding information and recommendations to the Academic Senate. The committee will submit an annual report to the Academic Senate of its activities.
- c. Budget. An annual budget will be offered by the President and administered by the Office of the Associate Vice President for Diversity.

10. University RPT Standards Committee

- a. Membership. The University Retention Promotion and Tenure Standards Committee voting membership shall consist of sixteen tenured faculty members, with one faculty representative from each Senate area of representation elected for three-year terms by the Academic Senate. The Associate Vice President for Faculty, or designee, shall be a non-voting ex officio member. Voting members shall be elected as follows:
 - i. Nominations will be proposed in advance by the Personnel and Elections Committee, and additional nominations of eligible faculty members who have agreed to serve may be made from the floor immediately prior to the election. Voting will be by preferential ballot.
 - ii. Members of the University RPT Standards Committee will not be eligible for nomination for another term until an interval of one year has passed following the completion of their term on the committee.
 - iii. In each successive year, the Personnel and Elections Committee shall include among its nominations for the University RPT Committee two or more candidates whose tenured faculty appointments are in colleges whose current member is rotating off

the committee.

- b. Vacancies. If vacancies occur in the University RPT Standards Committee, they shall be filled either by the runner-up from the original elections or, if that is not possible, by special elections conducted in the Academic Senate by the Personnel and Elections Committee.
- c. Duties. See **University Policy 6-305** (Duties of University Retention, Promotion and Tenure Standards Committee).

B. Other Committees

1. University-wide Standing Committees

Official standing committee charters will be kept in the Academic Senate Office. Ex officio members of University standing committees will be considered non-voting with the following exceptions as per federal guidelines: 1) Radiation Safety Committee and 2) Radioactive Drug Research Committee.

2. Special Committees

The Senate shall have the power to provide for the appointment or election of such other committees as in its discretion may be needed to serve the best interests of the university. Each such committee shall elect its own chair and secretary from its elected or appointed members.

3. Ad Hoc Committee to Review Structure of Senate

The Senate may by secret ballot elect an ad hoc committee to review the structure and functions of the Senate.

C. Procedures and Privileges

1. Notice of Committee Membership

The secretary of the Senate shall notify faculty members who are elected by the Senate to membership on any standing or special committee. These members shall be notified immediately following such election or appointment to their new positions.

2. Election of Committee Officers

The Academic Senate President appoints the Senate-elected committee chairs with ratification by the Senate Executive Committee, and then subject to confirmation of the Senate-elected committee membership.

3. Privileges of the Senate Floor

Committee members not having membership on the Senate shall have the privilege of discussion on matters being reported to the Senate by the committee of which they are members.

4. Access to Records

All Senate committees shall have full access to the minutes of the Board of Trustees and to the books of the secretary.

5. Committee Reports

No committee report will be cleared by the Executive Committee for debate by the Senate which does not contain a specific proposal statement.

D. Terms of Office

The terms of office for faculty elected to standing committees of the Senate, and for members of all other Senate committees, unless otherwise provided in applicable regulations or by action of the Senate, shall begin on June 16. Unless otherwise specified, the regular term of office of a member of a Senate committee shall be three years.

SECTION 5. Elections

A. Election of Faculty Members to the Senate

1. General Provisions

- a. The Personnel and Elections Committee shall supervise elections to the Senate by secret ballot during the month of April.
- b. No person shall be nominated or elected to represent more than one area. No person shall be elected to the Senate without receiving a majority of all votes cast by the eligible voters in the college or area which that person is to represent in the Senate.

2. Election Procedures

- a. Not later than March 1st of each year, the Personnel and Elections Committee will send an announcement to each college or area represented in the Senate that elections are to be held in each college or area for new representatives to the Senate. Only regular faculty members are eligible to vote in Senate elections and are eligible for election to the Senate from that college or area.
- b. Subject to approval by the Personnel and Elections Committee, each college or area represented in the Senate shall develop its own plan for obtaining nominations and for conducting the election of its allotted representatives to the Academic Senate.
- c. Not later than April 15 of each year in which it is authorized to elect one or more representatives to the Senate, each college or area shall forward to the Personnel and Elections Committee a report of the person or persons elected to represent that college or area. Each college or area shall also forward to the Personnel and Elections Committee all ballots cast in the process of nominating candidates and electing its representative(s) to the Academic Senate.
- d. After verifying the election results, the Personnel and Elections Committee shall announce the roster of newly elected Senators at the May meeting of the Academic Senate.

