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Faculty Senate Executive Committee Agenda March 18, 2024

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Faculty Senate Executive Committee

March 18, 2024
3:30 – 5:00 pm
Champ Hall Conference Room
[Zoom](#) (Statewide)

AGENDA

- 3:30 Call to Order**..... Maureen Hearn
Approval of Minutes – [February 20, 2024](#)

- 3:35 University Business** Elizabeth Cantwell, President | Larry Smith, Provost

- 3:55 Faculty Senate Business** Maureen Hearn | John Ferguson | Grant Cardon

- 4:10 Information**
Education Policies Committee – [March 7, 2024](#) Paul Barr
Presidential Investiture | Faculty Forum Kerri Davidson
Limited English Proficiency (LEP) [Draft Policy](#) | [Procedure](#) | [Summary](#) Matt Pinner
(This information item has already been moved to the Faculty Senate but was not presented at that time.
It is being brought back. This needs no discussion at the FSEC, just a space holder for the upcoming
senate meeting.)

- 4:20 Reports**
N/A

- 4:20 Old Business**

- 4:25 New Business**
[Administrator Evaluation Discussion](#) James Morton
Faculty Code 409 [Redline](#) | [Clean](#) & 410 [Redline](#) | [Clean](#) (first reading) ... John Ferguson
Faculty Senate President Elect..... Maureen Hearn

Adjourn: 5:00 pm



February 20, 2024
3:30 – 5:00 pm
Old Main-Champ Hall

MINUTES

Present: John Ferguson, Jon M. Huntsman School of Business (Past-President)
Matt Bunnell, College of Agriculture and Applied Sciences
Carol Kochan, University Libraries
Michele Hillard, Executive Secretary
Yu Huang, College of Engineering
Don Busenbark, Statewide Campuses
Denise Stewardson, Extension
Elizabeth Cantwell, President
Maureen Hearn, Caine College of the Arts (President)
Yoon Lee, Emma Eccles Jones College of Education and Human Services
Grant Cardon, College of Agriculture and Applied Sciences (President-Elect)

Absent: Larry Smith, Provost
Danielle Ross, College of Humanities and Social Sciences
Sarah Null, S.J. & Jessie E. Quinney College of Natural Resources

Guests: Paul Barr, EPC Chair
Matt Pinner, Executive Director, Office of Equity
Tracy Hulse, Director, Parking & Transportation
Caitlin McLennan, Sustainability Coordinator
Benjamin George, Associate Professor

Call to Order - Maureen Hearn
Approval of Minutes – [January 22, 2024](#)
Minutes approved as distributed.

University Business - Elizabeth Cantwell, President | Larry Smith, Provost
President Cantwell – As of right now the state legislature is looking at a 2.9% increase for performance monies. There will be a certain flat amount and a certain amount for merit. This information has been provided to the USUSA and will be brought up in the truth in tuition hearing next week. At that meeting there will be two briefings, one on tuition and one on fees. President Cantwell is going back to the capitol tomorrow and Thursday. The general education requirements are being changed at the University of Utah and the question is, where will that go next year? Legislators are strongly affiliated with the Heterodox Academy, and they want to make these changes, but not a lot will happen at this point. Some years they provide a heads-up and the next year there will be a push. If the State is going to move against higher education the president would like to see a commission put together and this is going to be challenging during this political cycle. The legislature ended up with a signed bathroom and Diversity, Equity, and Inclusion bill. USU can and will manage within the construct of the bills. Currently watching the roles and responsibilities of the Presidents. There is a strong feeling in the legislature that the 16 Utah institutions are costing too much. The legislature would like to see institutions share their services. USU is looking at MOUs to see what is currently being shared. We will need to provide sharing services to the legislature annually. President Cantwell will be staying in Salt Lake City next

year for the legislative session. Held the final listening sessions in Vernal, Roosevelt and Salt Lake City. Will be moving a lot of the units under Robert Wagner back into the Provost's Office. Currently working on a design process for the reorganization of the institution and this team is being led by Kerri Davidson who is the new Chief of Staff. Right now, the president has 18 direct reports. Some of them will move into the Provost's Office. Restructuring will be happening shortly. What does it look like to design for the future? Bring in a customer relationship management system that will help with managing the student lifecycle. Some of Robert's units will move into other places. John O'Neill is also coming in as the Vice President of Operations. Both he and Kerri will begin their employment on March 1. USU will end up with an operation team, provost team and then 4-5 Vice Presidents that will report to the president. Going to be working on policies and aligning them. This effort will begin sometime next year. Predicting that this will take up to two years.

Faculty Senate Business - Maureen Hearn | John Ferguson | Grant Cardon

Maureen Hearn – In order to follow Robert's Rules, the Faculty Senate President will allow individuals to present their reports and then there will be a motion and a second made. Once the motion and second has been made it will be opened for discussion/questions before a full vote is taken.

Information

Educational Policies Committee – [December 7, 2023](#) | [January 4, 2024](#) | [February 1, 2024](#) - Paul Barr
Motion to move the Educational Policies Committee information to the Faculty Senate Agenda made by Yoon Lee. Seconded by Yu Huang. Moved to agenda.

December 7, 2023

Academic Standards Subcommittee - Proposed language for a second degree and the difference between bachelors and associates. Update the second associate's language to mirror the bachelor's degree language.

General Education Subcommittee – Approved six General Education designations.

Curriculum Subcommittee – Approved 124 course approvals and 30 R401 proposals. The committee had an initial discussion regarding the impact of USHE Policy R475.

January 4, 2024

Academic Standards Subcommittee – The subcommittee was asked to review the catalog page “Conflicts with beliefs, alternative course requirements.” The deadline for this update is February 1, 2024

General Education Subcommittee – Approved four General Education designations. Policy R470 has been approved and outcomes will be coming out this spring.

Curriculum Subcommittee – Approved 103 course approvals and eight R401 proposals. USHE is working on Policies R401, R402, R411 and R475.

February 1, 2024

Academic Standards Subcommittee – The committee reviewed the catalog page “Conflicts with Beliefs, Alternative Course Requirements.” There is some concern about the statement in considering whether to provide an alternative requirement, the instructor may evaluate the sincerity, but not the validity, of the student's beliefs.

General Education Subcommittee – Approved six General Education designations.

Curriculum Subcommittee – Approved 355 course approvals and 22 R401 proposals. Approved CIP Code changes for Econometrics and Quantitative Economics.

Limited English Proficiency (LEP) [Draft Policy](#) | [Procedure](#) | [Summary](#) - Matt Pinner

Motion to move the Limited English Proficiency Policy to the Faculty Senate Agenda made by John Ferguson. Seconded by Matt Bunnell. Moved to agenda.

Policy 521 – Limited English Proficiency and the accompanying procedures are required as a condition of our receipt of federal funding. The purpose of this proposal is to ensure that persons with Limited English Proficiency have meaningful access and an equal opportunity to participate in our services, activities, programs and other benefits.

Reports

[Faculty Diversity, Development, & Equity](#) Annual Report – Grant Cardon

Motion to move the Faculty Diversity, Development and Equity Annual Report to the Faculty Senate Agenda made by John Ferguson. Seconded by Yu Huang. Moved to agenda.

Committee reviewed and summarized past efforts related to salary equity. Specifically, there was an acknowledgment of the challenge where large annual raises could potentially set individuals behind on salary when they receive a promotion. Discussed research conducted by a graduate student on salary equity.

[Parking and Transportation Committee](#) Annual Report - Tracy Hulse

Motion to move the Parking and Transportation Committee Annual Report to the Faculty Senate Agenda made by John Ferguson. Seconded by Grant Cardon. Moved to agenda.

Completed a new parking lot for Aggie Village Laundromat. Implementing T2 MobilePay in the Taggart Student Center visitor lot. There will be a virtual permit system coming onboard and this will begin July 1. Lost 100 stalls in the purple lot due to the construction of the Mehdi Heravi building. Construction is beginning on the south campus business building, parking terrace, and housing structure. Big Blue Terrace was built in 1979 and is in the last cycle of its life. There will be an increase of 7% in parking permits this year. This is for faculty, staff, and students. The largest increase is \$25 per year. Parking fees will continue to increase in order to pay for newer parking terraces.

Sustainability Council [Annual Report](#) | [Summary](#) - Caitlin McLennan | Zac Cook

Motion to move the Sustainability Council Annual Report to the Faculty Senate Agenda made by Carol Kochan. Seconded by John Ferguson. Moved to agenda.

Looking at a linear trend of 3% emissions reduction over time. Our annual carbon footprint, however, increased by 12%. Conducted an emissions reduction comparison with other peer and Utah institutions. Looking at progress on some of the key recommendations. The president thanked Caitline for her great work and stated that she has the support of the president.

Old Business

Update on IRB Ad Hoc Committee - Benjamin George

Motion to include the IRB Ad Hoc Committee updated to the Faculty Senate Agenda made by John Ferguson. Seconded by Matt Bunnell. Moved to agenda.

