

ACADEMIC FREEDOM, PROFESSIONAL RESPONSIBILITY, AND TENURE

I. POLICY

Membership in the Salt Lake Community College community implies the responsibility to share in the creation and maintenance of the environment of that community and to respect students, peers and other colleagues engaged in the larger mission of achieving and maintaining excellence in teaching and learning. The college affirms that:

- A. Academic freedom is fundamental to the rights of faculty members in teaching and the rights of students in learning. The college protects these rights.
- B. Academic freedom carries with it professional responsibilities and duties correlative with rights.
- C. Tenure is a commitment to defend faculty members' academic freedom. Likewise, faculty members who are granted tenure have an equally strong commitment to serving their students, their colleagues, their discipline, and the college in a professional manner.

II. REFERENCES

- A. Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g.
- B. Health Insurance Portability and Accountability Act (HIPAA), 45 C.F.R. § 163.103.
- C. Government Records Access and Management Act (GRAMA), Utah Code Ann. §§ 63G-2-101–901.
- D. Academic Freedom, Professional Responsibility, Tenure, Termination and Post-Tenure Review, Utah Bd. of Regents r. 481.
- E. Bona Fide Financial Exigency and Personnel Reduction, Utah State Bd. of Regents r. 482.
- F. Full-Time Faculty Handbook for Compensation and Workload.

III. DEFINITIONS

- A. Academic Division: Several related instructional areas and the faculty members, administered by a division associate dean.
- B. Academic Freedom: The right of scholars in institutions of higher education freely to study, discuss, investigate, teach, and publish without restriction due to religious, political, or economic pressures.
- C. Adjunct Faculty: Part-time, temporary employees hired on a term-to-term basis with no expectation or obligation for employment beyond the current assignment.
- D. Associate Dean: One who administers a division/department.
- E. Bona Fide Credit Program: Credit-granting program approved by the board of regents.
- F. Cause: Reasons for termination or reduction in status. This includes faculty cause, medical cause, and institutional cause.
- G. Colleagues: Persons other than students with whom a faculty member works in the academic community.
- H. Consultation: Communication with students outside of class related to coursework and student concerns. Faculty consult during office hours, over the phone, and via email.
- I. Days: Calendar days unless otherwise specified.
- J. Dean: One who administers a school within the college.
- K. Department: An instructional program or group of programs within a division and the faculty members of the program.
- L. Department Standing Tenure Committee: A committee from which the department sitting tenure committees are formed.
- M. Department Sitting Tenure Committee: A committee which evaluates each non-tenured faculty member each year.
- N. Discontinuance: A bona fide action which terminates a program when such action is taken pursuant to procedures established by the institution.

- O. Division/Department Faculty File: Includes documents relevant to a faculty member's tenure and post-tenure performance, e.g., correspondence, letters of appointment, evaluations, documentation of conversations related to performance, etc. This file is located in the office of the faculty member's supervisor, is always available to the faculty member, and follows the faculty member through any departmental and/or division changes. This file is not the same as the personnel file housed in Human Resources.
- P. Due Process: In an academic setting it is a system of procedures designed to produce fair and reasonable judgments in those situations in higher education which may yield a serious adverse decision about a faculty member. Due process assures the rights established under this document and in the policies and procedures of this institution.
- Q. Faculty: Those appointed to full-time teaching for a nine- or twelve-month appointment or others designated as faculty appointed to fill temporary special assignments. Faculty in such special assignments come from teaching and will return to teaching. Some faculty members are tenured, some are in a departmental tenure-track position, and others are in a non-tenure-track position.
- R. Faculty Member Cause: A documented failure to perform competently assigned duties as a teacher and faculty member, including in the case of tenure-track faculty, a second letter of concern; a violation of professional standards that demonstrates that the faculty member is unable or unwilling to meet his or her responsibilities to the institution, or a failure to fulfill the responsibilities set forth in this document or the policies and procedures of the institution.
- S. Financial Exigency: An existing or imminent financial crisis which threatens the survival of the institution as a whole, which requires bona fide credit program reductions or discontinuance and/or faculty reductions to enable the institution to survive, and which cannot be alleviated by less drastic means.
- T. Formal Budget Limitation: A condition short of formally declared financial exigency but more than a minor, temporary, and/or cyclical fluctuation in operating funds. The survival of the institution as a whole is not threatened, but the adequate functioning of at least several major components of the institution is at substantial risk. In such a situation, the operating funds available from state appropriations and/or other sources of financial support are diminished to the point that significant retrenchments are necessary to preserve the fiscal solvency of institutional programs, departments, campus and/or college. Such

circumstances require that extraordinary measures be taken beyond institutional standard operating procedures.

- U. Hard Money: permanent funding from state appropriated education and general funds.
- V. Informal avenues: An employee who has a complaint will first try to resolve the problem through an informal discussion with his/her immediate supervisor, without delay.
- W. Institutional Cause: As determined by the board of regents is a bona fide discontinuance or substantial reduction of a program or department of instruction; a formal budget limitation, or a financial exigency. Procedural notification shall begin as soon as possible after substantive consultations have concluded.
- X. Instructor/Lecturer: Those faculty members who have an annual appointment renewable at the discretion of the college. No expectation of tenure should be inferred from continued renewal of the non-tenure-track appointment.
- Y. Letters of Concern: A first letter of concern is a letter issued by the dean based on the recommendation of the department Sitting Tenure Committee indicating that the faculty member has not made satisfactory progress toward achieving tenure in his or her department for the year being evaluated as defined by standards in this document. The letter of concern must also articulate the specific concerns and recommendations for improvement. A Second letter of concern is notice of termination for faculty cause effective at the end of that contract year.
- Z. Letter of Progress: A letter issued by the dean based on the recommendation of the department Sitting Tenure Committee indicating that the faculty member has made satisfactory progress toward achieving tenure in his or her department for the year being evaluated as defined by standards in this document. The letter of progress should articulate the faculty member's strengths in relation to professional responsibilities.
- AA. Medical Cause: A documented medical incapacity which precludes the faculty member from competently performing required duties and responsibilities.
- BB. Personnel file: includes documents relevant to the employee's work assignments and is located in the Human Resources department.