3. Vacancies

In the event the Senate position of an elected member is vacated before expiration of the term for which he or she was elected, the Personnel and Elections Committee shall appoint the runner-up from that member's original election to the Senate to serve the remainder of that member's term or until the next general election, when the vacancy shall be filled by election for the unexpired term.

B. Elections Within the Senate

1. Nominations

- a. The Personnel and Elections Committee shall prepare nomination slates for all elections conducted within the Senate. For each elected standing committee of the Senate or other Senate-elected committee, the Personnel and Elections Committee shall prepare a slate containing a number of nominees equal to or greater than one and one-half times the number of positions to be filled. After presenting the slate to the Senate, the Chair of the Personnel and Elections Committee shall open the slate to additional nominations from the floor.
- b. If the Senate is requested to make nominations or recommendations for a committee to be appointed by the university administration, the Personnel and Elections Committee shall prepare the list of nominees.

2. Balloting Procedures

- a. Elections within the Senate, including those for Senate committees, shall be conducted by the preferential balloting Procedure, wherein the nominees are preferentially ranked on each ballot. Except as specified below, one balloting round per election shall be conducted, and only ballots containing rankings for a number of preferred nominees equal to or less than the number of positions to be filled shall be valid.
- b. The nominees shall receive a number of points equal to the converse of their rank on a ballot. That is, the nominee who is given first preference on a ballot shall receive a number of points equal to the number of positions to be filled; the nominee who is given last preference on a ballot shall receive one point. Those nominees receiving the highest numbers of total points shall be elected.
- c. In the event that two or more nominees receive the same number of points and this number of points would ordinarily constitute election, but an insufficient number of positions remains to be filled, a runoff balloting round shall be held. Only the names of those nominees receiving the same number of points for the contested position(s) in the first balloting round shall be included on any runoff ballot. Preferential balloting Procedures shall be followed in the runoff balloting round.

3. Vacancies

- a. Vacancies, caused by the resignation, continued absence, or incapacitating illness of Senate-elected committee members shall be filled by the runner-ups from the original election or, if that is not possible, by special election by the Senate. Nominations for such special elections shall be made by the Personnel and Elections Committee, which shall follow Procedures specified herein. If an election is held to fill vacancies, it shall normally be conducted immediately following the presentation of a slate of nominees to the Senate by the Chair of the Personnel and Elections Committee, who shall open the slate to additional nominations from the floor. Elections shall be conducted by the preferential balloting Procedure.
- b. Individuals filling vacancies shall assume office immediately after their designation, and shall serve during the incumbent's absence or for the remainder of the incumbent's term.
- c. Immediately following their designation, the secretary of the Senate shall notify the individuals designated to fill the vacancies.

SECTION 6. Meetings

A. Regular Meetings

1. Unless otherwise provided by the Senate, its regular meetings shall be held on the first Monday of each month at 3:00 p.m. Discussion of proposals on the Debate Calendar will begin no later than 3:45.
2. A majority of the elected members of the Senate shall constitute a quorum for the transaction of business. All actions or recommendations of the Senate shall be by majority vote of the elected members and alternates present unless otherwise required herein. Voting shall be by secret ballot if requested by three elected members of the Senate.
3. When there are no debate items scheduled for the agenda of a regular meeting of the Senate, the Executive Committee of the Senate is authorized to cancel that meeting and to carry forward all other items on the agenda, except resignations and appointments, to the next regular meeting of the Senate.
4. Senate time should be scheduled on a regular basis for discussions with the

university president and/or other officers of the university on such subjects as budget, new programs, administrative problems, etc. During these discussions it should be the prerogative of any member of the Senate to ask of the administration any question relevant to the university.

B. Special Meetings

1. Special meetings of the Senate shall be held at the call of the university president, the President of the Senate, or any five members of the Senate who submit a written request for a special meeting to the President of the Senate.
2. Rules governing the conduct of regular Senate meetings shall be in force at such special meetings.
3. Upon motion of a member of the Senate and a majority vote of the elected members and alternates present or by written petition of ten elected members of the Senate submitted to the President of the Senate a special meeting of the Senate may be called at which ex officio members shall be present only by invitation. Deliberations of this body shall be governed by pertinent regulations of the Senate. Decisions of such a special Senate meeting shall be referred back to the regular Senate meeting for final disposition.

SECTION 7. Order of Business

A. Order of Business

Except as otherwise provided by the Senate, its order of business shall be:

1. Call to Order
2. Approval of Minutes
3. Requests for New Business
4. Consent Calendar
5. Executive Committee Report
6. Report from Administration
7. Notices of Intent
8. Debate Calendar
9. Information Calendar
10. New Business
11. Adjournment

B. New Business

New business may be proposed at the beginning of a regular Senate meeting, but should be submitted in writing to the President of the Senate by the Friday prior to a regular Senate meeting. The business will then normally be considered at the end of the meeting, but a motion may be made to consider it at the beginning of the meeting, prior to the regularly scheduled business on the agenda.

