



R481, Academic Freedom, Professional Responsibility, ~~and~~ Tenure, Termination and Post Tenure Review

Comment [ps1]: The policy needs to say what is in it.

R481-1. **Purpose:** To provide Board policy and guidelines for institutional policy in matters related to academic freedom, professional responsibility, ~~and~~ tenure, termination and post tenure review.

R481-2. References

- 2.1. Utah Code §53B-2-106(2)(c) (Systems of Faculty Government)
- 2.2. Policy and Procedures R401, Approval of New Programs, Program Changes, and Discontinued Programs
- 2.3. Policy and Procedures R411, Review of Existing Programs
- 2.4. Policy and Procedures R482, Bona Fide Financial Exigency and Staff Reduction
- 2.5. American Association of University Professors, Policy Documents and Reports, 1984 1

R481-3. Academic Freedom, Professional Responsibility and Tenure

3.1. **Institutional Policies:** The president of each institution, with the approval of the board of trustees, shall develop policies related to academic freedom, professional responsibility and tenure through a process which involves substantive participation of the faculty governance organization.

3.2. **Board Approval:** Each institutional policy shall be submitted to the Board for approval and shall be consistent with these guidelines. Substantive differences or exceptions must be reviewed and approved by the Board. Once approved, the institutional policy will apply, except when the institutional policy does not address an issue contained in this policy, in which case then this policy will apply. Subsequent amendments to approved institutional policies, determined by the Commissioner to be substantive, must be reviewed and approved by the Board.

3.3. **Academic Freedom: Introduction:** The institutions are operated for the common good and not to further the interest of either the individual faculty member or the institution as a whole. The common good depends upon the free search for truth and its free exposition. Academic freedom is essential to these purposes and applies to both teaching and research. Freedom in research is fundamental to the advancement of truth. Academic freedom in its teaching aspect is fundamental for the protection of the rights of the teacher in teaching and of the student to freedom in learning. It carries with it duties correlative with rights. (See section 3.4.) Institutional policies shall indicate how the concept of academic freedom applies to teaching, research and public life.

3.3.1. **Academic Freedom in Teaching:** Faculty members possess the right to full freedom in the classroom to discuss in discussing their subjects. They may present any controversial material relevant to their courses of instruction, but they shall be careful not to introduce into their teaching controversial matter which has no relation to the subject being taught.

3.3.2. **Academic Freedom in Research:** A faculty member is entitled to full freedom in research and in the publication of the results. Research for pecuniary return should be conditional upon disclosure to and the consent of the officials of the institution.

3.3.3. **Academic Freedom in Public Life:** A college or university faculty member is a citizen, a member of a learned profession, and an officer of an educational institution. When the faculty member speaks or writes as a citizen, he/she should be free from institutional censorship or discipline, but the faculty member's special position in the community imposes special obligations. As a person of learning and an education

officer, the faculty member should remember that the public may judge his/her profession and institution by his/her utterances. Hence the faculty member should at all times strive to be accurate, should exercise appropriate restraint, should show respect for others, and should make every effort to indicate that he/she is not speaking for the institution.

3.4. Professional Responsibility: In addition to other matters covered, the institutional code of professional responsibility shall provide that persons having a formal association with the institution shall not be involved in acts which violate the academic freedom or constitutional rights of others, or the rules and regulations of the institution or the Board.

3.5. Tenure: Tenure is designed to protect the academic freedom ~~of faculty member and to provide the faculty member with a sufficient degree of economic security, and to make the profession attractive to~~ persons of ability. Tenure can be terminated ~~only in unusual circumstances as specified in institutional policies and rules.~~ After the expiration of a probationary period and upon the award of tenure by the institution, faculty members may be terminated ~~only for cause~~ (See sections 3.6.), bona fide program or unit discontinuance as defined in 3.9.1, or bona fide financial exigency as defined in R482-3.4.

Comment [ps2]: This gives institutions more leverage and takes the onus away from the regents.

Comment [EJH3]: I really like this language. I think it works well for the institutions.

3.5.1. Written Terms and Conditions of Employment: The terms and conditions of every appointment and any revisions shall be stated in writing and be provided to the affected faculty member.