The committee has been working on the survey for quite a while. Hoped to have the survey submitted last semester but that did not work out. It is done and they are hoping to distribute it next week through the Faculty Senate. Asking that the Faculty Senate try and aid in the distribution of the survey. It will be open for a month. to gather as much information as possible. Plan to provide a preliminary report at the last Faculty Senate meeting of the year. This is a peer survey and not a hierarchal survey. Assure people who sees the data, where it will be kept and other concerns that may seem sensitive. They may consider benchmarking with other institutions and include a remedy in the policy. Will use the data to see what the issues looks like.

Update on Faculty Code 405 - John Ferguson

Motion to include the Faculty Code 405 updated to the Faculty Senate Agenda made by Matt Bunnell. Seconded by Yoon Lee. Moved to agenda.

This faculty code has already been sent through the process and is waiting with the President. We will pull it back and add a new piece. We need to include the College of Veterinary medicine information.

New Business

Faculty Code 407 [Redline](#) – [Clean](#) | 408 [Redline](#) – [Clean](#) (first reading) - John Ferguson

Motion to move Faculty Code 407 to the Faculty Senate Agenda made by Matt Bunnell. Seconded by Grant Cardon. Moved to agenda.

Very few changes. PRPC and the committee have gone over these policies multiple times. Changes to 2.6 transfer of tenured faculty. Also changing 2.7.1 aligning timeframes. Fourteen days will be the standard response timeframe.

Motion to move Faculty Code 408 to the Faculty Senate Agenda made by Matt Bunnell. Seconded by Grant Cardon. Moved to agenda.

Adding language for clinical instructors for the College of Veterinary Medicine. Aligned with 14 days and with promotion committee. Everything must be in by December 18.

Adjourn: 5:00 pm

Report from the Educational Policies Committee February 1, 2024

The Educational Policies Committee (EPC) met on March 7, 2024. The agenda and minutes of the meeting are posted on the Educational Policies Committee web page (www.usu.edu/epc). During the March 7, 2024 meeting of the EPC, the following actions were taken:

1. **General Education Subcommittee**
 - No meeting
2. **Academic Standards Subcommittee**
 - No meeting
3. **Curriculum Subcommittee**
 - March 7, 2024
Course Approvals –0

Request from the Department of Aviation Technology in the College of Agriculture and Applied Sciences to [offer an Aviation Dispatch Minor](#).

Request from the Department of Aviation Technology in the College of Agriculture and Applied Sciences to [offer a Professional Pilot Accelerated Fixed Wing Emphasis](#).

Request from the Office of Extension in the College of Agriculture and Applied Sciences to [establish the Center for Family Life Programs](#). (with drawn)

Request from the Department of Nutrition, Dietetics and Food Sciences in the College of Agriculture and Applied Sciences to [offer a Food Manufacturing Certificate of Proficiency](#).

Request from the Department of Technology, Design and Technical Education in the College of Agriculture and Applied Sciences to [offer a Basic Corrections Officer Certificate of Proficiency](#).

Request from the Department of Technology, Design and Technical Education in the College of Agriculture and Applied Sciences to [offer a Heating, Ventilation, Air Conditioning, and Refrigeration Technician Certificate of Proficiency](#).

Request from the Department of Technology, Design and Technical Education in the College of Agriculture and Applied Sciences to [offer a Law Enforcement Officer Certificate of Proficiency](#).

Request from the Department of Technology, Design and Technical Education in the College of Agriculture and Applied Sciences to [offer a Special Function Officer Certificate of Proficiency](#).

Request from the Department of Human Development and Family Studies in the Emma Eccles Jones College of Education and Human Services to [offer an Early Childhood Certificate of Proficiency](#).

Request from the Department of Instructional Technology and Learning Sciences in the Emma Eccles Jones College of Education and Human Services to [offer a School Library Media Administration Certificate of Proficiency](#).

Request from the Department of Instructional Technology and Learning Sciences in the Emma Eccles Jones College of Education and Human Services to [offer a School Library Media Administration Post-Baccalaureate Certificate](#).

Request from the Department of Instructional Technology and Learning Sciences in the Emma Eccles Jones College of Education and Human Services to [offer a School Library Media Administration K-12 Endorsement](#).

Request from the Departments of Instructional Technology and Learning Sciences and the School of Teacher Education and Leadership in the Emma Eccles Jones College of Education and Human Services to [offer an Instructional Coaching Post-Baccalaureate Certificate](#).

Request from the Departments of Instructional Technology and Learning Sciences and the School of Teacher Education and Leadership in the Emma Eccles Jones College of Education and Human Services to [offer an Instructional Coaching K-12 Endorsement](#).

Request from the Department of Psychology in the Emma Eccles Jones College of Education and Human Services to [offer a Psychology MEd](#).

Request from the Department of English in the College of Humanities and Social Sciences to [change the name of the English-General English Emphasis \(BA-BS\) to English \(BA-BS\)](#).

Request from the Departments of Computer Science, Data Analytics and Information Systems, Electrical and Computer Engineering and Mathematics and Statistics in the College of Science, College of Engineering and the Jon M. Huntsman School of Business to [establish the Data Science and Artificial Intelligence Center](#).

Request from the Department of Physics in the College of Science to [offer a Photonics Post-Baccalaureate Certificate](#).

4. **Other Business**

- College of Agriculture and Applied Sciences [CIP Code Changes](#)
- Course Requests (Deadline) – Toni Gibbons
As of March 7, 2024:
 - Course proposals still on the "Originator" step in Curriculog: 16
 - Course proposals that have moved from "Originator" to "Catalog Editor-Initial Review" step in Curriculog after the January 22 agenda deadline: 6
 - Course proposals still on the "Department Head" approval step in Curriculog: 2
 - Course proposals still on the "College Curriculum Committee" approval step in Curriculog: 0
 - Course proposals still on the "Associate Dean" approval step in Curriculog: 0
 - Course proposals that have moved from "Associate Dean" to "UCC/EPC" approval step in Curriculog after the January 22 agenda deadline: 18

Total = 42

Executive Summary

Policy 521- Limited English Proficiency and the accompanying procedures are required as a condition of our receipt of federal funding. The purpose this policy is to ensure that persons with Limited English Proficiency have meaningful access and an equal opportunity to participate in our services, activities, programs and other benefits.

The Office of Equity will maintain the roster of interpreters, translators, and other aids needed to comply with this policy. These items are provided to those in need of service at no cost.

University Policy 521: Policy and Procedure for Providing Meaningful Communication with Persons with Limited English Proficiency

Category: Personnel Policies

Subcategory: General

Covered Individuals: Staff, Faculty, and Students

Responsible Executive: Office of Equity, Executive Director

Policy Custodian: Office of Equity, Executive Director

Last Revised: Date of Latest Revision 2002/04/22

Previous USU Policy Number: N/A

521.1 PURPOSE AND SCOPE

To ensure that persons with Limited English Proficiency have meaningful access and an equal opportunity to participate in our services, activities, programs and other benefits.

521.2 POLICY

The policy of Utah State University (hereinafter USU) is to ensure meaningful communication with Limited English Proficiency (hereinafter LEP) students, staff, faculty, and their authorized representatives involving their academic and employment pursuits. This policy also provides for communication of information contained in vital documents, including but not limited to, employment records, financial and insurance benefit forms, and academic records. All interpreters, translators and other aids needed to comply with this policy shall be provided without cost to the person being served. Additionally, employees, staff, and faculty will be informed of the availability of such assistance free of charge.

Language assistance will be provided through use of competent bilingual staff, staff interpreters, contracts or formal arrangements with local organizations providing interpretation or translation services, or technology and telephonic interpretation services. All students, staff and faculty of USU will be provided notice of this policy and procedure, and staff that may have direct contact with LEP individuals will be trained in effective communication techniques, including the effective use of an interpreter.

USU will conduct a regular review of the language access needs of our population, as well as update and monitor the implementation of this policy and these procedures, as necessary.

521.3 RESPONSIBILITIES

3.1 Identifying LEP Persons and their Language

The Office of Equity will promptly identify the language and communication needs of the LEP person. If necessary, staff will use a language identification card (or “I speak cards,” available online at www.lep.gov) or posters to determine the language. In addition, when records are kept of past interactions with students, staff, or faculty members, the language used to communicate with the LEP person will be included as part of the record.

3.2 Obtaining a Qualified Interpreter

The Office of Equity is responsible for:

- (a) Maintaining an accurate and current list showing the name, language, phone number and hours of availability of bilingual staff;
- (b) Contacting the appropriate bilingual staff member to interpret, in the event that an interpreter is needed, if an employee who speaks the needed language is available and is qualified to interpret;
- (c) Obtaining an outside interpreter if a bilingual staff or staff interpreter is not available or does not speak the needed language.

Some LEP persons may prefer or request to use a family member or friend as an interpreter. However, family members or friends of the LEP person will not be used as interpreters unless specifically requested by that individual and after the LEP person has understood that an offer of an interpreter at no charge to the person has been made by USU. Such an offer and the response will be documented in the person's file. If the LEP person chooses to use a family member or friend as an interpreter, issues of competency of interpretation, confidentiality, privacy, and conflict of interest will be considered. If the family member or friend is not competent or appropriate for any of these reasons, competent interpreter services will be provided to the LEP person.