SECTION 8. Minutes and Agenda

A. Minutes

Faculty minutes and agenda of the Senate shall ordinarily be kept by the secretary of the faculty for use of the university president, the members of the faculty, and the Board of Trustees. They shall be made public upon authorization of either the university president or the President of the Senate.

B. Agenda and Minutes

1. Each member of the Senate shall receive a copy of the full agenda and a copy of the full minutes of Senate business. Additional copies of the full agenda and the full minutes shall be available to interested faculty members at the office of the Senate.
2. Each department and each faculty member shall receive a summary of the agenda in advance of each meeting. The summary of the agenda should regularly contain an invitation to all members of the faculty to review or obtain a copy of the full agenda and full minutes at the Senate office and to attend Senate meetings if they so desire.
3. Summaries of actions taken by the Senate shall be sent to each member of the university faculty within one week of each session of the Senate.

SECTION 9. Faculty Initiative and Review

A. Initiative

Any ten faculty members may petition and secure consideration by the Senate of any appropriate matter including proposed amendments to the **Faculty Regulations**. An amendment to the **Faculty Regulations** or any other matter to be initiated shall be presented in writing to the President of the Senate, who shall then give notice of the proposal to the Senate.

B. Review

All actions of the Senate shall be subject to review by the university faculty upon written requests for an appeal made to the President of the Senate by any ten members of the faculty. This appeal shall be made within ten days of the mailing date of the summaries of action of the Senate. The action shall be reviewed at the next regular meeting of the faculty or at a special meeting called for that purpose after all faculty members have been given two weeks' notice of the meeting.

SECTION 10. Consolidated Hearing Committee for Faculty Disputes (CHC)

A. Charge

1. The Consolidated Hearing Committee ("CHC") is the hearing body for grievances and complaints brought against faculty members (as defined in **Policy 6-316, Section 1**, General Provisions) at the University of Utah or by faculty members asserting rights including appeals from retention, promotion and tenure decisions. The CHC may also choose not to hold hearings and to dismiss complaints brought before it under certain circumstances. The CHC may also seek the expertise and assistance of other committees or individuals it deems appropriate to facilitate the hearing process. The CHC 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 VIII below).
2. In particular, the CHC 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 5-210**);
 - 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 discontinuance;
- g. Appeals by faculty, students, or staff of any restrictions on speech under University speech policies;
- h. Formal hearings of allegations of Research Misconduct against a faculty member pursuant to **Policy 7-001** (sponsored research). Formal hearings of (sponsored) research misconduct against a student, staff member, or other individual not a faculty member are heard by the Research Misconduct Hearing Committee. (Note: allegations of misconduct in non-sponsored research shall be filed as an allegation under the Faculty Code.

B. Route to CHC

The route to the CHC 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, Section G.4.**) 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 Section IV.C.2.a. below.)

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

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 CHC. Any appeal from the OEO/AA findings, conclusions and recommendations shall be made to the CHC.

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 CHC if no informal resolution has occurred. (See **Policy 6-316, Section 6, Complaints**)
- b. A faculty member may ask the CHC to review an administrative reprimand. (See **Policy 6-316, Section 6, Administrative Reprimand**)

4. Violation of academic freedom.

Any concern involving an alleged violation of academic freedom is brought initially to the Academic Freedom and Tenure Committee ("AFTC"). If the AFTC does not resolve the matter informally, the complainant may **request a hearing** from the CHC. (See **Policy 6-313, Section 2.**)

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 CHC alleging a faculty member's inability to perform the essential functions of the job. (See **Policy 6-313, Section 5.**)

6. Appeal of a dismissal or reduction in status in the event of financial exigency or program 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 his/her 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 Board of Regents, or (3) illegal discrimination. (See **Policy 6-313, Sections 6 and 7.**)

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 CHC only if the appellant alleges a violation of the Utah or United States Constitution or of academic freedom. (See **Policy 1-007**)

8. Research Misconduct.

The CHC is the formal hearing body for research misconduct but the route to the CHC differs between sponsored and non-sponsored research.

