

# R481<sup>1</sup>, Academic Freedom, Professional Responsibility, Tenure, Termination, and Post-Tenure Review<sup>2</sup>

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

## 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, tenure and post-tenure review 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 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 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 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.

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<sup>1</sup> Approved December 20, 1973; amended May 15, 1985; revised April 28, 1989; amended January 24, 1997, April 15, 2009, and November 18, 2011.

<sup>2</sup> 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.

- 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. Upon the award of tenure by the institution, faculty members may be terminated<sup>3</sup> only for cause (see section 3.6.), bona fide program or unit discontinuance as defined in 3.9.1, or bona fide financial exigency as defined in R482, and as specified in institutional policies and rules.
- 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 Tenure-track Period:** Beginning with appointment to a tenure -track position (usually full-time instructor or assistant professor, or as determined by institution policy) the tenure-track period should not exceed seven years at the institution. The institution shall provide policy relative to credit towards the tenure-track period for service at other institutions of higher education.
- 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 Tenure-track Period:** Tenure-track faculty members shall have appropriate evaluation by their colleagues and such others as institutional policy shall provide during the tenure-track 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. Tenure-track 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 tenure-track faculty members.
- 3.6. **Reasons for Dismissing Faculty for Cause:** A faculty member may be recommended for dismissal for cause as determined by this policy and 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.

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<sup>3</sup> "Termination" and "dismissal," as defined by institutional standards and procedures under this policy, shall include "substantial reduction in status."

3.6.5. Inability or unwillingness to meet institutional expectations.

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:

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 committed 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 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.

3.8. **Procedures for Dismissal for Cause:** The Procedures for dismissal for cause of a tenured or tenure-track faculty member shall comply with minimal due process requirements as noted in 3.8.1.-3.8.4 below. 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 below. 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 tenure-track faculty.

3.8.1. Minimum Due Process Requirements.

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

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

3.8.1.3. Reasonable time and opportunity for the affected faculty member to present evidence in his/her defense;

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

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

3.9.1. Bona fide program or unit discontinuance as provided in Section 3.10.

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

3.10. **Bona Fide Program or Unit Discontinuance**

3.10.1. **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 single 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:

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

- 3.10.1.2. whether the unit offers or administers a degree, certificate, or some other credential;
  - 3.10.1.3. whether the unit has an identifiable curriculum or is formally described in current institutional catalogs or other publications;
  - 3.10.1.4. whether the unit has a separate budget as listed in official institutional documents.
- 3.10.2. **Bona Fide Program Discontinuance Defined:** Bona fide program discontinuance means the termination of a program (as defined in 3.10. above) for reasons based upon educational and academic considerations.<sup>4</sup> 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.. This does not preclude the reallocation of resources to other academic programs with higher priority based on academic and educational considerations.
- 3.10.3. **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.
- 3.10.4. **Notification to Board:** Notification of program or unit discontinuance is given the Board under Policy and Procedures outlined in R401: 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.
- 3.10.5. **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.
- 3.11. **Notice of Non-reappointment of Non-Tenured Faculty:** During the tenure-track 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:
- 3.11.1. **During First Academic Year of a One -Year Appointment:** Notice of non-reappointment shall be given no 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, notice should be given at least three months in advance of termination.
  - 3.11.2. **During the Second Academic Year of a Two-Year Appointment:** Notice of non-reappointment shall be given no 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, notice should be given at least six months in advance of termination.

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<sup>4</sup> Educational and academic considerations include, but are not limited to, the program analysis considerations in Policy and Procedures R401, , Approval of New Programs, Program Changes, and Discontinued Programs; and Policy and Procedures R411, Review of Existing Programs.

- 3.11.3. **After Two or More Years:** Institutional policy may set the minimum period for notice of non-reappointment at not fewer than six months before the expiration of an appointment after two or more years in the institution.
- 3.12. **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 than six months before the dismissal of the faculty member.
- 3.13. **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.
- 3.14. **Annual Review as Part of Assessing Faculty Competence and, if Funding Permits, Merit Pay Award:** : 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. When funding permits, a faculty member may be awarded merit pay consistent with institutional policies and process.
- 3.15. **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:
- 3.15.1.1. recognizing performance in the discipline's endeavors which demonstrates growth and development;
- 3.15.1.2. communicating to the faculty member specific areas in need of improvement related to performance in scholarship, teaching, and service, and
- 3.15.1.3. enhancing each individual's future productivity.
- 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:
- 3.15.2.1. teaching, through student, collegial, and administrative assessment.
- 3.15.2.2. the quality of scholarly and creative performance and/or research productivity.
- 3.15.2.3. service to the profession, school and community.
- 3.16. **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 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.