3.3 Providing Written Translations

- (a) When translation of vital documents is needed, each unit will submit documents for translation into frequently encountered languages to the Office of Equity. Original documents being submitted for translation will be in final, approved form with updated and accurate information.
- (b) The Office of Equity will provide translation of other written materials, if needed, as well as written notice of the availability of translation, free of charge, for LEP individuals.
- (c) The Office of Equity will set benchmarks for translation of vital documents into additional languages over time.

3.4 Providing Notice to LEP Persons

The Office of Equity will inform LEP persons of the availability of language assistance, free of charge, by providing written notice in languages LEP persons will understand. Notification will also be provided through outreach documents.

3.5 Monitoring Language Needs and Implementation

On an ongoing basis, the Office of Equity will assess changes in demographics, types of services or other needs that may require reevaluation of this policy and its procedures. In addition, the Office of Equity will regularly assess the efficacy of these procedures, including but not limited to mechanisms for securing interpreter services, equipment used for the delivery of language assistance, complaints filed by LEP persons, feedback from students, staff, and faculty.

521.4 REFERENCES

- [Executive Order 13166](#)
- Title VI, 40 C.F.R. Part 7, *Lau v. Nichols* 414 U.S. (1974)

RESOURCES

Notice of Non-Discrimination

In its programs and activities, including in admissions and employment, Utah State University does not discriminate or tolerate discrimination, including harassment, based on race, color, religion, sex, national

origin, age, genetic information, sexual orientation, gender identity or expression, disability, status as a protected veteran, or any other status protected by University policy, Title IX, or any other federal, state, or local law. The following individuals have been designated to handle inquiries regarding the application of Title IX and its implementing regulations and/or USU's non-discrimination policies:

Executive Director of the Office of Equity

Matthew Pinner

Matthew.pinner@usu.edu

Distance Education Room 401

Logan, UT 84322

435-797-1266

Title IX Coordinator

Cody Carmichael

Cody.carmichael@usu.edu

Distance Education Room 404

Logan, UT 84322

435-797-1266

For further information regarding non-discrimination, please visit <https://equity.usu.edu/>, or contact:

U.S. Department of Education
Office of Assistant Secretary for Civil Rights
800-421-3481
OCR@ed.gov

U.S. Department of Education
Denver Regional Office
303-844-5695
OCR.Denver@ed.gov

POLICY HISTORY

Original issue date: 2024/02/22

Last review date: N/A

Next scheduled review date: 2025/04/22

Previous revision dates: N/A

University Procedures 521: Providing Meaningful Communication with Persons with Limited English Proficiency

Last Revised: 2024/2/2

521.1 PURPOSE AND SCOPE

To ensure that persons with Limited English Proficiency (LEP) have meaningful access and an equal opportunity to participate in USU services, activities, programs and other benefits.

521.2 PROCEDURES

2.1 Identifying LEP Persons and their Language

USU faculty and staff will promptly identify the language and communication needs of an LEP person, by using a language identification card (or “I speak cards,” available online at www.lep.gov) or posters to determine the language an LEP person speaks. Once it has been identified, USU faculty and staff will notify the Office of Equity (OOE). If USU faculty and staff are unable to identify the language, they are to refer the LEP person to OOE.

The OOE will notify Human Resources (HR) or Student Affairs to note the LEP person’s file appropriately with LEP and the language used to communicate with the person.

2.2 Obtaining and Providing a Qualified Interpreter

The OOE is responsible for:

- (a) maintaining an accurate and current list showing the name, language, phone number and hours of availability of bilingual employees;
- (b) contacting the appropriate bilingual employee to interpret, in the event that an interpreter is needed, if an employee who speaks the needed language is available and is qualified to interpret; and
- (c) obtaining an outside interpreter if a bilingual employee or staff interpreter is not available or does not speak the needed language.

Some LEP persons may prefer or request to use a family member or friend as an interpreter. However, family members or friends of the LEP person will not be used as interpreters unless specifically requested by that individual, and after the LEP person has understood that an offer of an interpreter at no charge to the person has been made by USU. Such an offer and the response will be documented in the person’s file. If the LEP person chooses to use a family member or friend as an interpreter, issues of competency of interpretation, confidentiality, privacy, and conflict of interest will be considered. If the family member or friend is not competent or appropriate for any of these reasons, competent interpreter services will be provided to the LEP person.

2.3 Providing Written Translations

When translation of vital documents is needed, each unit will submit documents for translation into frequently encountered languages to the Office of Equity. Original documents being submitted for translation will be in final, approved form with updated and accurate information.

The OOE will provide translation of other written materials, if needed, as well as written notice of the availability of translation, free of charge, for LEP individuals. Additionally, the OOE will set benchmarks for translation of vital documents into additional languages over time.

2.4 Providing Notice to LEP Persons

The OOE will inform LEP persons of the availability of language assistance, free of charge, by providing written notice in languages LEP persons will understand. Notification will also be provided through outreach documents.

2.5 Monitoring Language Needs and Implementation

On an ongoing basis, the OOE will assess changes in demographics, types of services or other needs that may require reevaluation of this policy and its procedures. In addition, the OOE will regularly assess the efficacy of these procedures, including but not limited to mechanisms for securing interpreter services, equipment used for the delivery of language assistance, complaints filed by LEP persons, feedback from students, staff, and faculty.

2.6 Providing Training

The OOE is responsible for scheduling and/or providing training for USU faculty and staff that regularly and directly work with LEP individuals.

RESOURCES

Notice of Non-Discrimination

In its programs and activities, including in admissions and employment, Utah State University does not discriminate or tolerate discrimination, including harassment, based on race, color, religion, sex, national origin, age, genetic information, sexual orientation, gender identity or expression, disability, status as a protected veteran, or any other status protected by University policy, Title IX, or any other federal, state, or local law. The following individuals have been designated to handle inquiries regarding the application of Title IX and its implementing regulations and/or USU's non-discrimination policies:

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For further information regarding non-discrimination, please visit <https://equity.usu.edu/>, or contact:

U.S. Department of Education
Office of Assistant Secretary for Civil Rights
800-421-3481
OCR@ed.gov

U.S. Department of Education

Denver Regional Office
303-844-5695
OCR.Denver@ed.gov

Administrator Evaluation Discussion

Currently, there is no prescribed mechanism for faculty involvement in evaluating the performance of department heads and/or deans. Meanwhile, faculty are evaluated multiple times per year by multiple groups of stakeholders, including students, peers, and administrators. There is also a policy that outlines in great detail the process for evaluating staff (Policy 329).

The lack of a uniform and formal way for faculty to provide feedback to department heads and/or deans limits the effective evaluation of these people in leadership positions. This in turn can make it difficult for faculty to accomplish their jobs in supporting the mission of the University.

I propose a discussion at the next Faculty Senate meeting to get a sense of whether faculty view this as an issue and if so, to see if there is any action that should be taken.



University Policy 409: Program Discontinuance, Financial Exigency and Financial Crisis

POLICY MANUAL

FACULTY

Category: Faculty Policies (Faculty Code)

Subcategory: None

Covered Individuals: University Faculty

Responsible Executive: Provost

Policy Custodian: Chair of Professional Responsibilities and Procedures Committee

Last Revised: 2022/09/01

Previous USU Policy Number: 406

~~Number 406409~~

~~Subject: Program Discontinuance, Financial Exigency and Financial Crisis~~

~~Effective Date: July 1, 1997~~

~~Revision: July 1, 1999, March 6, 2009, August 21, 2009~~

~~Date of Last Revision: July 8, 2011, February 2022 in progress~~

409.1 Purpose and Scope

To be added by PRPC at a later date.

409.2 Policy INTRODUCTION

This section of the policy manual specifies the procedures for (1) discontinuing a program for academic reasons; (2) suspending enrollment; (3) determining whether at a particular moment the university faces a state of financial exigency; (4) responding to a financial exigency; (5) determining whether the university faces a major financial crisis not definable as financial exigency; (6) responding to a major financial crisis; and (7) terminating or reducing in status of faculty members due to program discontinuance, bona fide financial exigency, or major financial crisis. Reduction in status of tenured faculty members will shall only occur for reasons of program discontinuance, financial crisis, or bona fide financial exigency.

406.2 PROGRAM DISCONTINUANCE FOR ACADEMIC REASONS

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2.1 Program Discontinuance and Academic Program Requirements Definitions

(+) 2.1.1 Program discontinuance.

Program discontinuance for academic reasons under this policy means the cessation of a program, center, institute, school, department, college, campus, or site based upon educational and academic considerations. For the purposes of Policy 4096.2.1, Program Discontinuance for Academic Program Requirements ~~Reasons~~, educational and academic considerations do not include cyclical or temporary variations in enrollment and/or budgets, but must reflect long-range judgments that the basic teaching, research, and extension mission of the university will be strengthened by the discontinuance of the program, center, institute, school, department, college, campus, or site. Program discontinuance does not preclude the reallocation of resources to other academic programs with higher priority based on academic and educational reasons.

(+) 2.1.2 Academic program.