- a. Any complaint alleging research misconduct in sponsored research is filed first with the Research Integrity Officer (See **Policy 7-001**) Either the respondent of the investigation or the Research Integrity Officer may request a formal hearing after receiving the summary of the Research Misconduct Investigation Committee's findings, conclusions and recommendations.
- b. An allegation of research misconduct in non-sponsored research should be filed as a violation of the Faculty Code. Once received, the CHC, however, may at its discretion refer the complaint to the Research Integrity Officer for investigation pursuant to **Policy 7-001.**

C. Steps Preceding the Hearing

1. Receipt of Complaint or Appeal

The CHC process begins upon the receipt by the Office of the Senate of an **appeal or complaint** in writing setting forth the pertinent issues. The CHC 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. Chair Selection

The Office of the Senate shall select a chair 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 Section VIII C. 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 CHC 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 CHC has jurisdiction. In an RPT appeal, the CHC 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 CHC 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 CHC 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 CHC 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 CHC 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.

- If a complaint or appeal raises allegations of illegal discrimination, the CHC shall refer those allegations to OEO/AA for an investigation and report.
- If an appeal alleges a violation of academic freedom, the CHC shall refer those allegations to the AFTC for consideration and report.
- If a matter before the CHC alleges misconduct in non-sponsored research, the CHC may refer the matter to the Research Integrity Officer for inquiry and/or investigation pursuant to the Procedures set forth in **Policy 7-001**. If a matter alleges misconduct in sponsored research, the CHC shall refer it to the Research Integrity Officer pursuant to **Policy 7-001**.

ii. Hearing on all allegations.

The CHC chair shall consult with the director of OEO/AA, chair of AFTC, or Research Integrity Officer as the chair deems appropriate to facilitate fair and prompt proceedings and the timely return of the case to the CHC 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 CHC 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 CHC 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 CHC with instructions.

- i. Appeal from RPT decision: The CHC may not dismiss an appeal from an RPT decision.
- ii. Discrimination: The CHC may dismiss allegations of discrimination only if it finds, after reviewing the OEO 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 CHC 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 CHC 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 CHC 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 Academic Freedom and Tenure Committee (**Policy 6-313, appendix**) or that the claimant is not directly or substantially affected by the matters of which he or she complains. The CHC must consult with AFTC before such a complaint is dismissed.
- v. Appeal of Dismissal or Reduction in Status Due to Financial Exigency or Program Discontinuance: The CHC may dismiss the appeal on the written record only if it finds (after considering any report from AFTC) 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 Board of Regents. Because the Procedures for the declaration of financial exigency contained in PPM 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 of Regents.

- vi. Appeal from Restrictions on Speech: The CHC may dismiss the appeal on the written record only if it finds (after considering any report from AFTC) 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 CHC may not dismiss a case seeking termination or reduction in status for medical reasons.
 - viii. Sponsored Research Misconduct. The CHC may not dismiss a request for a formal hearing in a sponsored research misconduct matter following the issuing of a summary report by the Research Misconduct Investigation Committee. (Non-sponsored research misconduct allegations are handled as Faculty Code violations pursuant to Section II.H.2. above.)
- c. Notice to Parties if Case Dismissed. If the CHC 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 CHC 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 CHC decide the case on the written record. (The Office of the Senate may assist the CHC in scheduling hearing days and times with the parties.)
7. Waiver of hearing. Any party may ask that the CHC 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 CHC, with copies provided to other parties. If all parties so request, the CHC may proceed to consider the written submissions and to decide the case on the written record alone. However, except as provided in section F.2 above, unless all parties agree to waive a hearing, the CHC shall hold a hearing. Even if all parties agree to waive a hearing, the CHC 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 CHC determines that a hearing is necessary or required, the CHC 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 CHC, through the Office of the Senate, may endeavor to find a hearing date that will be convenient for all the parties involved, the CHC 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 CHC 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 CHC 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 CHC 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 CHC 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 Section IV.C below).
11. Bias or conflict of interest. Members of the CHC panel shall recuse themselves for bias or conflict of interest. If there is a dispute regarding the participation of any CHC 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 he/she/is associated as a faculty member or any case in which he/she 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 CHC 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 CHC 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 Consolidated Hearing Committee conducts its hearings as informal administrative proceedings rather than formal trials. The CHC 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 CHC endeavors to conduct the proceedings with respect for all the individuals involved and requires that civility be observed by all participants.
 - b. The CHC chair has the authority to conduct the proceedings and to take whatever actions the chair 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 Chair and the CHC 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). An advisor (including legal counsel) will act in an advisory capacity only, and will not have the right to speak to the CHC or to the other parties or witnesses.
 - b. At the hearing, the parties shall have the right to confront and cross examine witnesses through the presentation of their questions to the CHC chair. 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 CHC may grant such request as it deems appropriate. At the request of any party or the CHC, 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 CHC 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 CHC 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, AFT, the Research Integrity Officer, or any other neutral investigative or consultative body shall provide, upon request, a written report to the CHC 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 tape recorded (or video recorded.) Any party can obtain a copy without charge.
 - h. Witnesses may be called by either party or by the CHC. The CHC may (in its discretion) consider telephonic 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 CHC to cross-examine the witness.
 - i. Ordinarily, any documentary evidence should be produced for CHC and all the parties prior to the hearing. For good cause, the CHC 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 CHC.
 - j. The CHC 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. CHC Standard of Review and Actions.
- a. The CHC'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 CHC, which may necessitate different standards of review. Some, such as the consideration of RPT decisions are appeals and, as such, the CHC 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 CHC 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 CHC 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 CHC 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 CHC recommends sanctions.
 - iv. Complaint alleging violation of academic freedom.