- CC. Previous Successful Academic Service: up to three years of employment as a full-time faculty member—either temporary, tenure-track, or renewable—with full-time teaching responsibilities at an institution of higher education, years that, after application by the faculty member and review by the department Tenure Sitting committee, and in consultation with the majority of the department faculty, may fulfill a part of the probationary period.
- DD. Probationary Period: The period preceding the awarding of tenure. The usual tenure probationary period at Salt Lake Community College shall be six years.
- EE. Probationary Year: A regular academic year during which a faculty member has a regular full-time contract within the probationary period, except in cases where the faculty member applies for and receives approval to use previous successful academic experience.
- FF. Program: Includes college, campus, academic department, degree offering, disciplinary specialization or other set of offerings leading to a license, credential, or certificate; or a group of courses constituting a discrete body of knowledge, expertise, or instruction.
- GG. Reasonable Care: That the level of performance required of a faculty member is that which is recognized in the profession and by the institution as reasonable in light of obligations assumed, competing demands upon energy and time spent in professional endeavors, the nature and quality of individual work, and all other circumstances which the larger academic community, including the college community, after being fully informed, would properly take into account in determining whether the faculty member was discharging responsibilities at an acceptable performance level.
- HH. Reduction in Status: A reduction in a faculty member's compensation and/or responsibilities as a result of reassignment.
- II. School: Instructional and/or instructional support departments or divisions administered by a dean or an associate vice president.
- JJ. Sitting Hearing Committee: A sitting committee comprised of seven members from the Standing Hearing Committee shall be selected as needed for each issue requiring a sitting committee review. The committee is established to serve for the duration of the issue for which it is formed.
- KK. Soft Money: Temporary funding from federal and state grants, contracts with business and industry, and/or other special sources.

- LL. Standing Hearing Committee: A pool of 14 tenured faculty members, from which a sitting hearing committee is formed. The standing hearing committee is formed in May for each new academic year. The Faculty Senate president and the provost of Academic Affairs shall each submit a list of names of 14 tenured faculty members. The Faculty Senate president and the provost shall each select from the other's list seven names for a total of 14 tenured faculty shall comprise the Standing Hearing Committee. In cases involving medical cause, the Standing Hearing Committee shall be composed of such individuals as designated by the provost and at a minimum shall include the appropriate dean, the ADA coordinator, and such individuals as have professional expertise in the issue being considered.
- MM. Substantial Reduction: An action taken pursuant to procedures established by the institution which continues a program of instruction or a department, but at such a substantially reduced level as to warrant a designation of institutional cause for purposes of this policy.
- NN. Temporary Position: Part-time, hourly, and temporary replacement positions such as replacement for sabbatical, sickness, and other special situations.
- OO. Tenure: The status achieved following the appropriate review period and following a prescribed evaluation that shows that the faculty member fully meets professional standards and is competent in the discipline, competent as a teacher, and competent as a colleague. Tenure protects the academic freedom of a faculty member and provides the faculty member with a sufficient degree of economic security to make the profession attractive to qualified individuals. Tenure is granted to faculty as set forth in procedure section IV.C of this document.
- PP. Tenure-Track Faculty: Those faculty members who are in a probationary period.
- QQ. Tenured Faculty: Those faculty members who have received tenure.
- RR. Working Days: 8:00 a.m. to 4:30 p.m., Monday through Friday. Official holidays when the college is closed are not considered working days.

IV. PROCEDURE

A. Academic Freedom

1. Institutions of higher education exist for the common good of the society which they serve and not to further the interests of any one party. The

common good depends in part upon the free search for truth and its free expression.

2. Institutions of higher education are committed to the solution of problems and controversies by the method of rational discussion. Acts or threats of physical force or disruptive acts which interfere with campus activities, freedom of movement on the campus, or freedom for students to pursue their studies are the antithesis of academic freedom and responsibility as are acts which in effect deny freedom of speech, freedom to be heard, and freedom to pursue research of their own choosing to members of the academic community or to invited visitors of the community.
3. Academic freedom is fundamental for the protection of the rights of faculty members in teaching and of the rights of students in learning. Academic freedom carries with it duties (see section IV.B.) correlative with rights.
4. The faculty member is entitled to full freedom in research and in publication of the results, subject to the adequate performance of his or her other duties and responsibilities as set forth in this document. Research for monetary return must be based upon a memorandum of understanding with the administration of the college if the research is to be conducted with institution facilities and/or during normal working hours.
5. The faculty member is entitled to freedom in the classroom in discussing subject matter related to the course, but should be careful to allow other views related to the subject. The faculty member should avoid presenting extraneous material which is not relevant to the subject.
6. Faculty members have the right and responsibility to evaluate student work according to criteria established for each course and to issue grades. Students' grades may be changed only by the faculty member or by decision of the dean after an appropriate formal hearing of the Student Standards Committee.
7. Academic freedom also includes the right of the faculty member to engage in constitutionally protected freedoms such as freedom of speech and political and civil activities without threat to his or her position within the institution.
8. Faculty members may only be terminated in accordance with the procedures set forth in this document, and in other applicable college policies and

procedures, and they may not be terminated for exercising their right to academic freedom.