An academic program is a unit within the university with an identifiable teaching, research, or other academic mission. ~~For purposes of this code, a~~ An academic program operates within one or more academic units and includes, but is not limited to, an academic center, institute, school, department, college, campus or site. An academic program is to be determined by existing academic standards, and academic programs are never to be declared with the aim of singling out individual faculty members. An academic program must be designated as such by decision of the Educational Policies Committee and the decision must be ratified by the Faculty Senate, and approved by the president, the Board of Trustees, and the Utah Board of Regents Higher Education. For a unit to be designated as a “program,” it must fulfill one or more of these criteria: (a) offer or administer a degree, certificate, or some other credential; (b) have an identifiable curriculum or be formally described in current university catalogs or other publications; or (c) be designated a “program” by specific faculty decision and have an identified group of one or more faculty.

2.2 Decision-Making Process

(1) 2.2.1 Initiation.

Consideration of the possible discontinuance of an academic program may be initiated at any time by the faculty or a duly appointed faculty committee of that program; the faculty or an appropriate committee of the center, institute, school, department, college, or other academic unit of that program; the Graduate Council; the appropriate department head, ~~academic dean~~ or ~~the vice president for extension and agriculture, or, where appropriate, chancellor or regional campus dean~~; or by the provost or president of the university. If a program discontinuance may result in the termination of faculty, the person or group initiating the consideration of discontinuance ~~will shall~~ prepare, and submit to the provost, a memorandum which (a) clearly identifies the program; (b) states explicit criteria by which faculty are identified with the program, (c) states the reasons, with respect to the university’s mission and goals, for recommending discontinuance; (d) assesses the probable consequences for

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Commented [NM1]: Should "academic" be deleted so that all instances of "dean" include the dean of libraries? The library is an academic unit under Policy 401.

Commented [NK2R1]: yes, delete "academic"

Commented [NM3]: Should the VP for statewide campuses be included here? (and in the other yellow-highlighted spots, too) This is probably a good question for Paul or Provost Galey.

Commented [NM4R3]: Each instance revised according to recommendations from Vice Provost Barr and Provost Galey.

faculty, related programs, and the university in general; and (e) suggests a timetable for accomplishing discontinuance.

(2) 2.2.2 Distribution.

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The provost will shall distribute copies of the memorandum, embodying an initial or an amended proposal for program discontinuance, to (a) the faculty members and faculty committee most directly involved in the academic program proposed for discontinuance; (b) the appropriate department head, ~~academic dean or the~~ vice president for extension ~~and agriculture~~, and, where appropriate, ~~chancellor or regional~~ the vice president for statewide campuses dean; (c) relevant departments and colleges; (d) relevant college committees or councils; (e) the Educational Policies Committee; (f) the Budget and Faculty Welfare Committee; and (g) the relevant student college senators.

(3) 2.2.3 Consultation.

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The groups above shall will forward comments and recommendations to the appropriate ~~academic dean~~; or to the vice president for extension ~~and agriculture, and, where appropriate, the chancellor or regional campus dean. He/she~~ The appropriate dean or the vice president for extension will shall forward the comments and a recommendation to the provost, and, where appropriate, to the Graduate Council; the Graduate Council may review this material and make a recommendation to the provost. After receiving and considering the recommendations and comments, the provost will shall submit the proposal, the comments, and a recommendation to the Educational Policies Committee. The Educational Policies Committee's recommendation will shall be subject to review and debate by the Faculty Senate (~~{Policy 402.12.6.(1. Duties)}~~). All comments, recommendations, and supporting material will shall be available to faculty senators for their perusal.

(4) 2.2.4 Final recommendation.

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The Faculty Senate's recommendations will shall be forwarded to the president for consideration. The president will shall submit a final recommendation in writing to the Board of Trustees and the Utah Board of ~~Regents Higher Education~~ and will shall attach the written comments and recommendations of the Faculty Senate.

2.3 Terminations; Reductions in Status

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(+) 2.3.1 Notice of program discontinuance.

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After the Utah Board of ~~Regents Higher Education~~ has approved a proposal by the university to discontinue a program, the appropriate ~~academic dean~~ or vice president of the program, center, institute, school, department, college, campus, or site will shall give written notice of the discontinuance to all persons, including, students, in the program, center, institute, school, department, college, campus, or site. A minimum of one (1) full year, beginning July 1, will shall pass from the time a final decision is made to close an academic program to the actual program discontinuance.

(2) 2.3.2 ~~Definition of T~~ermination and reduction in status.

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Termination means the ending of employment of a tenured faculty member (or one with a term appointment) for medical incapacity, program discontinuance, financial crisis, or financial exigency (see also Policy 407.2.1(5, Dismissal)). Reduction in status means a decrease in annual time the faculty member is contracted to the university.

(3) 2.3.3 Notice of termination or reduction in status.

In addition to the general notice in Policy 406.2.3(1), Notice of Program Discontinuance, the president will shall give tenured and ~~tenure-track~~ eligible faculty members in the discontinued program, center, institute, school, department, college, campus, or site formal notice of termination or reduction in status as follows: (a) if the appointee is untenured and in the first (1st) year of service, notice will shall be given at least three (3) months prior to termination or reduction in status; (b) if the appointee is untenured and in the second (2nd) year of service, notice will shall be given at least six (6) months prior to termination or reduction in status; (c) if the appointee is tenured or is untenured but in the third (3rd) or subsequent years of service, notice will shall be given at least twelve (12) months prior to termination or reduction in status. ~~(d) The length of notice from the president for faculty with term appointments as defined in Policy 401.4, The Faculty with Term Appointments, will shall be parallel to that for the untenured faculty described above, with the exception of those term appointees with research or federal research ranks; termination of these faculty is coincident with and contingent upon the termination date of their extramural funding; if their funding extends beyond that of a discontinued program, they may be reassigned to another program and (e) appointees with specialized functions as defined in Policy 401.6 shall be parallel to that for the tenured and tenure-eligible faculty described above.~~

(4) 2.3.4 Relocation.

During a grace period of three (3) years, and with the assistance of the appropriate administrators (e.g., ~~academic~~ deans, department heads or supervisors or the -vice president for extension and agriculture, and, where applicable, chancellor or regional campus dean) and the consent of the receiving department, every reasonable and good faith effort will be made to enable the affected faculty members who wish to do so to obtain suitable positions for which they are qualified elsewhere in the university. Tenured faculty members terminated through program discontinuance will shall, for a period of three (3) years following the date of their final salary payment, receive special consideration among candidates with comparable qualifications for any vacant and funded university position for which they apply and are qualified.

(5) 2.3.5 Faculty employment after program reinstatement.

If a terminated program or position is reinstated, tenured faculty members terminated through program discontinuance will shall, for a period of three (3) years following the final salary payment, have the right of immediate reinstatement for a period of three years following the final salary payment.

(6) 2.3.6 Appeal.

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Commented [NM5]: Consider "tenure-eligible."

Commented [NM6R5]: Changed to align with the committee's decision to use "tenure-eligible" throughout 400.

Commented [NK7R5]: resolved and yes

Commented [NM8]: It seems like this should be a new sentence rather than tacked onto the end of tenure-eligible and tenured.

Commented [NK9R8]: Nick will add some language for review 2/28

Commented [NM10R8]: Since items a-c are prefaced by tenured and tenure-eligible faculty, I think the new sentence beginning at D is the best solution. Review 2/28.

Commented [NM11R8]: Done.

Commented [NM12]: 401.6 is Emeritus Faculty. Does this actually refer to 401.5, The Faculty with Special Appointments?

Commented [NK13R12]: yes 401.5

Commented [NM14R12]: This would include the CTE Contract Faculty, then.

Commented [NM15R12]: Deleted item E as recommended by committee. Appointment terms specified in Policy 401 will govern. PRPC will review 401 as well.

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Commented [NM16]: Consider "...shall, for a period of three years following the final salary payment, have the right of immediate reinstatement."

Commented [NK17R16]: yes add revised language

Commented [NM18R16]: Done

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Within thirty (30) calendar days of receiving notice from the president of termination or reduction in status, a faculty member who intends to appeal must notify, in writing, the president and the Academic Freedom and Tenure Committee of the intent to appeal. The formal appeal, with supporting documentation, must be filed with the Academic Freedom and Tenure Committee within sixty (60) calendar days of receipt of notice from the president. A hearing will then be conducted in a timely manner by the Academic Freedom and Tenure Committee, in accordance with procedures established by that committee.

Commented [NM19]: Perhaps it would be useful to refer to the grievance timetable in 407 rather than use a different timeline and different definition of days?

Commented [NM20R19]: Probably a question for PRPC.

Commented [NM21R19]: The committee recommends that PRPC review timelines in Policy 410 and consider incorporating the appropriate timeline here by reference.

406.32.4 SUSPENSION OF ENROLLMENT

3.1 Definition

Suspension of enrollment is an action short of discontinuance which if not reversed will lead to discontinuance, and which refers to the suspension of enrollment in a major subject, a minor subject where there is no corresponding major, a certificate program, or program awarding a credential certifying completion. Suspension of enrollment does not lead to reduction in status or termination of faculty in the program.

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3.22.4.1 Procedure

(1) Initiation.