The claimant must prove by a preponderance of the evidence that the alleged actions occurred and that they violated academic freedom.
 - 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 discontinuance.

The appellant must prove by a preponderance of the evidence that the dismissal or reduction in status (1) violates his/her 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 Board of Regents 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. Complaints alleging misconduct in sponsored research.

The CHC must find, by a preponderance of the evidence, that the respondent(s) engaged in research misconduct as defined in **Policy 7-001**
- c. CHC deliberations and voting shall take place in closed sessions. Upon request of any member of the CHC, votes shall be taken by secret written

ballot. A three-fifths majority of members present at the hearing, including the chair, shall be required for any decision.

- d. The CHC 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.
- e. 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 CHC, the other parties, and the cognizant academic administrator(s).

E. Final Decision by President.

1. The President shall consider the committee's findings and recommendations. 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 CHC;
 - b. Return the report to the CHC, 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 CHC.
2. Written notification of the President's decision and the basis for that decision, if it differs from the CHC's recommendation, shall be communicated to all parties, the department chair, the academic dean, the cognizant senior vice president, and the chair of the CHC panel.
3. The decision of the President is final.

F. Records of Complaints and Reporting by CHC.

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 his/her name or identifying numbers relating to proceedings before the CHC to the extent not prohibited by university policy or law.
3. Access to records of hearings shall be governed by applicable law.
4. Each CHC 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 CHC 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 CHC may recommend remedies or sanctions which it deems appropriate to the circumstances. The CHC may consult with AFTC, 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 CHC may recommend remedies to ameliorate any improper denial of academic freedom or other substantial right considered by the CHC. 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 his/her duties, with or without partial pay, for a definite period of time, or dismissal from employment at the University.

H. CHC Membership Composition and Selection

1. The Consolidated Hearing Committee shall consist of a pool of at least 30 faculty members. These faculty members will be nominated by the Personnel and Elections Committee of the Academic Senate. The Executive Committee of the Senate will review the nominees and in consultation with the administration will provide from that list a slate to the Senate which shall consist of more nominees than available positions. The Senate will select by vote sufficient members to fill the pool. CHC pool members will normally be appointed for 6 year staggered terms. There may be expedited elections if necessary to fill vacancies in the pool or to provide sufficient members for a particular panel.

At least 5 members of the pool shall be faculty with extensive experience as researchers and as recipients of sponsored research grants. These members shall be available to serve as panel members in hearings involving allegations of (sponsored) research misconduct.

2. The Academic Senate President in consultation with the Senate Executive Committee and the administration shall identify at least 5 chairs from the elected CHC pool. The chairs shall be individuals who will agree to undergo significant training in preparation for chairing the CHC panels. Their appointment to the position (but not to a specific panel) shall require confirmation by the Academic Senate.
3. The Office of the Senate will select panel members for each hearing with the goal of constituting an impartial panel. A neutral process such as assigning CHC members on a rotating or random basis will be used. The resulting panel should have diverse academic expertise and experience. Chairs and members with the appropriate expertise as described in the second paragraph of VIII. A. above shall also be selected from their separate pool through a similar neutral process. Being designated as a chair does not preclude serving as a regular member on another CHC panel.
 - a. For each hearing, the CHC will normally consist of a panel of 4 faculty members and one faculty chair. No more than one of the five members may be faculty with administrative appointments. At the discretion of the chair, 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 **Policy 5-210, Section VII.C.2** "Discrimination and Harassment Hearings."
 - c. In cases in which there is an allegation of (sponsored) research

misconduct, the Office of the Senate shall consult with the Research Integrity Officer regarding the composition of the panel to assure that the committee members shall be faculty members with extensive experience and expertise in (sponsored) research which will enable them to carry out a thorough and authoritative evaluation of the relevant evidence. The Research Integrity Officer has the authority to disqualify a committee member if he/she determines that the committee member has a conflict of interest.