B. Standards of Professional Responsibility

1. Tenure-track and tenured faculty members make a commitment to serve their students, their colleagues, their discipline, and the college in a manner befitting an academic person. Likewise, granting tenure implies an equally strong commitment by the college to defend faculty members' academic freedom.
2. The college faculty member is a citizen, a member of a learned profession, a colleague, and an agent of an educational institution. Teaching, as a profession, is both an art and a science. Like the classical professions of law, medicine and theology, teaching is viewed as a valuable service to society. As a result, college faculty members have social status in the community. Clearly, teaching has a professional character for community college faculty.
3. When the faculty member speaks or writes as a citizen, he or she is free from institutional censorship or discipline, but the special position of a faculty member in the community imposes special obligations. As a person of learning and an educational agent, the faculty member may find the profession and the institution judged by his or her utterances. Hence, a faculty member strives to be accurate, exercises appropriate restraint, shows respect for the opinions of others, and makes every effort, when appropriate, to indicate that he or she is not an institutional spokesperson.
4. The community college faculty professional has the autonomy to teach with academic freedom and the responsibility to be prepared, to have current knowledge of the subject, and to guide students' educational experience so that each has full opportunity to learn. Further responsibilities include self-regulation and active participation with colleagues to improve teaching and the quality of learning for all students.
5. The highest aim of education is the development of character. The teacher as a person in the position of authority becomes a role model providing educational experiences which affect character, mentality, and values apart from skills and knowledge. Accordingly, the teacher—by virtue of the profession—is responsible to the ethical and moral conduct as specified in this document.

6. Standards of Professional Responsibility to Students.

- a. A faculty member maintains an effective, safe, and supportive learning environment and promotes an atmosphere of fairness and equity in his or her relationships with students.
- b. A faculty member exercises his or her best efforts to promote learning of the specified course material by students in classes he or she teaches.
- c. A faculty member meets with scheduled classes, including final exam periods. Cancellation or rescheduling of classes should be done only for valid reasons and after adequate notice to students and with prior approval of the department administration except when notice is beyond faculty control. When faculty are able to anticipate absence, they should arrange for appropriate alternative learning rather than canceling the class.
- d. A faculty member is available for consultation during regular posted office hours and provides students with additional means of contacting the faculty member such as a phone number (division/department, or office) and/or college email address. A faculty member consults with students on departmental academic issues.
- e. At the beginning of a course a faculty member provides in writing, the course objectives, syllabus, course outlines, and the criteria upon which student performance will be evaluated. These criteria should relate clearly to the legitimate academic purposes of the course. Evaluations should be performed promptly, conscientiously, without prejudice or favoritism, and be consistent with the criteria stated at the beginning of the course.
- f. A faculty member submits all student grades to the Registrar's office by prescribed deadlines unless circumstances beyond the faculty member's control intervene. In such cases, the faculty member must notify her or his department or associate dean.
- g. A faculty member prepares appropriately and provides competent instruction for the course being taught and teaches in an open, fair, and humane manner.
- h. A faculty member avoids misusing the classroom by presenting personal views on topics unrelated to the course subject matter. If the faculty

member finds it pedagogically useful to advocate a position on controversial matters, he/she exercises care to assure that opportunities exist for students to express and consider other views. A faculty member encourages students to remain open to new ideas by example and does not reward agreement or penalize disagreement with his or her views.

- i. A faculty member shall retain the professional distance necessary for students to learn. A faculty member shall not use position, authority, or relationship with students for personal gain. Gifts, favors, uncompensated services, and uncompensated labor of more than a nominal value shall not be solicited and shall be refused.
 - j. A faculty member shall conduct himself or herself above reproach in personal relationships with students; i.e., a faculty member shall neither solicit nor accept sexual favors from a student in a class or from a student over whom the teacher has supervisory responsibilities.
 - k. When a faculty member and a student collaborate, agreement for recognition of each shall be stated in writing. Faculty members shall support the right of a student to publish or otherwise communicate the results of the student's scholarly activities.
 - l. A faculty member does not reveal matters told in confidence by a student or personal matters relating to a student except to persons entitled to such information by law or institutional policy, including student records governed by legislation such as FERPA; records governed by GRAMA; the confidentiality provisions of the Americans with Disabilities Act (ADA); and the privacy rules of HIPAA.
7. Standards of Professional Responsibility to the Profession
- a. A faculty member's primary responsibility to his or her discipline is to seek to state the truth as he or she sees it, consistent with sections IV.A.4 and IV.B.6.g of this document.
 - b. A faculty member keeps informed and knowledgeable about current developments in his or her field.
 - c. When engaged in professional activities with others, a faculty member exercises reasonable care in meeting obligations to those associates.
 - d. A faculty member avoids plagiarism by taking credit only for his or her own work and by giving credit to others for their contributions.

- e. When serving as supervisor of the professional work of others, a faculty member is responsible to see that personal advantage or profit accrue to the person or persons doing the work.
 - f. When reporting the results of research or professional activities, a faculty member describes the work and presents the conclusions honestly.
8. Standards of Professional Responsibility to Colleagues
- a. A faculty member promotes an atmosphere of fairness and equity in his or her relationships with colleagues in the institution.
 - b. A faculty member does not present the work of colleagues as his or her own, but acknowledges the work of others according to standards of the profession.
 - c. A faculty member participates in department and division, responsibilities, including curriculum design, committee service, institutional service, etc.
 - d. A faculty member supports an atmosphere of collaboration and cooperation among colleagues in issues of departmental concern as well as in the processes of group interaction in departments or in college work groups.
9. Standards of Professional Responsibility to the Institution
- a. A faculty member does not misappropriate institutional funds or property.
 - b. A faculty member's first obligation is to the institution. However, activities which serve to maintain or improve professional skills have a legitimate relationship to a faculty member's service, provided he or she complies with state law and institutional regulations relating to conflict of interest.
 - c. A faculty member shall not exploit the institution's name or his or her relationship with the institution for personal reasons.
 - d. A faculty member shall not maliciously destroy institutional property, disrupt institutional programs, inflict physical injury or threaten such injury to other persons on campus, interfere with legitimate activities of

other persons at the institution, or incite others in such destruction, disruption, injury, or interference.