A department that plans to suspend enrollment must notify the Educational Policies Committee as soon as the departmental decision has been made and approved by the dean.

(2) Review.

The Educational Policies Committee will review the proposed suspension of enrollment for its effect on other academic programs of the university. The committee will hold hearings at which all constituencies affected, including students, faculty, and representatives from other departments affected by the proposed action, have the opportunity to testify. At the conclusion of its deliberations, the Educational Policies Committee will recommend approval or disapproval of suspension of enrollment to the Faculty Senate. The Faculty Senate ~~will~~ shall make a recommendation to the president. This process ~~will~~ shall be concluded within ninety (90) days following notification of the Educational Policies Committee. Suspension is granted by the president subject to the legal obligation, if any, of the university to permit students already enrolled in the program to complete their course of study.

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(3) Time limitation.

At any time up to three (3) years after suspension has been granted, a suspension of enrollment may be reversed by the department, upon approval of the Educational Policies Committee, the ~~academic~~ dean or ~~the~~ vice president for extension ~~and agriculture~~, ~~and, where appropriate, the chancellor or regional campus dean~~, and the president. If suspension has not been reversed within this three-year period, program discontinuance must be initiated.

406.42.5 FINANCIAL EXIGENCY

4.1 Definitions

(+) ~~2.54.4.1~~ Financial exigency.

Financial exigency is an existing or imminent financial crisis which threatens the mission/role of the institution as a whole, which requires programmatic reductions or closings which may entail faculty reductions or dismissals to enable the institution to accomplish its mission/role, and which cannot be alleviated by less drastic means.

(2) ~~4.1.2 Academic program.~~

~~See Policy 406.2.1(2, Academic Program).~~

(3) ~~2.54.4.23~~ Serious distortion of an academic program.

A serious distortion of an academic program ~~will shall~~ be deemed to occur when the faculty remaining in the program would not be qualified to meet generally accepted program standards (~~Section Policy 406.4.4.(1, Plan for faculty reduction)~~).

4.22.5.3 Declaration of Financial Exigency

(+) ~~4.2.42.5.3.1~~ Board of Trustees; Utah Board of ~~Regents~~Higher Education.

The president may, in accordance with the procedures below and with the approval of the Board of Trustees and the advice of the Faculty Senate, ~~the Professional Employees Association,~~ and the ~~Classified Staff~~ Employees Association, recommend to the Utah Board of ~~Regents~~Higher Education that a state of financial exigency be declared. A financial exigency may also be initiated by the Utah Board of ~~Regents~~Higher Education. A financial exigency exists only after it has been declared by the Utah Board of ~~Regents~~Higher Education.

(2) ~~2.5.3.2 4.2.2~~ Initiation.

When the president of the university identifies a possible financial exigency, ~~he/she~~the president ~~will shall~~ inform the Budget and Faculty Welfare Committee, the Faculty Senate, ~~the Professional Employees Association,~~ and the ~~Classified Staff~~ Employees Association concerning the causes and possible consequences of the crisis. The president ~~will shall~~ also identify the measures considered by the university up to that point for dealing with the crisis, including a possible declaration of financial exigency, possible strategies that may be alternative to program reduction or program elimination, reasons why the university's financial circumstances may necessitate academic program reduction or elimination, and the time frame by which decisions must be made by those entitled to participate in the consultative process.

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Commented [NM22]: Have the names of these associations changed?

Commented [NM23R22]: Maybe they are now combined in the "Staff Employees Association."

Commented [NK24R22]: confirmed, yes.

Commented [NM25R22]: Done

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Time considerations will be critical when the university must judge whether or not a financial exigency exists. To the extent that such a judgment must be made in a brief time frame for a given situation, the time periods for the consultative process provided for in this policy ~~will shall~~ be specified by written notice from the president giving those for whom the consultative processes were provided the fullest possible amount of time under the circumstances. In that regard, the president ~~will shall~~ use ~~his/her/their~~ best efforts to secure the fullest period of time possible for consideration of these matters and the responses hereto.

(+) ~~2.5.3.3~~ ~~4.2.3~~ Consultation.

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Within the time period established by the President, the Faculty Senate ~~will shall~~ receive and consider the comments and advice of the Budget and Faculty Welfare Committee, as well as timely-presented views of any other faculty ~~or~~-administrative body, or ~~those of~~ individual faculty members, and ~~will shall~~ make a recommendation to the president concerning financial exigency.

Within the time period established by the president and before making a recommendation to the ~~Utah~~ Board of ~~Regents~~Higher Education, the president ~~will shall~~ receive and consider the comments and advice presented on the matter by the Budget and Faculty Welfare Committee, the Faculty Senate, ~~the Professional Employees Association,~~ and the ~~Classified Staff~~ Employees Association.

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(+) ~~2.5.3.3~~ ~~4.2.4~~ Recommendation.

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The president ~~will shall~~ submit ~~his/her/their~~ final recommendation on the declaration of financial exigency in writing to the Board of Trustees prior to submitting it to the ~~Utah~~ Board of ~~Regents~~Higher Education. ~~He/she~~The president ~~will shall~~ attach the written comments and recommendations of the Faculty Senate, ~~the Professional Employees Association,~~ and the ~~Classified Staff~~ Employees Association. The president ~~will shall~~ also send a copy of ~~the~~his/her final recommendations to the Faculty Senate, ~~the Professional Employees Association,~~ and the ~~Classified Staff~~ Employees Association.

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~~4.3~~ **2.5.4 Program Elimination or Reduction Because of Financial Exigency**

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(+) ~~4.3.1~~ ~~2.5.4.1~~ Iterative process.

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After declaration of financial exigency by the ~~Utah~~ Board of ~~Regents~~Higher Education, an iterative process of university program elimination or reduction may begin. The intent of this process is to ensure the continuing integrity of academic programs and the overall mission of the university. The first step in this process ~~will shall~~ be for every administrative, academic, nonacademic, and structural component of the university to assess its programs with regard to legal mandate, essentiality to the mission/role of the university, and quality. During subsequent steps, support services ~~will shall~~ be reduced to the extent feasible while preventing significant impairment of the university's ability to fulfill its mission/role.

(?) ~~2.5.4.2~~ ~~4.3.2~~ Administrative and support services.

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The president will ask the provost and the appropriate vice presidents to develop reduction and/or elimination plans in the areas of university-wide support services and non-academic programs. Such plans will be reviewed by the ~~P~~president's ~~E~~xecutive ~~C~~ommittee, the Council of Deans, the Budget and Faculty Welfare Committee, and the relevant committees of the ~~Professional Employees Association and the Classified Staff~~ Employees Association, and will be integrated with academic elimination or reduction plans (~~see Sec Section Policy 406.4.3.3~~ ~~(3, Academic program elimination of reduction)~~) in light of the overall academic mission of the university.

If a non-academic program has been reduced or eliminated, university-wide support services must be re-evaluated and reduced as appropriate. These reductions ~~will shall~~ precede further reductions in or elimination of academic programs.

(+) ~~2.5.4.3 4.3.3~~ Academic program elimination or reduction.

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The president, after consultation with the ~~President's~~ Executive Committee, the Council of Deans, and the Budget and Faculty Welfare Committee, ~~will shall~~ direct the provost to develop plans for academic program elimination or reduction. These plans ~~will shall~~ include a timetable for their implementation.

The development of academic program elimination or reduction plans must involve consultation among departmental and college faculties to identify areas under consideration for academic program eliminations or reductions. The following criteria and information sources ~~will shall~~ be considered by those making judgments about which programs should be eliminated or reduced because of financial exigency: (a) legal mandate; (b) the general academic quality of the program with regard to scholarship, teaching, and service; (c) the extent of importance that the program has for the mission of the university; (d) the mission and goals of the university; (e) Graduate Council review; (f) findings by national accreditation bodies; (g) reports by appropriate national ranking sources; (h) such other systematically derived information, based on long-term considerations of program quality, as may be available; (i) the capacity of the program to generate external funding; (j) faculty/student ratios; (k) cost effectiveness when compared to similar programs at other universities; and (l) relationship to the ~~Utah Board of Regents-Higher Education~~ Master Plan for Higher Education in the State of Utah.

The above list is not ranked and is not inclusive.

If an academic program is eliminated or reduced, ~~those-the~~ support services and administrative oversight associated with it ~~will shall~~ be re-evaluated and reduced if appropriate. Any reductions in support services ~~will shall~~ precede further reduction or elimination of academic programs.

(+) ~~2.5.4.4 4.3.4~~ Review.