- d. 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 CHC panel shall be tenured faculty.
4. Parties to hearings before the CHC may challenge any member of the CHC panel for cause. If there is a dispute regarding the participation of any CHC 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 are set forth in Section III.K above.)
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 policy is inconsistent with the provisions herein, this policy shall govern.

SECTION 11 Academic Freedom and Faculty Rights Committee

A. Academic Freedom

Academic freedom in the pursuit and dissemination of knowledge through all media shall be maintained at the University of Utah. Such freedom shall be recognized as a right of all members of the University academic community, which is defined here to include the faculty, whether with or without tenure or continuing appointment, administrative officers, academic staff, and students of the University. The University of Utah endorses the 1961 statement of the American Association of University Professors concerning recruitment and resignations, the 1940 "Statement of Principles on Academic Freedom and Tenure" of the American Association of University Professors and the Association of American Colleges, and the 1965 "Statement on the Academic Freedom of Students" of the American Association of University Professors.

B. References

Policy 5-210, Discrimination and Sexual Harassment Complaint Policy

Policy 6-001, Faculties, Committees and Councils

Policy 6-400, Code of Student Rights and Responsibilities

Policy 6-002, The Academic Senate

Policy 6-307, Appointments, Retention, Promotion and Tenure

C. Academic Freedom and Faculty Rights Committee

1. Committee Formation

The Academic Senate shall elect an Academic Freedom and Faculty Rights Committee (AFFR) of twelve members chosen from the voting members of the faculty other than the ex officio members of the Senate. The Senate President or the Senate President's designee shall be an ex officio nonvoting member of the committee.

- a. The committee members shall be elected for a term of three years on a rotating basis so that the Senate shall annually elect four committee

members to fill vacancies caused by the expiration of terms of office.

- b. The chairperson of AFFR shall be selected in accordance with **Policy 6-002, Section 4.C.2**. A vice chairperson shall be selected by the committee and will preside in the absence of the chairperson.
- c. It shall be the duty of the chairperson or, in his/her absence, of the vice chairperson, to call meetings of the committee at least once each semester and more frequently if need arises. Meetings also shall be called by the chairperson or, in his/her absence, by the vice chairperson, upon the written request of three members of the committee. At least five (5) days written notice of all meetings of the committee and of its agenda shall be given to its members.
- d. If a party is a student, or if there are substantial issues that involve students, then, in consultation with the ASUU President or his/her designee, the AFFR chairperson shall ask one graduate student and one undergraduate student to serve on the committee for the purpose of dealing with that case. If possible, these students shall be selected from the pool of potential student members that has previously been composed pursuant to **Policy 5-210**.

2. Committee Responsibilities

- a. It shall be the duty of the committee to make an annual report each spring semester to the Academic Senate. It also shall be a responsibility of the committee to keep fully informed on the most important controversies on academic freedom and faculty rights in higher education; to survey problems of academic freedom and faculty rights at the University of Utah; and to inform the Senate on these matters in its annual report. Pursuant to its duty to report, the committee may make a confidential report and request to the Academic Senate Executive Committee that a report of a serious concern about the systemic operation of a program, department or college, be made to the cognizant vice president.
- b. AFFR shall have the power to investigate, either on its own initiative or at the request of any member of the university academic community, into any matter which the committee reasonably believes may involve issues of academic freedom at the university.
- c. The president of the university may refer to the Academic Freedom and Faculty Rights Committee any matters concerning academic freedom and faculty rights upon which the president feels it would be well to have an opinion for investigation and study. The report of the committee shall be submitted to the president. [moved from **Policy 6-307**]
- d. The Committee is empowered to investigate an academic grievance (other than matters concerning retention, tenure or promotion) on a complaint by a faculty member after the faculty member has had the matter reviewed by the appropriate administrative authorities. This authority extends to the rights and duties of faculty members engaged in the academic processes of teaching, research, thinking, and the communication of the products of these processes; the making of academic evaluations; and participation in departmental, collegial and university governance as provided by university policies and Procedures. See **Policy 6-307, Section 7**
- e. If a faculty member facing termination for medical reasons or because of financial exigency or program discontinuance, believes that such termination involves a violation of his/her academic freedom, the faculty member may file a complaint with appropriate officials under this policy Section 10.II.E. or F.
- f. The Academic Senate may refer any academic disputes between faculty

members or other members of the university staff to the Committee for study and report.