- e. A faculty member provides accurate and complete information to the institution relevant to his or her qualifications as a faculty member or eligibility for institutional benefits.
- f. When a faculty member's commitments to the institution include research, publication, or other professional endeavors, he or she exercises reasonable care in meeting such commitments (see section II.GG.).
- g. A faculty member complies with all board of regents and board of trustees policies, rules and regulations.
- h. A faculty member provides service to the institution through appropriate participation in academic and campus committee assignments and by being responsible for teaching-related administrative tasks such as following procedures for equipment maintenance, purchase and inventory procedures.
- i. A faculty member attends commencement, convocation and other institutional meetings designated as required in the Full Time Faculty Handbook for Compensation and Workload.
- j. Resignations
 - (1) Resignations for immediate termination of employment shall be accepted only upon recommendation of the president (or designee).
 - (2) Decisions to resign at the end of the current appointment period should be submitted in writing to the appropriate dean three months prior to the end of the appointment time. The appropriate dean will advise the president (or designee) of such decision, and the president (or designee) will make whatever announcements may be necessary and desirable.
 - (3) If the date of termination (as noted in the faculty member's letter of resignation) is prior to the end of the appointment year, the faculty member forfeits benefits, such as accumulated leave and all rights and privileges as a faculty member on that date.

(4) The faculty member who resigns at the end of the appointment year also terminates all rights and privileges, such as rank and tenure, except as provided for in section IV.C.7.

(5) The faculty member who resigns prior to or at the end of the appointment year will be required to pay back any monies advanced.

10. Standards of Professional Responsibilities as Citizens

- a. Faculty members shall comply with all federal, state and local laws and regulations.
- b. Breaches of law by faculty members are matters for disposition by the legal system. Those who violate any federal, state or local laws or regulations may expect no immunity or special protection by reason of faculty status. Violations of law may be matters for disposition by the college as well.

C. Faculty Appointment, Promotion, and Tenure

1. Terms of Appointment

The terms and conditions—including department, salary, title, and duration—of every appointment are to be stated in writing and be in the possession of both the institution and the faculty member before the appointment begins.

2. Evaluations¹

- a. The associate dean is responsible for coordinating the evaluation of faculty members.²
- b. Evaluations shall comply with the college approved evaluation policy and address the standards of professional responsibility as set forth in section IV.B. Examples may include:

(1) excellence in teaching;

(2) professional or occupational development;

¹ See the college approved evaluation process for specific procedures.

² Disciplinary issues are the responsibility of the supervisor, who may consult with Human Resources, if necessary.

- (3) leadership and professional service contributions to the department, division, school, and college;
- (4) student consultation and advising;
- (5) attainment of creditable academic degrees and/or certificates in one's chosen field of professional responsibility;
- (6) evidence of professional experience;
- (7) depth of understanding in the chosen field and contribution to knowledge; and
- (8) the individual's general attitude toward work, students, and colleagues.

3. The Tenure Process for Tenure Track Faculty

- a. Granting tenure implies a commitment by the college to defend faculty members' academic freedom. Likewise, faculty members who are granted tenure make an equally strong commitment to meet their professional responsibility to serve their students, their colleagues, their discipline, and the college in a manner befitting an academic person. It also raises a strong presumption that those granted tenure are competent in their discipline, competent as teachers, and competent as colleagues. Granting tenure is regarded as the college's most critical personnel decision. It is therefore imperative, before such commitments are made, that a responsible evaluation and mentoring process for tenure track faculty be followed to ensure that the most highly qualified candidates available are granted tenure.
- b. If at any time during the probationary period, the sitting tenure committee recognizes that the tenure-track faculty member is not fulfilling his/her professional responsibilities, then the committee should assist the faculty member in developing a plan for improvement e.g., working with a mentor, Faculty Development, supervisor, or others.
- c. Tenure is achieved and held within an instructional department; however, tenure is awarded to a faculty member, and not to a position. If the position is eliminated, the tenured faculty member maintains tenure, but in another position. (see section IV.D.)

- d. The awarding of tenure follows a formal process of six years that involves annual evaluations of tenure track faculty. Starting the second year, faculty members will receive a letter of progress or a letter of concern. Faculty members are awarded tenure by the president of the college upon both recommendation of the department sitting tenure committee and the dean. The awarding of tenure by the president automatically includes rank advancement to associate professor effective the beginning of the next academic year, July 1 (see sections IV.C.3.f.(1), and IV.C.3.m.(2)).
- e. If there is no consensus between the committee and the dean, then the probationary period may be extended in accordance with section IV.C.3.g.(1).
- f. Beginning with the tenure-track appointment to the rank of assistant professor or to a higher rank, the probationary period may include full-time service in all institutions of higher education (see section IV.C.3.l.(2)).
 - (1) A maximum of three years of previous satisfactory academic service as full-time appointment faculty in higher education may be credited to a faculty member's normal six year probationary period at Salt Lake Community College, at the discretion of the president (or designee) upon written request and recommendation of the Sitting Tenure Committee in consultation with the majority of the department faculty.
 - (a) Written requests for previous successful academic service is contingent upon receipt of a third letter of progress.
 - (b) To apply, the faculty member must submit to the Sitting Tenure Committee a portfolio of evidence demonstrating meeting SLCCs professional performance standards for each year to be credited from another institution.
 - (2) In exceptional cases the board of trustees may grant full tenure upon recommendation of the department faculty and the president (or designee).
- g. In the probationary period, a faculty member must receive five letters of progress, one of which must be received in the last year of the probationary period.