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If a plan calls for the elimination or reduction of a specific program, center, institute, school, department, college, campus, or site, that element of the plan ~~will shall~~ be reviewed by the Budget and Faculty Welfare Committee; the Educational Policies Committee; the

Graduate Council, where appropriate; the faculty members and/or faculty committee most directly involved in the program; the appropriate department head or supervisor, ~~academic dean, the vice president for extension and agriculture,~~ and, where applicable, ~~chancellor and regional vice president for statewide campuses dean;~~ relevant college committees or councils; relevant committees of ~~the Professional Employees Association and the Classified Staff Employees Association;~~ and relevant student advisory committees. The views of these bodies ~~will shall~~ be forwarded to the Faculty Senate for its consideration within the time periods prescribed by the president. The conclusions of the above bodies and the Faculty Senate ~~will shall~~ be forwarded to the provost who ~~will shall~~ consider them and forward them, along with ~~his/her~~ the provost's own recommendation, to the president. When the president's recommendations are submitted to the Board of Trustees and the ~~Utah Board of Regents Higher Education,~~ they ~~will shall~~ be accompanied by the Faculty Senate's recommendations. After the Board of Trustees and the ~~Utah Board of Regents Higher Education has have~~ approved the plan by the university to eliminate a program, the appropriate ~~academic or regional campus dean or vice or vice president, or chancellor~~ of the program, center, institute, school, department, college, campus, or site ~~will shall~~ give written notice of the elimination to all persons, including students, in the program, center, institute, school, department, college, campus, or site.

(5) ~~2.5.4.5 4.3.5~~ Timetable.

Once financial exigency has been declared, the president ~~will shall~~ submit to the Faculty Senate a timetable for relieving the state of exigency. Further, ~~he/she~~ the president ~~will shall~~ report progress in this endeavor to the Faculty Senate on a quarterly basis.

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4.4 2.5.5 Terminations; Reductions in Status

(+) ~~4.4.12.5.5.1~~ Plan for faculty reduction.

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As the process described in Policy 406.4.3, Program Elimination or Reduction Because of Financial Exigency, is taking place, the ~~academic dean of each college, in consultation, where appropriate, with the chancellor and regional campus deans,~~ ~~will shall~~, in consultation with the departments, department heads, ~~and~~ appropriate college committees, ~~and, where appropriate, with the vice president for statewide campuses,~~ devise an orderly sequence of steps which ~~will shall~~ constitute the college's faculty reduction plan. Included in such a plan will be explicit criteria by which individual faculty will be identified with the various programs under consideration for reduction or elimination. Program reductions are never to be declared with the aim of singling out a specific faculty member.

Commented [NM26]: The placement of the VP for statewide campuses is slightly different than in other cases. This allows the dean to initiate the plan and involves the VP statewide at the consultation step along with DHs and faculty committees.

Insofar as feasible, the plan will emphasize the creation of various incentives such as voluntary retirement, early retirement, resignation, reduction in status, salary reduction, severance pay, or similar actions that will result in immediate or eventual cost savings for the university, and that are voluntarily entered into by individual faculty members rather than imposed by university authority.

When non-voluntary faculty reductions are necessary, unless explicitly stated and compelling academic reasons exist to the contrary, consideration will be given first to not filling existing faculty vacancies and not filling vacancies from resignations, retirements, or deaths.

Consideration should next be given to the termination of instructional positions occupied by teaching assistants and faculty with special appointments (e.g., adjunct, visiting, and temporary). Next, consideration should be given to the termination of faculty with term appointments.

Commented [NM27]: Add CTE Contract Faculty?

Commented [NM28R27]: Added "e.g." as recommended by committee.

Commented [NK29R27]: Add reference 401.2.5 Faculty with Special Assignments

Finally, consideration should be given to the termination of tenure-eligible or tenured faculty members. The integrity of the tenure system will be respected. Within an academic program, the appointment of a faculty member with tenure will not be terminated in favor of retaining a faculty member without tenure, except in extraordinary circumstances where a serious distortion of the specific academic program would otherwise result. The question of serious distortion will shall be decided by the Educational Policies Committee and the Faculty Senate, with the approval of the president and the Board of Trustees. The finding of serious distortion will shall be based on criteria which include, but are not limited to, essentiality of service and work, field of specialization, and maintenance of necessary programs or services.

Termination or reduction in status of tenured, tenure-eligible, or term appointment faculty members will shall follow the procedures below.

(2) 2.5.5.2 4.4.2-Review procedure.

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Proposed faculty reduction plans will shall be reviewed by affected department and college faculties in light of the future strength, balance, quality of teaching, research, extension, and mission of the department and college, tempered by concern for individual circumstances. Faculty response to such reduction plans will shall be forwarded in a timely manner to the appropriate department heads, ~~academic deans, or the vice president for extension and agriculture, and, where appropriate, to the chancellor or regional campus deans.~~

The ~~academic dean~~ will shall notify, in writing, any faculty member who is the subject of a recommendation for reduction. A faculty member who is so identified may respond in writing at any point in the review with ~~his/her/their~~ comments becoming part of the record to be forwarded to the next level of review. ~~Academic deans, will shall~~ consider such a response ~~in consultation, where appropriate, with the chancellor and regional campus deans, and will shall~~ add ~~his/her/the dean's~~ separate recommendations and forward the complete file to the provost or the appropriate vice president.

The provost or any appropriate vice provost will shall review the recommendations of the ~~academic dean~~ and any timely faculty response, as well as any appeals filed as in Policy 406.4.4.(3, ~~Appeal to the provost~~).

(3) 2.5.5.3 4.4.3-Appeal to the provost.

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If a faculty member chooses to formally appeal to the provost, the faculty member must submit, within ~~thirty (30)~~ days of ~~his/her/their~~ receipt from the ~~academic dean~~ of a notice of a recommendation for termination or reduction in status, a written notice of intent to appeal ~~with to~~ the provost. A faculty member who has submitted notice of intent to appeal must file a formal written appeal with the provost within ~~ninety (90)~~ days of receipt of the notice of proposed termination.

(4) ~~2.5.5.4.4.4.4~~ Notice of termination or reduction in status.

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The provost ~~will shall~~ forward the complete file with a recommendation to the president. The provost ~~will shall~~ also notify any affected faculty members in writing of ~~his/her~~the provost's recommendation to the president. Written notice from the president or from the president's designee will be given to a faculty member who is terminated due to program elimination or reduction because of financial exigency as follows: (a) if the appointee is untenured and in the first (1st) year of service, notice ~~will shall~~ be given at least three (3) months prior to termination or reduction in status;

(b) if the appointee is untenured and in the second (2nd) year of service, notice ~~will shall~~ be given at least six (6) months prior to termination or reduction in status; (c) if the appointee is tenured or is untenured but in the third (3rd) or subsequent year of service, notice ~~will shall~~ be given at least ~~twelve~~ (12) months prior to termination or reduction in status.

The notice must include the following: (a) the effective date of termination; (b) a statement of the reasons for the declaration of financial exigency; (c) the basis, the procedures, and the criteria used for termination; (d) opportunities for appeal, including access to appropriate documentation, and the appealable issues as set forth in Policy 406.4.4(~~5~~, ~~Appeal and hearing~~) below; and (e) the reinstatement rights.

(5) ~~2.5.5.5.4.4.5~~ Appeal and hearing.

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A faculty member may appeal a termination only for: (a) violation of ~~his/her~~their academic freedom, legal, statutory, or constitutional rights; (b) failure to comply with this policy, the ~~Utah~~ Board of ~~Regents~~Higher Education policy, or with the plan for personnel reduction approved by the ~~Utah~~ Board of ~~Regents~~Higher Education; or (c) arbitrary or capricious action. Within ~~thirty~~ (30) days of receiving a notice from the president for termination or reduction in status, a faculty member who intends to appeal must notify, in writing, the president and the Academic Freedom and Tenure Committee of the intent to appeal. The formal appeal, with supporting documentation, must be filed with the Academic Freedom and Tenure Committee within ~~forty-five~~ (45) days of receipt of notice from the president. A hearing will then be conducted in a timely manner by the Academic Freedom and Tenure Committee, in accordance with procedures in ~~Policy 407~~, ~~Academic Due Process: Sanctions and Hearing Procedures~~.

Commented [NM30]: As we've discussed before, the number of references to 407 from different sections of the 400-level policies seem to make it most appropriate to use 407's definition of days: "407.1.2, Definition of Days: In all proceedings under Policy 407, a day is defined as a calendar day (Sunday through Saturday, excluding official university holidays)."

Commented [NK31R30]: need a reference to the definition of days in 407 or where it is first used

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(6) ~~2.5.5.6.4.4.6~~ Relocation.

During the grace period of three (3) years, and with the assistance of the appropriate administrators (e.g., ~~academic~~ deans, department heads, vice president for extension ~~and agriculture, and, where appropriate, the chancellor or regional campus deans~~), and with the consent of the receiving unit, every reasonable and good faith effort will be made to enable the affected faculty members who wish to do so to obtain suitable positions elsewhere in the university if qualified.

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2.6 ~~406.5~~ REINSTATEMENT RIGHTS

~~5.1~~ 2.6.1 For Tenured Faculty

In cases of termination of tenured faculty members, the position concerned may not be filled by replacement within a period of three (3) years from the effective date of the termination unless the tenured faculty member has been offered a return to employment in that position and has not accepted the offer within thirty (30) calendar days after the offer was extended.

5.2 2.6.2 For Non-Tenured Faculty

In cases of termination of non-tenured faculty members, the position concerned may not be filled by replacement within a period of one (1) year from the effective date of the termination unless the person terminated has been offered a return to employment in that position and the person terminated has not accepted the offer within thirty (30) calendar days.