- g. Any faculty member may refer a request for review of a resignation to the Committee for study and report. See **Policy 6-307, Sections 6.C. and D.**
- h. In addition to its power to investigate and review as referred to above, the AFFR is responsible for overseeing the Code of Faculty Rights and Responsibilities, and with making recommendations to the Academic Senate on general matters of faculty rights and responsibilities and the protection of academic freedom. (See Section 4.A.2 of this this policy.) To perform the latter task, the Committee is directed by university regulations to keep fully informed on issues and problems of academic freedom and faculty rights in higher education and to inform the Senate on these matters in its annual report.

3. General Procedures

- a. AFFR may receive a **complaint** directly from a member of the academic community and attempt to resolve the matter informally. If the AFFR is unable to resolve the matter to the satisfaction of the claimant, then the AFFR should explain further options for appeal to the claimant, including the possibility of filing a complaint with the Consolidated Hearing Committee (CHC). (See Section 10.II.D. of this policy.) Formal hearings required in matters involving rights and duties of faculty members are conducted by the CHC under Section 10 of this policy.
- b. If a complaint is filed initially with CHC, it may refer the matter to AFFR for "consideration and report." (See Section 10.II.D of this policy.) FFR does not conduct formal hearings for the purpose of making binding determinations of fact, but it may attempt to engage in informal resolution of disputes, and it may ask for submissions from parties to a dispute when a matter has been referred to it by the Consolidated Hearing Committee (CHC).
- c. No committee member shall be present during the committee's consideration of any case from a department with which he/she is associated as a faculty member or for any case in which he/she has been involved except for prior involvement as an AFFR member. In addition, committee members shall decline to participate in the consideration of any case in which they have a personal bias or interest which would preclude their making a fair and objective decision.
- d. The Office of General Counsel will provide the chairperson and the committee with advice through an attorney who does not represent any of the parties and who may attend any committee meetings for this purpose.
- e. Committee meetings will normally be closed to the public to the extent permitted by law. All persons at a closed meeting shall be asked to refrain from public statements about the matter and shall be informed of any legal requirements of confidentiality by the attorney providing legal counsel to the committee.
- f. Definitions
 - i. "Claimant" means the person(s) submitting a complaint to the committee.
 - ii. "Complaint" means a signed, written statement on the **AFFR complaint form** (available from the Office of the Academic Senate) that asserts a violation of academic freedom or other substantial academic grievance. An oral or informal written inquiry to the committee or a committee member will not be considered a complaint

for purposes of these rules.

- iii. "Respondent" means the person(s) against whom a complaint is made.

g. Submission of Complaints

- i. Any member of the university academic community may **submit a complaint** to the committee.
- ii. A **complaint** to the AFFR shall be filed with the Office of the Academic Senate. The complaint shall be signed, and it shall informally and concisely explain the grounds of the complaint and name the persons complained against. The committee may provide instructions and forms for filing complaints. These instructions and forms shall be available from the Office of the Academic Senate and may be published electronically. All parties shall comply with such instructions and use the proper forms. Complaints alleging illegal discrimination, including sexual harassment, shall be handled in accordance with **Policy 5-210** and Section 10.I.B.2 of this policy.
- iii. When a complaint has been filed with the Office of the Academic Senate and referred to the AFFR chairperson, the committee chairperson may consult with the Senate President or designee (as ex officio member of AFFR) to ascertain whether the dispute is subject to another committee's jurisdiction or iii. Procedures.
- iv. The committee normally will not consider a complaint if it determines that the claimant has not been directly or substantially affected by the matters of which he or she complains. Thus the committee generally will decline to consider complaints submitted on behalf of persons who have not joined in the complaint.
- v. In addition to the claimant(s) and the respondent(s), the committee may designate additional parties if the committee concludes that the additional parties have a substantial interest in the complaint that is not already being adequately represented.

4. Processing of Complaints

- a. The chairperson of the committee shall promptly notify each named respondent of the complaint. In notifying respondents, the chairperson shall include a copy of the complaint and a copy of these Procedures. The chairperson also may notify other persons of the complaint if the chairperson believes they may wish to participate in the proceedings as respondents.
- b. A complaint may be dismissed by the committee at any time after it is submitted upon a determination by the committee of any of the following:
 - i. The complaint involves neither a substantial question of academic freedom nor a substantial academic grievance.
 - ii. The matter complained of has been resolved to the satisfaction of the claimant either through informal resolution or a change in circumstances.
 - iii. The claimant is not directly or substantially affected by the matters of which he or she complains and it is not appropriate for the committee to proceed with investigation of the matter on its own initiative.
- c. The parties shall be given prompt written notice of the dismissal of a complaint. Dismissal shall not preclude the claimant from resubmitting a complaint on the same or related matters in the future.