- (1) If a faculty member receives a first letter of concern during the sixth probationary year, or if there is no consensus between the Tenure Committee and the dean regarding granting of tenure, the probationary period may be extended one year at the discretion of the president.
 - (2) A second letter of concern serves as notice of termination for faculty cause effective at the end of that contract year. (see section IV.E.)
- h. Persons eligible for tenure include all tenure-track faculty who are appointed from state education and general funds with a regular salaried (non-hourly), nine- or twelve-month appointment.
- i. Division/Department Faculty Files
- (1) All information regarding a faculty member's performance reviews, progress toward tenure, as well as post-tenure performance reviews, will be contained in the division/department faculty file maintained within the division/department (see section III.O.) and is available to the faculty member at any time and to the department Sitting Tenure Committee during the tenure review process.
 - (2) A faculty member has the right to make additions to the file on his or her behalf.
 - (3) In any correspondence with others pertaining to the tenure of a faculty member, the correspondent will be notified that the files are open to the faculty member.
 - (4) The associate dean is responsible to notify the faculty member of any addition to the file.
- j. Forming the Department Tenure Standing and Sitting Committees
- (1) By the third Friday of fall semester, the associate dean will contact all tenured faculty of each department to elect a department Standing Tenure Committee to serve for that academic year. The department standing tenure committee shall consist of at least three tenured faculty members. The department faculty shall decide on the number of tenured faculty members, beyond three, on the standing tenure committee to ensure having enough members to avoid overloading any one member of the committee with this responsibility. All tenured

faculty members are eligible to serve on the Standing Tenure Committee, but may not serve on their own Sitting Tenure Committee.

- (2) If there are fewer than four tenured faculty members in a given department, the associate dean, after consultation with department tenured faculty, shall combine the tenured faculty of that department with tenured faculty of other closely related department(s), preferably within the division to form the standing committee.
- (3) The tenured faculty members of the department determine the composition of the department Standing Tenure Committee.
- (4) Each tenure-track faculty member shall be evaluated by a department Sitting Tenure Committee which consists of the department/division associate dean and two selected faculty members from the standing committee; these two are selected by each faculty member being evaluated. If a faculty replacement is needed for the sitting committee, the associate dean and the faculty member under review shall agree on a replacement from the standing committee. The Sitting Tenure Committee selects its own chair.

k. The Performance Evaluation

- (1) Each member of the department Sitting Tenure Committee shall review the division/department tenure file of the faculty member being evaluated before the performance evaluation meeting to be held by February 15.
- (2) The associate dean shall call the performance evaluation meeting with the department Sitting Tenure Committee no later than February 15. At that meeting, the committee reviews the performance of each tenure-track faculty member.
- (3) The performance evaluation meeting
 - (a) At this meeting, the department sitting tenure committee members are responsible to meet with the tenure-track faculty member for consultation, and to use the following to achieve the evaluation identified in section IV.C.2:
 - (b) The division/department tenure file, which is available to the faculty member at all times and to the Sitting Tenure Committee during tenure review, includes but is not limited to the most

current student evaluations of faculty in all applicable formats (e.g., on-line, traditional classroom, telecourse), past performance evaluations, and recommendations from previous probationary years. (see section III.O.)

- (c) Observations of teaching competence by members of the department Sitting Tenure Committee.
- (d) Information submitted by the faculty member being evaluated explaining the reasons why he or she should progress toward tenure, including the results of any plan for improvement developed by the faculty member (see section IV.C.3.c.).
- (e) Forms submitted by members of the department sitting tenure committee including evaluations conducted by the associate dean using the approved college process, committee service to the college, and commendations.

I. Vote and Recommendation.

- (1) After the faculty member being considered has left the performance evaluation meeting, the department sitting tenure committee votes to recommend either a letter of concern or progress. Each member of the Sitting Tenure Committee has an equal vote.
- (2) Based on this vote, by majority, the committee recommends to the dean either a letter of progress or a letter of concern. If the Sitting Tenure Committee cannot achieve a majority decision to recommend a letter of progress, it will recommend a letter of concern. The recommendation to the dean must be clearly for progress or of concern and must include the rationale for the recommendation. If the dean disagrees with the committee's recommendation, she or he should consult with the committee before writing the letter of progress or letter of concern.
- (3) The letter of progress or letter of concern must reach the faculty member no later than March 31 and must contain the rationale for the action.

m. Notification of Tenure Decision

- (1) During the final year of probation, the president (or designee) shall notify, in writing, each faculty member in question of the decision to grant or deny tenure.
- (2) The probationary period may be extended, interrupted, or reduced at the discretion of the provost for Academic Affairs in collaboration with the department faculty and academic supervisor (see sections IV.C.3.h., IV.C.3.i., and IV.C.3.i.(1)).
- (3) A copy of the letter granting or denying tenure is to be placed in the college personnel file and the division/department tenure file of the recipient.

4. Transfer of Tenure

- a. If a faculty member moves to a different department, tenure or probationary years in the tenure-track will transfer with the faculty member upon approval of the receiving department faculty and in compliance with other provisions of this document (see section IV.C.3).
- b. The receiving department's Standing Tenure Committee shall acknowledge this approval in writing.

5. Post-Tenure Performance Review

- a. The faculty member's supervisor is responsible for coordinating the post-tenure review with respect to the standards of professional responsibility (see section IV.B.) and in accordance with the current college-approved review process.
- b. If the Sitting Tenure Committee recognized that the faculty member is not fulfilling his/her professional responsibilities, then the committee should assist the faculty member in developing a plan for improvement e.g., working with a mentor, Faculty Development, supervisor, or others.

6. Faculty Becoming Administrators

- a. A member of the faculty who has received tenure continues his or her faculty tenure during the time he or she is in a college administrative position. However, a tenure-track faculty member who moves to an administrative position does not acquire added satisfactory years in gaining faculty tenure while in the administrative position.