3.5.2. Length of the Probationary Period: Beginning with appointment to a tenure track rank (usually full-time instructor or assistant professor, ~~or as determined by institution policy~~) the probationary period should not exceed seven years at the institution. The institution shall provide policy ~~relative to credit towards~~ the probationary period for service at other institutions of higher education.

Comment [ps4]: Institutional call

3.5.3. Academic Freedom of Non-tenured Faculty: Non-tenured faculty members have the same academic freedom that tenured faculty members enjoy.

3.5.4. Non-reappointment During the Probationary Period: Probationary faculty members shall have appropriate evaluation by their colleagues and such others as institutional policy shall provide during the probationary period. The institution is permitted, within the limits of academic freedom, statutory law, and constitutional law, the utmost discretion in determining who will be retained for tenure appointments. Probationary faculty members may not be terminated for reasons which violate their academic freedom or legal rights. Institutional policies shall provide procedures for the non-reappointment of probationary faculty members.

Formatted: Indent: Left: 1.5"

3.6. Reasons for Dismissing Faculty for Cause: A faculty member may be recommended for dismissal for cause ~~as determined by institutional guidelines~~ for:

3.6.1. Professional incompetence.

3.6.2. Serious misconduct or unethical behavior.

3.6.3. Serious violation of Board or institutional rules and regulations.

3.6.4. Substantially impaired performance for medical reasons ~~for which accommodations have not been successful~~.

Formatted: Indent: Left: 1", Hanging: 0.5"

3.6.5. ~~Inability or unwillingness to meet institutional expectations.~~

Formatted: Indent: Left: 1"

3.7. Sanction of Faculty: ~~Sanctions may be imposed on a faculty member when it has been determined by institutional review that he or she has violated institutional policies and will serve one or more of the following purposes:~~

Formatted: Indent: Hanging: 0.5"

3.7.1. To induce self improvement and reform by a faculty member.

3.7.2 To indicate to the faculty member the seriousness of his or her violation and thereby deter him or her from future violation.

3.7.3 To reassure the college/university community that violations of policy which the faculty member has broken will not be tolerated, thereby serving to maintain respect for and commitment to the policies of other members of the institutional community.

3.7.4. To dismiss from the institutional employment a faculty member who has demonstrated by his or her conduct an inability or an unwillingness to meet his or her responsibilities to the institution.

Comment [ps5]: These are the U of U policy or rule statements slightly edited.

Comment [EJH6]: I'll be interested to see what the CAOs think of this addition of language. I like it.

3.87. Procedures for Dismissal for Cause: The Procedures for dismissal for cause of a tenured or tenure-track faculty member shall comply with ~~to~~ the following minimal due process requirements:

3.87.1. Notice of the cause or causes of the proposed dismissal in sufficient detail to enable the affected faculty member to understand and rebut them;

3.87.2. Notice of the names of those persons making the charges and the nature of the factual evidence;

3.87.3. A reasonable time and opportunity for the affected faculty member to present evidence in his/her defense;

3.87.4. A hearing before an impartial board or committee of faculty peers.

Comment [ps7]: Explanation should follow here.

Formatted: Indent: Left: 1"

Institutional policies shall provide procedures for dismissal for cause which may be more but not less protective of due process rights than those set forth above. In addition, officials involved in faculty discipline hearings should consult the college or university counsel regarding procedural issues. These procedures are not required for the non-reappointment of probationary faculty.

3.98. Dismissing Faculty for Reasons other than Cause: A faculty member may be dismissed for reasons other than cause as a result of:

3.98.1. Bona fide program or unit discontinuance as provided in Section 3.9.

3.9.8.2. Bona fide financial exigency as provided in Policy and Procedures R482, Bona Fide Financial Exigency and Staff Reduction.

3.109. Bona Fide Program or Unit Discontinuance

3.109.1. Bona Fide Program Discontinuance Defined: Bona fide program discontinuance means the termination of a program, center, institute, laboratory, department, school, or college for reasons based upon educational and academic considerations.³ For the purpose of this section, educational and academic considerations do not include cyclical or temporary variations in enrollment, but must be based on evidence and reflect judgments that in the long term the basic educational mission of the institution will be strengthened by the discontinuance of the program, center, institute, laboratory, 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.