5. Informal Resolution

- a. The committee may request additional information from either the claimant or respondents or both. Preliminary requests and information submitted will be copied to all other parties unless extreme circumstances calling for confidentiality are documented by the committee in its own files.
- b. The committee may designate one or more members of the committee to attempt an informal resolution of the matter. The designated committee members may meet separately with the claimant, the respondent or other persons and may receive information in confidence.
- c. In attempting to promote informal resolution, the committee and its designees will act impartially, respect the principle of self-determination of the parties, and observe reasonable expectations of confidentiality. (See "Model Standards of Conduct For Mediators" promulgated by the American Arbitration Association, American Bar Association, and the Association for Conflict Resolution.)

6. Committee Report

- a. If a complaint is neither dismissed nor resolved informally, then the committee will make a written report to the parties, either with or without recommendations.
- b. The committee does not make findings of fact that would be binding on any party and does not hold hearings. It may, however, at its sole discretion, invite the parties to meet with the committee to provide further information.
- c. The committee's report may
 - i. express the committee's view(s) on whether a violation of academic freedom or university policies has occurred,
 - ii. express the committee's view(s) on whether an academic grievance (as defined above) violates the rights or inappropriately impedes the duties of a faculty member,
 - i. advise the parties that a grievance should be processed further at the departmental or other appropriate administrative level,
 - ii. advise the parties that a hearing by CHC would be needed in order to make factual conclusions on identified issues, or
 - iii. advise the claimant of the option to appeal to the CHC in order to request a hearing.
- d. The committee report may not contain any information provided in confidence by a party during an informal resolution process, unless the party gives permission for its inclusion.
- e. In the event that a hearing is to be held by the CHC, the committee's written report will be forwarded to CHC. In addition, documents submitted to the AFFR during an informal resolution process will be forwarded to CHC, subject to the permission of the party who originally submitted the documents.

7. Referrals From the Consolidated Hearing Committee

- a. If the Consolidated Hearing Committee (CHC) refers an appeal that alleges a violation of academic freedom to the AFFR for consideration and report under Section 10.III.F.1.a.ii of this policy, then the AFFR will consider the allegations and make a written report to CHC that expresses the committee's view on whether a violation of academic freedom has occurred. The committee may or may not include recommendations in the report to the CHC.
- b. The AFFR will submit a report to the CHC based only on the materials

forwarded to the AFFR by the CHC pursuant to the referral.

- c. If the committee believes that factual issues relevant to the academic freedom allegations should be determined by the CHC, the committee may, at its sole discretion, so advise the CHC in its report. The committee may, at its sole discretion, also advise the CHC of two or more alternative views held by the committee depending on the CHC's factual findings.

IV. Rules, Procedures, Guidelines, Forms and other related resources

- A. Rules
- B. Procedures
- C. GuidelinesForms
- D. Other related resource materials

V. References:

(Reserved)

VI. Contacts:

Policy Owners:

Questions about this Policy and any related Rules, Procedures and Guidelines should be directed to the Associate Vice President for Faculty and the Associate Vice President for Health Sciences.

Policy Officers:

Only the Sr. Vice President for Academic Affairs and the Sr. Vice President for Health Sciences or their designees have the authority to grant exceptions to this policy.

VII. History:

Renumbering: Renumbered as Policy 6-002 effective 9/15/2008, formerly known as PPM 9-3, and formerly as Faculty Regulations Chapter III.

Revision History:

1. Current version: Revision 27:

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2. Earlier versions:

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Approved: Board of Trustees, June 9, 2009

Effective date: July 1, 2009 to July 8, 2009

Legislative History of Revision 26

Revision 25: effective dates July 1, 2009 to July 1, 2009. (Note: the effective date for Revision 26 was set as July 1, 2009, the same date previously set as the effective date for Revision 25, which had been adopted earlier in the same academic year as Revision 26 was adopted.)

Legislative History of Revision 25

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Legislative History of Revision 24

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Revision 20: effective December 8, 2003 to April 18, 2004

Revision 19: effective August 13, 2001 to December 7, 2003

Revision 18: effective June 12, 2000 to August 12, 2001

Revision 17: effective May 17, 1999 to June 11, 2000

Revision 16: effective November 2, 1998 to May 16, 1999

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