- b. The procedures set forth in this document regarding termination do not apply to administrators.
- c. Administrators Returning to Teaching
 - (1) Administrators who previously achieved tenure in a teaching department retain tenure and are eligible at any time, regardless of whether or not a position is open, to return to a full-time teaching position for which they are qualified at the appropriate faculty salary.
 - (2) An open position may not be created by termination or reassignment of a tenured or tenure-track faculty member who is progressing satisfactorily.

7. Cessation of Tenure

Tenure ceases upon retirement, resignation or dismissal. However, a tenured faculty member who resigns or is dismissed for other than violation of standards as set forth in this document may be rehired with full tenure under the provision of section IV.C.3.f.(2).

D. Procedures For Reduction In Status Or Termination

- 1. The institution is permitted the utmost discretion in determining who will be retained, so long as the institution does not act in an arbitrary or capricious manner under the procedures of this document. No faculty member may be terminated for reasons that violate his or her academic freedom or legal rights.
- 2. Procedures for Faculty Cause.
 - a. For tenure-track faculty, receipt of a second letter of concern shall serve as notice of termination for faculty cause at the conclusion of that academic year.
 - b. In the event the institution proposes to terminate a tenure-track faculty member at another time or a tenured faculty member at any time for faculty cause the responsible administrator shall use the following procedures:
 - c. Written Notice of Intent to Terminate or Reduce Status.

The faculty member's associate dean shall give written notice of the intent to terminate or reduce status. Written notice shall include:

- (1) the justification for the reduction in status or termination in sufficient detail to enable the affected faculty member to understand and respond. The justification shall include a concise statement of documented facts, conduct, or circumstances reported to constitute failure to comply with the standards set forth in this document; and
- (2) the names of those persons making the charges (if applicable) and the nature of the factual evidence.

d. Faculty Member Response to Notice.

The affected faculty member has a reasonable time, at least 15 calendar days from receipt of the letter of termination or intent to terminate or second letter of concern, if he or she chooses to present written evidence in his or her defense.

e. Administrative Review and Response.

- (1) If the faculty member presents any new material on his or her behalf, then the associate dean must review it and respond within a reasonable period.
- (2) Within 15 calendar days, or other agreed upon period, the associate dean must either affirm or rescind the written notice of termination or reduction in status.
- (3) If the decision is to affirm the written notice of termination or reduction in status, then within 15 calendar days of that decision, the associate dean must inform the faculty member in writing of both the affirmation and his or her right to request due process (see section IV.E.).

f. The Hearing.

The faculty member may request a hearing before a sitting hearing committee under section IV.E. of this document.

3. Procedures for Medical Cause

- a. Proceedings to reduce the status of or terminate a faculty member for impaired performance due to medical cause shall be initiated by a written statement to the provost by the faculty member's dean.
 - b. Within 10 days after receipt of the written statement, the provost shall notify the faculty member thereof and inform him or her of the right to a conference and an appropriate professional examination, at institutional direction and expense. The faculty member may submit medical information from his or her treating or evaluating professional to the college and its evaluating professional(s).
 - c. If the faculty member refuses, or is unable to submit to, medical examination, or if the medical examination is made and the examination and the examiners find the faculty member to be suffering from a medical or psychological condition which has a substantial adverse effect on the performance of his or her duties, the provost may refer the matter to a hearing committee for further proceedings.
 - d. Thereafter, the procedures set forth in section IV.E of this document shall be followed.
 - e. If a tenure-track faculty member who has been successfully progressing toward tenure is to be terminated for medical cause, and if an appropriate position is available, he or she may choose to:
 - (1) accept an appointment to a college-offered open position with substantially reduced status for which he or she is qualified, or
 - (2) apply for any open positions for which he or she is qualified, in competition with other applicants.
 - f. If the faculty member with a medical condition is a qualified individual with a disability as defined by, and covered under, the Americans with Disabilities Act, reasonable accommodations, including transfer to a vacant position, shall be provided according to this act, its applicable regulations, and case law.
4. Procedures for Institutional Cause
- a. Procedures for reduction in status or termination for institutional cause shall comply with the following requirements subject to the direction of the Utah State Board of Regents Policy r. 482.

- b. Written notice of the institutional cause.
- c. Bona fide credit program discontinuance shall be determined under established policies and procedures of the board of regents.
- d. Procedures for Tenured Faculty
 - (1) Placement in another Suitable Position.
 - (a) Before terminating a tenured faculty member because of institutional cause, the academic administration, with faculty participation, shall make a determined effort to place the faculty member in another vacant position for which the faculty member is qualified and within the department, when possible, or elsewhere in the institution as provided by institutional policy and hiring procedures.
 - (b) This placement must be acceptable to both the faculty member and the receiving department faculty. A tenured faculty member to be dismissed has no right, however, to displace another faculty or staff member from a position to maintain employment.
 - (2) Written Notice

The intent of the college is that a faculty member shall be given 12 months, but not less than six months, written notification prior to termination or reduction in status due to institutional cause.
 - (3) Severance Pay
 - (a) The combination of written notice and severance pay must equal six months of the faculty member's appointment or, in the case of reduced status, written notice plus the difference between the old and new salaries for the balance of the six month appointment.
 - (b) For example: if a faculty member is given three months' notice, he/she must receive three months' severance pay or, in the case of reduced status, the difference between the old and new salaries for three months.
- e. Procedures for Non-Tenured Faculty