3.109.2. Program Defined: A "program" is a unit within the institution 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 defined with the aim to of-singleing out

individual faculty members for adverse treatment. For a unit to be designated as a "program," it shall have an identified group of faculty and shall fulfill one or more of these criteria:

3.109.2.1. whether the unit has "program," "center," "institute," "laboratory," "department," "school," or "college" in its title or has otherwise been designated as a program;

3.109.2.2. whether the unit offers or administers a degree, certificate, or some other credential;

3.9.2.3. whether the unit has an identifiable curriculum or is formally described in current institutional catalogs or other publications;

3.109.2.4. whether the unit has a separate budget as listed in official institutional documents.

3.109.3. **Institutional Procedures:** Institutional procedures for the discontinuance of programs shall include substantive consultations with institutionally recognized faculty governance organizations, an analysis of the circumstances that may support or oppose the discontinuance of the program, and a review of reasonable alternatives to the discontinuance.

3.109.4. **Notification to Board:** Notification of program or unit discontinuance is given the Board under Policy and Procedures ~~R401, R401.4.2.2., Approval of New Programs, Program Changes, and Discontinued Programs.~~ Approval of New Programs, Program Changes, and Discontinued Programs. This allows the Board to review such proposals, to disapprove the discontinuance of a program if it concludes the program should be retained at the institution, or to approve the discontinuance with institutional assurances that students in the program will be able to complete the program, and to coordinate the retention or discontinuance of programs in the various institutions of the System.

Comment [EJH8]: I think too much got deleted here in the last draft. It wasn't a whole sentence. I added some back in.

3.109.5. **Placement in Another Suitable Position:** Before dismissing a tenured faculty member because of bona fide discontinuance of a program or unit, the institution, with faculty participation, will make a reasonable effort to place the faculty member concerned in another suitable, vacant, existing position within the institution for which the faculty member is qualified. A tenured faculty member to be dismissed has no right to displace another faculty or staff member from a position to maintain employment.

310.6. Annual Reports on Award of Tenure: By September 1 of each year, institutions within the System shall submit to their respective institutional boards of trustees, with a copy to the State Board of Regents, an annual report on the number of faculty members eligible for tenure, the number awarded tenure, and the number not awarded tenure. This report may include the number of faculty who are on an improvement or developmental plan, those who successfully completed a developmental plan, and those who left the institution during their probationary period for the time period covered by the annual report.

Comment [EJH9]: Weird spacing in here. Not sure how I managed to create it. Hope Tamara can fix.

Formatted: Indent: Left: 1"

3.110. **Notice of Non-reappointment of Non-Tenured Faculty:** During the probationary period, or as a result of a bona fide program discontinuance, notice of non-reappointment of non-tenured faculty, or of intention not to recommend reappointment to the board of trustees, should be given in writing in accordance with the following standards:

Comment [ps10]: This is from R483, Award of Tenure, which I think should be scotched. The reference to the annual report takes a more positive and useful approach to the issue of reporting the number eligible, receiving and not receiving tenure, if the data on the latter are possible to gather.

3.110.1. **During First Academic Year or a One or a One-Year Appointment:** Notice of non-reappointment shall be given not later than March 1 of the first academic year of service, if the appointment expires at the end of the academic year; or, if a one-year appointment terminates during an academic year, at least three months in advance of its termination.

3.110.2. **During the Second Academic Year of or a Two-Year Appointment:** Notice of non-reappointment shall be given not later than December 15 of the second academic year of service, if the appointment expires at the end of that year; or, if an initial two-year appointment terminates during an academic year, at least six months in advance of its termination.

3.110.3. **After Two or More Years:** Institutional policy may set the minimum period for notice of non-reappointment at not fewer less than six months before the expiration of an appointment after two or more years in the institution.

3.121. **Notice of Dismissal of Tenured Faculty:** Institutional policy may set the minimum period for notice of dismissal of a tenured faculty member as a result of a bona fide program discontinuance at not fewer less than six months before the dismissal of the faculty member.