5.3 2.6.3 Termination of Offer of Reinstatement

If an offer of reinstatement is not accepted within the timelines stated above, the university and the Utah Board of ~~Regents~~ Higher Education have no further obligation to the person terminated. After the expiration of the applicable reinstatement period as provided herein, the institution and the Utah Board of ~~Regents~~ Higher Education have no further obligation to the affected faculty member.

5.4 2.6.4 Faculty Status and Benefits after Reinstatement

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

~~406.62.7~~ MAJOR FINANCIAL CRISIS

~~6.1~~ Definitions

~~(1)~~ 2.76.4.1 Major financial crisis.

To constitute a major financial crisis, a situation facing the university ~~will shall~~: (a) be significantly and demonstrably more than a minor, temporary, and/or cyclical fluctuation in operating funds; and (b) involve substantial risk to the survival of departments, colleges, or other major academic components of the university. A substantial risk to survival is considered one where a substantial reduction occurs in (1) the ability to fulfill the mission of the academic unit, (2) the number of students served by the academic unit, or (3) the number and quality of course offerings.

~~(2)~~ 6.1.2 ~~Academic program~~.

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See Policy 406.2.1(2, Academic Program).

6.2 2.7.2 Declaration of Major Financial Crisis

(+) 6.2.12.7.2.1 Initiation.

If the president of the university identifies a possible major financial crisis, ~~he/she~~the president will shall inform the Budget and Faculty Welfare Committee, the Faculty Senate, ~~the Professional Employees Association,~~ and the ~~Classified Staff~~ Employees Association ~~concerning of~~ the causes and possible consequences of the crisis. The president will shall also identify the measures considered by the university up to that point for dealing with the crisis, including a possible declaration of financial exigency, strategies that may be alternatives to program reduction or program elimination, reasons why the university's financial circumstances may necessitate academic program reduction or elimination, and the time frame by which decisions must be made by those entitled to participate in the consultative process. The president will shall use ~~his/her~~their best efforts to secure the fullest period of time possible for consideration of these matters and the responses hereto.

(2) 6.2.22.7.2.2 Consultation.

The Faculty Senate will shall receive and consider the comments and advice of the Budget and Faculty Welfare Committee, ~~the Professional Employees Association,~~ and the ~~Classified Staff~~ Employees Association, as well as timely presented views of any other faculty or administrative body, on whether the president should declare the existence of a major financial crisis. The Faculty Senate will shall then express its views in writing to the president. The ~~Professional Employees Association and the Classified Staff~~ Employees Association will shall also have the opportunity to express their views in writing to the president.

(3) 6.2.32.7.2.3 Implementation.

The president, with the approval of the Board of Trustees, may declare the existence of a major financial crisis after following (1) and (2) above. The university's actions in response to the crisis will shall be governed by Policies 406.4.3, Program Elimination or Reduction Because of Financial Exigency, and 406.4.4, Terminations; Reductions in Status.

6.3 2.7.3 Program Elimination or Reduction Because of Major Financial Crisis

(+) 6.3.12.7.3.1 Strategies.

When the president has declared the existence of a major financial crisis, ~~he/she~~the president will shall consult the ~~President's Executive Committee,~~ the Council of Deans, the Graduate Council, appropriate directors of non-academic programs, the Budget and Faculty Welfare Committee, and the Educational Policies Committee concerning strategies for dealing with the crisis.

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These ~~will shall~~ include examination of feasibility of all of the following: restrictions on enrollment, reductions or elimination of non-academic programs, across-the-board budget reductions, phased reductions, attrition, reductions in supplies, and, reduction or elimination of academic programs. The president will then outline to the Faculty Senate the strategies ~~he/she/the president~~ proposes to follow in developing a specific plan for coping with the crisis. After receiving input from the groups above, the Faculty Senate will make whatever recommendations it deems appropriate concerning such strategies.

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The policies below apply when, after receipt of the recommendations of the Faculty Senate, the president has concluded that a declared major financial crisis entails academic program reduction or elimination.

(2) ~~2.7.3.2 6.3.2~~ Iterative process.

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After declaration of a major financial crisis by the president an iterative process of university program elimination or reduction may begin. This process should be carried out in a manner that best ~~e~~nsures the continuing integrity of academic programs. The first step in this process ~~will shall~~ be for every administrative, academic, non-academic, and structural component of the university to assess its programs with regard to quality and essentiality to the mission of the university. During subsequent steps, support services ~~will shall~~ be reduced to the extent feasible to prevent significant impairment of the university's ability to fulfill its mission/role.

(3) ~~2.7.3.3 6.3.3~~ Administrative and support services.

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The president will ask the provost and the appropriate vice presidents to develop reduction and/or elimination plans in the areas of university-wide support services and nonacademic programs. Such plans will be reviewed by the ~~P~~resident's ~~E~~xecutive ~~C~~ommittee, the Council of Deans, the Budget and Faculty Welfare Committee, ~~the Professional Employees Association~~, and the ~~Classified Staff~~ Employees Association, and will be integrated with academic elimination or reduction plans in light of the overall mission/role of the university.

If a non-academic program has been reduced or eliminated, university-wide support services must be re-evaluated and reduced as appropriate. Any reductions in support services or administrative oversight ~~will shall~~ precede further reductions in or elimination of academic programs.

(4) ~~2.7.3.4 6.3.4~~ Academic program elimination or reduction.

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The president ~~will shall~~ direct the provost to assist academic departments in developing plans to implement academic program elimination or reduction. The individual academic departments of the university ~~will shall~~ be asked to evaluate their programs, consider alternatives to program reduction or elimination, and examine possible time frames (including multiyear) for accomplishing possible budget reductions. ~~The academic dean of each college and, where appropriate, the vice president for statewide, and, where appropriate, the chancellor and regional campuses deans will shall~~ review the departmental reports and comment upon them. The departmental reports and comments from the ~~academic~~ deans, and,

where appropriate the ~~chancellor and regional vice president for statewide campuses deans~~ will shall be forwarded to the ~~President's Executive Committee;~~ the Council of Deans; the Graduate Council, where appropriate; and the Educational Policies Committee for their review and ~~statement of reactions~~comment. All comments from these entities will then be forwarded to the President's Executive Committee for consideration.

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Commented [NM43R40]: substitute comments in above paragraph for Grad Council.

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The following criteria and information sources will shall be considered by those making judgments about which programs should be eliminated or reduced because of a major financial crisis: (a) legal mandate; (b) the general academic quality of the program with regard to scholarship, teaching, and service; (c) the extent of importance that the program has for the mission of the university; (d) the mission and goals of the university; (e) ~~Graduate Council review where appropriate~~the comments from entities in the paragraph above; (f) findings by national accreditation bodies; (g) reports by appropriate national ranking sources; (h) such other systematically derived information, based on long-term considerations of program quality, as may be available; (i) the capacity of the program to generate external funding; (j) faculty/students ratios; (k) cost effectiveness when compared to similar programs at other universities; and (l) relationship to the Utah Board of Regents' Higher Education Master Plan for Higher Education in the State of Utah. The above list is ~~not-neither~~ ranked ~~and is not~~ inclusive.

If an academic program is eliminated or reduced, those support services associated with it will shall be re-evaluated and reduced if appropriate. These reductions will shall precede further reductions or elimination of academic programs. Unless financial exigency is declared, tenured faculty members may not be terminated because their program was reduced, except when program elimination has occurred.

(5) ~~2.7.3.5~~ ~~6-3-5~~ Review.

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If a plan calls for the elimination or reduction of a specific program, center, institute, school, department, college, campus, or site, that element of the plan will shall be reviewed by the Budget and Faculty Welfare Committee; the Educational Policies Committee; the Graduate Council; the faculty members and/or faculty committee most directly involved in the program; the appropriate department head, ~~academic dean, or the~~ vice president for extension ~~and agriculture,~~ and, where appropriate, the ~~chancellor or regional vice president for statewide campuses dean;~~ relevant college committees or councils; and relevant student advisory committees. The views of these bodies will shall be forwarded to the Faculty Senate for its consideration within the time periods prescribed by the president. The conclusions of the above bodies and the Faculty Senate will shall be forwarded to the president who will shall consider them in ~~his/her~~ the review of the proposed plan. The views of the Faculty Senate on the plans will shall be forwarded to the Board of Trustees and/or to such other body as may be required by state law or university policy.

(6) ~~2.7.3.6~~ ~~6-3-6~~ Timetable.

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Once a major financial crisis has been declared, the president will shall submit a timetable for relieving the crisis to the Faculty Senate, ~~the Professional Employees Association,~~ and the ~~Classified Staff~~ Employees Association, ~~a timetable for relieving the crisis.~~ Further, ~~he/she~~ the

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~~president will shall~~ report progress in this endeavor to the Faculty Senate, ~~the Professional Employees Association,~~ and the ~~Classified Staff~~ Employees Association on a quarterly basis.

6.4 2.7.4 Terminations; Reductions in Status

The procedures described in Policy 406.4.4, Terminations; Reductions in Status, ~~will shall~~ apply, except that the appointment of a faculty member with tenure will not be terminated in favor of retaining a faculty member without tenure unless program elimination has occurred.