- (1) The right of advance notice under this section shall not apply to faculty members serving a temporary appointment for one year only, to those serving in a term appointment, to those serving appointments stipulating that they will not be renewed, and to those serving in company/agency-funded appointments in open-ended training programs that can be terminated at the company's or agency's discretion.
- (2) Any non-tenured faculty member other than those excepted in section IV.D.3.e whose annual appointment is affected by a discontinuance, or by substantially reduced status shall be given advance notice in writing by the president (or designee) as follows:
 - (a) A non-tenured faculty member who has served one year or more shall, where possible, be given six months written notification prior to termination or reduction in status.
 - (b) In the case of termination, the combination of written notice and severance pay must equal six months of the faculty member's appointment.
 - (c) In the case of reduced status, either six months' notice will be given, or the faculty member will receive payment equaling the difference between the old and new salaries proportional to the deficit in the months of notice.
 - (d) For those serving in their first academic year, notice must be given by March 31 of that academic year.
 - (e) If written notice is not given by March 31, three months' severance salary shall be paid in the case of termination; in the case of reduced status, the difference between the old and new salaries for three months shall be paid to the faculty member.
 - (f) If a tenure-track faculty member who has been progressing successfully toward tenure is to be terminated for institutional cause, he or she may choose to:
 - (i) accept a college-offered appointment to an open position with substantially reduced status for which he or she is qualified; or
 - (ii) apply for any open positions for which he or she is qualified, in competition with other applicants.

- (3) A tenure-track faculty member will be given preference in the screening and selection process—similar to preference given for higher educational attainment, specialized work experience, or specific skills.
- (4) If a tenure-track faculty member is successful in receiving a faculty appointment within one year beyond the date on which he or she was terminated or his or her status was reduced, rank and tenure progress achieved prior to termination or reduced status will continue in a new position if approved by department faculty. Tenure does not accrue during the period of unemployment.

5. Report to the President.

A full report of every termination, reduction in status or compensation, and renewal with substantially reduced status or compensation pursuant to this section must be furnished to the president (or designee).

6. Rehire

If a position becomes open during a period of one additional year beyond the date of termination or reduction in status provided for under institutional cause, a tenured faculty member will be rehired into that open position and will retain status as a tenured faculty member in the new department, provided that he or she meets the minimum qualifications specified by the department for the position, has approval of the department faculty, and was in good standing pursuant to the provisions of this document at the time of termination or reduction in status.

E. Hearing Procedures After Denial of Tenure, Notice of Termination or Reduction in Status

1. Request For Hearing

- a. The faculty member, or someone representing the faculty member, may submit a written request for a hearing as outlined in this section if the faculty member believes that the institution has reduced his or her status, denied tenure, or terminated him or her for:

(1) an alleged violation of standards as set forth herein;

(2) that the action was a violation of academic freedom, statutory and constitutional law; or

(3) is the result of arbitrary or capricious action. (For all other due process or grievance procedures, see the Employee Grievance Policy.)

- b. The faculty member must submit to the provost a written request for hearing within 15 calendar days after receipt of notice of termination (including a second letter of concern) or reduction in status.
- c. The hearing, as outlined in this section, shall be met through a formal procedure initiated by the provost upon receipt of the written request for a hearing.
- d. Failure by the faculty member to submit a written request for a hearing within the stated timeframe would constitute termination of any further proceedings.

2. Hearing Preliminaries

NOTE: All involved shall respect the confidentiality of the proceedings insofar as such confidentiality does not interfere with the college's obligation to follow these procedures.

a. Responsibilities of the provost.

When the provost receives a written request for a hearing, he or she shall ensure that the following occur:

- (1) Establish a Sitting Hearing Committee (see section III.JJ for hearing committee composition). In cases involving medical cause, the Sitting Hearing Committee shall be composed of such individuals as designated by the provost and at a minimum shall include the appropriate dean, the ADA coordinator, and such individuals as have professional expertise in the issue being considered.
- (2) Set hearing date(s) and timeline of events. The hearing shall begin not more than 30 calendar days after the request for hearing.
- (3) Notify all parties, including the committee, and witnesses of the date(s) and timeline of events.
- (4) Require the parties to provide all relevant documents for exchange by the date(s) specified in the timeline.

- (5) Require the parties to provide a list of potential witnesses who may testify at the hearing by the dates specified in the timeline.
- (6) Require the parties to identify who they will bring as advisor to hearing proceedings (see section IV.E.3.c.).
- (7) Provide copies of all documents submitted, including the witness list, to all parties involved in a reasonable time for all parties to review before the hearing.
- (8) Ensure that a taped record will be made of the proceedings and made available to the faculty member.

b. Sitting Hearing Committees

- (1) A Sitting Hearing Committee comprised of seven members from the Standing Hearing Committee shall be selected as needed for each issue requiring a Sitting Hearing Committee review.
- (2) Composition of the Sitting Hearing Committee.

The Faculty Senate president and the provost, in consultation, shall select six Sitting Hearing Committee members from the Standing Hearing Committee, subject to the approval of the college president.

(3) Teaching Coverage for the Sitting Hearing Committee

Arrangements will be made to cover the class time of Sitting Hearing Committee members if the hearing interrupts the members' ability to meet teaching obligations.

(4) Chair of the Sitting Hearing Committee.

(a) The provost shall appoint the sitting committee chair to oversee the proceedings.

(b) The chair shall conduct the hearing in accordance with the procedures set forth in this document.

3. Hearing Procedures and Conduct

- a. In all cases the parties shall have a reasonable opportunity to appear and testify, call witnesses, present evidence, and comment on the issues.