3.132. **Notice in Addition to the Required Minimum:** The institution shall make reasonable effort to give to each affected faculty member as much notice of non-reappointment or dismissal, in addition to the minimum required by institutional policy, as is practical under the circumstances.

3.143. **Annual Review as Part of Assessing Faculty Competence and, if Funding Permits, Merit Pay Award Process:** Each tenure track and tenured faculty member, along with all other faculty members, shall be reviewed each year in conjunction with institutional policies on faculty competence, and When funding permits, a faculty member may be awarded ~~the~~ merit pay consistent with institutional policies and process.

Comment [ps11]: This is hardly as given.

3.154. **In-Depth Post-Tenure Review:**

3.15.1. **Intent of Post-Tenure Review:** The review shall assess the tenured faculty member's performance with the intent of:

Comment [EJH12]: I flipped the two sections so that the "purpose" came first and the "procedures" second. That order seems better to me. I also thought that everything about post-tenure review should be contained in one section (with two sub-sections). I think it makes it easier to find.

3.15.1.1. recognizing performance in the discipline's endeavors which demonstrates growth and development;

Formatted: Indent: Left: 1"

3.15.1.2. communicating to the faculty member specific areas in need of improvement (if any) related to performance in scholarship, teaching, and service, and

Formatted: Indent: Left: 1.5"

3.15.1.3. enhancing each individual's future productivity.

Formatted: Indent: Left: 1.5"

Formatted: Indent: Left: 1.5"

3.15.2 **Procedures.** The institution shall establish procedures to administer a review of the work of each tenured faculty member in a manner and frequency consistent with accreditation standards. The criteria for such review shall include multiple indices, and be discipline_ and role_-specific, as appropriate, to evaluate:

Formatted: Indent: Left: 1"

3.154.2.1. teaching, through student, collegial, and administrative assessment.

Formatted: Indent: Left: 1.5"

3.154.2.2. the quality of scholarly and creative performance and/or research productivity.

Formatted: Indent: Left: 1.5"

3.154.2.3. service to the profession, school and community.

Formatted: Indent: Left: 1.5"

3.165. **Intent of Post-Tenure Review:** The review shall assess the tenured faculty member's performance with the intent of:

3.165.1. recognizing performance in the discipline's endeavors which demonstrates growth and development;

3.165.2. communicating to the faculty member specific areas in need of improvement (if any) related to performance in scholarship, teaching, and service, and

3.165.3. enhancing each individual's future productivity.

~~(Liz, this may not be necessary given more specific information in 3.7. What do you think???) 3.176.~~

Remedial Actions Based on Post-Tenure Review: If, as a result of the post-tenure review process, the faculty member is found to not be meeting the minimum standards required of a tenured member of his or her

Comment [ps13]: Please review as this may not be necessary given the new 3.7.

Comment [EJH14]: I don't think this is necessary given the other language above.

discipline, he or she is responsible for remediating the deficiencies, and the institution is expected to assist through developmental opportunities. A faculty member's failure to successfully remediate deficiencies may result in disciplinary action under institutional policies adopted pursuant to this policy. (See 3.7.)

Footnotes

¹ This statement of guidelines and policies contains some provisions which are the same or similar to certain principles of academic freedom, professional responsibility and tenure adopted and promulgated by the American Association of University Professors (AAUP). However, adoption of these guidelines and policies is not intended to incorporate AAUP principles and interpretations, and any such incorporation by reference is expressly disclaimed.

² "Termination" and "dismissal," as defined by institutional standards and procedures under this policy ~~and R481 guidelines~~, shall include "substantial reduction in status."

³ Educational and academic considerations include, but are not limited to, the program analysis considerations in Policy and Procedures R401, ~~Program Approval: Policy and Procedures R402, Approval of New Programs, Program Changes, and Discontinued Programs~~ Program Additions or Changes Requiring Board Approval and Notification; and Policy and Procedures R411, Review of Existing Programs.

(Approved December 20, 1973; amended May 15, 1985; revised April 28, 1989; amended January 24, 1997..)