- b. Generally, Sitting Hearing Committee members will conduct the questioning. However, upon demonstration of good cause, the chair is entitled to allow questioning by the parties.
 - c. Both parties may bring one advisor of their choosing to the hearing. If the advisor is an attorney, the attorney's role may be either:
 - (1) to advise only; or
 - (2) to advise and act on the faculty member's behalf. If (2), then the college will also be represented by legal counsel.
 - d. If it is likely that the president (or designee) will hear any appeal from the proceeding, he or she generally should not appear as a witness.
 - e. The Sitting Hearing Committee is authorized to mandate the attendance of institutional witnesses.
4. Burden of Proof
- a. In the hearing, the burden of proof shall be established by a preponderance of evidence.
 - b. In a hearing for faculty member cause, the administration has the burden of proof to show that the action proposed is reasonable under the circumstances. If there is a proposed sanction, the administration has the burden to show that reasonable cause exists.
 - c. In a hearing for institutional or medical cause the faculty member bears the burden of proof to show that the cause does not exist, that the action proposed is discriminatory for reasons which are constitutionally or statutorily impermissible, or that notice requirements were not substantially met.
5. Non-judicial Proceedings.
- a. The procedures, including hearings, and notice requirements set forth in this document or institutional policies and procedures are non-judicial in nature.
 - b. The rules of procedure and evidence in courts of law are not applicable.
6. Continuance Of Hearing.

- a. Continuance of Hearing Upon Emergency
 - (1) Emergencies are grounds for a reasonable extension of the time within which an answer must be filed, but such emergencies must be of a serious and compelling nature.
 - (2) The chair of the Faculty Sitting Hearing Committee shall make the determination of whether or not an emergency exists.
- b. Continuance of Hearing Upon Request
 - (1) The Hearing before a committee may be continued upon good cause (e.g. illness, unavoidable conflict, etc.) shown by any member of the committee or by the faculty member.
 - (2) The chair of the Faculty Sitting Hearing Committee shall make the determination of whether or not good cause exists.

7. Sitting Hearing Committee Vote

A simple majority of the voting members shall be required for a decision to recommend sanctions or termination of a faculty member.

8. Recommendation

- a. The Sitting Hearing Committee shall reach its recommendation in conference, on the basis of the hearing, within five working days after the conclusion of the hearing.
- b. The appropriate dean and the faculty member shall be notified in writing of the recommendation and shall be given a copy of the record of the hearing. (When the issue is institutional cause, the recommendation shall conform to section IV.D.4.)
- c. The Sitting Hearing Committee shall send its recommendation to the dean who will review the recommendation and forward that recommendation along with a separate, independent recommendation to the provost who will issue a decision.

9. Right to Appeal

- a. The faculty member may submit to the president a written appeal of the Sitting Hearing Committee's recommendation and the decision of the provost within seven working days of receipt of the recommendation.

- b. The president's decision will be considered final.
- c. The faculty member and the institution shall be subject to the provisions outlined in this document and/or institutional policies and procedures. Until procedures, including appeal processes have been implemented and concluded on the merits, the faculty member has not exhausted his or her administrative remedies.

F. Suspension Pending Action

1. In the event that a faculty member is formally or legally charged with a serious criminal act affecting the public interest of the college, the provost may suspend the faculty member with pay from his or her professional duties upon written notification to him or her and to the board of trustees.
2. This suspension with sanctions, if imposed, shall remain in effect until such time as the faculty member has resigned, been acquitted, or been dismissed from the college; however, this suspension may be reviewed at the provost's request and should be reviewed within six months of the provost's initial action. Suspensions with sanction may be revoked and the faculty member reinstated at the provost's discretion.
3. Sanctions may be imposed during suspension.

G. Sanctions

1. Permissible Sanctions.

The following sanctions are permissible for a violation of the standards set forth in this document (All but verbal censure will be documented and placed in the official college personnel file.):

- a. verbal censure;
- b. written reprimand;
- c. change in responsibilities;
- d. suspension with pay (not exceeding one year);
- e. probation;
- f. reduction in status;

- g. reduction in compensation;
- h. suspension without pay (not exceeding one year); or
- i. dismissal.

2. Sanctions and Salary

- a. The faculty member shall draw his or her salary during sanctions imposed under sections IV.G.1.a through IV.G.1.i.
- b. A combination of sanctions may be imposed where appropriate and consistent with the provisions of section IV.G.
- c. When a sanction less than dismissal is imposed, the terms of imposition may include a requirement that the faculty member make restitution or remedy a situation created by a violation of a standard.

3. Purpose of Sanctions

Sanctions may be imposed on a faculty member when it has been determined by proceedings pursuant to this document that he or she has violated a standard, if the imposition of the sanctions will serve one or more of the following purposes:

- a. to encourage self-improvement or reform by a faculty member whose conduct demonstrates the need for self-improvement or reform;
- b. to indicate to the faculty member the seriousness of his or her violation and thereby deter him or her from future violations;
- c. to reassure the institutional community that violation of the standards which the faculty member has broken will not be tolerated, thereby serving to maintain respect for and commitment to the standards by other members of the institutional community; or
- d. to remove from institutional employment faculty members whose inability to continue in beneficial service to the institution has been clearly demonstrated.

4. Determining Appropriate Sanctions

When determining appropriate sanctions, the following shall be considered:

- a. the purposes set forth in section IV.G.3;
- b. the nature of the violation relative to the sanctions; and
- c. fairness to the faculty member involved, including such issues as personal circumstances, prior service to the institution, and any other relevant matters to the situation and the faculty.

5. Non-Punitive Measures

When non-punitive measures such as guidance, counseling, therapy, leave of absence, voluntary resignation, or early retirement are available and will provide substantial assurance that the faculty member will not repeat his or her violation of the standards, and if the faculty member consents thereto, such measures may be taken in lieu of disciplinary sanctions under this document, unless substantial institutional interests would thereby be compromised.

6. No Double Jeopardy

- a. No faculty member shall be twice subjected by the institution to proceedings for the same act.
- b. A rehearing at the direction of the president following an appeal by the faculty member is not a second proceeding.

Date of last cabinet review: November 15, 2016

The originator of this policy & procedure is the Faculty Senate. Questions regarding this policy may be directed to the originator by calling 801-957-4645.