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University Policy 409: Program Discontinuance, Financial Exigency and Financial Crisis

Category: Faculty Policies (*Faculty Code*)

Subcategory: None

Covered Individuals: University Faculty

Responsible Executive: Provost

Policy Custodian: Chair of Professional Responsibilities and Procedures Committee

Last Revised: 2022/09/01

Previous USU Policy Number: 406

409.1 Purpose and Scope

To be added by PRPC at a later date.

409.2 Policy

This section of the policy manual specifies the procedures for (1) discontinuing a program for academic reasons; (2) suspending enrollment; (3) determining whether at a particular moment the university faces a state of financial exigency; (4) responding to a financial exigency; (5) determining whether the university faces a major financial crisis not definable as financial exigency; (6) responding to a major financial crisis; and (7) terminating or reducing in status of faculty members due to program discontinuance, bona fide financial exigency, or major financial crisis. Reduction in status of tenured faculty members will only occur for reasons of program discontinuance, financial crisis, or bona fide financial exigency.

406.1

2.1 2.1 Program Discontinuance and Academic Program Requirements

2.1.1 Program discontinuance.

Program discontinuance for academic reasons under this policy means the cessation of a program, center, institute, school, department, college, campus, or site based upon educational and academic considerations. For the purposes of Policy 409.2.1, Program Discontinuance for Academic Program Requirements, educational and academic considerations do not include cyclical or temporary variations in enrollment and/or budgets, but must reflect long-range judgments that the basic teaching, research, and extension mission of the university will be

strengthened by the discontinuance of the program, center, institute, school, department, college, campus, or site. Program discontinuance does not preclude the reallocation of resources to other academic programs with higher priority based on academic and educational reasons.

2.1.2 Academic program.

An academic program is a unit within the university with an identifiable teaching, research, or other academic mission. An academic program operates within one or more academic units and includes, but is not limited to, an academic center, institute, school, department, college, campus or site. An academic program is to be determined by existing academic standards, and academic programs are never to be declared with the aim of singling out individual faculty members. An academic program must be designated as such by decision of the Educational Policies Committee and the decision must be ratified by the Faculty Senate, and approved by the president, the Board of Trustees, and the Utah Board of Higher Education. For a unit to be designated as a “program,” it must fulfill one or more of these criteria: (a) offer or administer a degree, certificate, or some other credential; (b) have an identifiable curriculum or be formally described in current university catalogs or other publications; or (c) be designated a “program” by specific faculty decision and have an identified group of one or more faculty.

2.2 Decision-Making Process

(1) 2.2.1 Initiation.

Consideration of the possible discontinuance of an academic program may be initiated at any time by the faculty or a duly appointed faculty committee of that program; the faculty or an appropriate committee of the center, institute, school, department, college, or other academic unit of that program; the Graduate Council; the appropriate department head, dean or the vice president for extension; or by the provost or president of the university. If a program discontinuance may result in the termination of faculty, the person or group initiating the consideration of discontinuance will prepare, and submit to the provost, a memorandum which (a) clearly identifies the program; (b) states explicit criteria by which faculty are identified with the program, (c) states the reasons, with respect to the university’s mission and goals, for recommending discontinuance; (d) assesses the probable consequences for faculty, related programs, and the university in general; and (e) suggests a timetable for accomplishing discontinuance.

2.2.2 Distribution.

The provost will distribute copies of the memorandum, embodying an initial or an amended proposal for program discontinuance, to (a) the faculty members and faculty committee most directly involved in the academic program proposed for discontinuance; (b) the appropriate department head, dean or the vice president for extension, and, where appropriate, the vice president for statewide campuses ; (c) relevant departments and colleges; (d) relevant college committees or councils; (e) the Educational Policies Committee; (f) the Budget and Faculty Welfare Committee; and (g) the relevant student college senators.

2.2.3 Consultation.

The groups above will forward comments and recommendations to the appropriate dean or to the vice president for extension,. The appropriate dean or the vice president for extension will forward the comments and a recommendation to the provost, and, where appropriate, to the Graduate Council; the Graduate Council may review this material and make a recommendation to the provost. After receiving and considering the recommendations and comments, the provost will submit the proposal, the comments, and a recommendation to the Educational Policies Committee. The Educational Policies Committee's recommendation will be subject to review and debate by the Faculty Senate (Policy 402.12.6.1. Duties). All comments, recommendations, and supporting material will be available to faculty senators for their perusal.

2.2.4 Final recommendation.

The Faculty Senate's recommendations will be forwarded to the president for consideration. The president will submit a final recommendation in writing to the Board of Trustees and the Utah Board of Higher Education and will attach the written comments and recommendations of the Faculty Senate.

2.3 Terminations; Reductions in Status

2.3.1 Notice of program discontinuance.

After the Utah Board of Higher Education has approved a proposal by the university to discontinue a program, the appropriate dean or vice president of the program, center, institute, school, department, college, campus, or site will give written notice of the discontinuance to all persons, including students, in the program, center, institute, school, department, college, campus, or site. A minimum of one (1) full year, beginning July 1, will pass from the time a final decision is made to close an academic program to the actual program discontinuance.

2.3.2 Termination and reduction in status.

Termination means the ending of employment of a tenured faculty member (or one with a term appointment) for medical incapacity, program discontinuance, financial crisis, or financial exigency (see also Policy 407.2.1.5, Dismissal). Reduction in status means a decrease in annual time the faculty member is contracted to the university.

2.3.3 Notice of termination or reduction in status.

In addition to the general notice in Policy 406.2.31, Notice of Program Discontinuance, the president will give tenured and tenure-eligible faculty members in the discontinued program, center, institute, school, department, college, campus, or site formal notice of termination or reduction in status as follows: (a) if the appointee is untenured and in the first (1st) year of service, notice will be given at least three (3) months prior to termination or reduction in status; (b) if the appointee is untenured and in the second (2nd) year of service, notice will be given at least six (6) months prior to termination or reduction in status; (c) if the appointee is tenured or is untenured but in the third (3rd) or subsequent years of service,

notice will be given at least twelve (12) months prior to termination or reduction in status. The length of notice from the president for faculty with term appointments as defined in Policy 401.4, The Faculty with Term Appointments, will be parallel to that for the untenured faculty described above, with the exception of those term appointees with research or federal research ranks; termination of these faculty is coincident with and contingent upon the termination date of their extramural funding; if their funding extends beyond that of a discontinued program, they may be reassigned to another program.

2.3.4 Relocation.

During a grace period of three (3) years, and with the assistance of the appropriate administrators (e.g., deans, department heads or supervisors or the vice president for extension) and the consent of the receiving department, every reasonable and good faith effort will be made to enable the affected faculty members who wish to do so to obtain suitable positions for which they are qualified elsewhere in the university. Tenured faculty members terminated through program discontinuance will, for a period of three (3) years following the date of their final salary payment, receive special consideration among candidates with comparable qualifications for any vacant and funded university position for which they apply and are qualified.

2.3.5 Faculty employment after program reinstatement.

If a terminated program or position is reinstated, tenured faculty members terminated through program discontinuance will, for a period of three (3) years following the final salary payment, have the right of immediate reinstatement.

2.3.6 Appeal.

Within thirty (30) calendar days of receiving notice from the president of termination or reduction in status, a faculty member who intends to appeal must notify, in writing, the president and the Academic Freedom and Tenure Committee of the intent to appeal. The formal appeal, with supporting documentation, must be filed with the Academic Freedom and Tenure Committee within sixty (60) calendar days of receipt of notice from the president. A hearing will then be conducted in a timely manner by the Academic Freedom and Tenure Committee, in accordance with procedures established by that committee.

2.4 SUSPENSION OF ENROLLMENT

Suspension of enrollment is an action short of discontinuance which if not reversed will lead to discontinuance, and which refers to the suspension of enrollment in a major subject, a minor subject where there is no corresponding major, a certificate program, or program awarding a credential certifying completion. Suspension of enrollment does not lead to reduction in status or termination of faculty in the program.

2.4.1 Procedure

(1) Initiation.

A department that plans to suspend enrollment must notify the Educational Policies Committee as soon as the departmental decision has been made and approved by the dean.

(2) Review.

The Educational Policies Committee will review the proposed suspension of enrollment for its effect on other academic programs of the university. The committee will hold hearings at which all constituencies affected, including students, faculty, and representatives from other departments affected by the proposed action, have the opportunity to testify. At the conclusion of its deliberations, the Educational Policies Committee will recommend approval or disapproval of suspension of enrollment to the Faculty Senate. The Faculty Senate will make a recommendation to the president. This process will be concluded within ninety (90) days following notification of the Educational Policies Committee. Suspension is granted by the president subject to the legal obligation, if any, of the university to permit students already enrolled in the program to complete their course of study.

(3) Time limitation.

At any time up to three (3) years after suspension has been granted, a suspension of enrollment may be reversed by the department, upon approval of the Educational Policies Committee, the dean or the vice president for extension, and the president. If suspension has not been reversed within this three-year period, program discontinuance must be initiated.

2.5 FINANCIAL EXIGENCY

2.5.1 Financial exigency.

Financial exigency is an existing or imminent financial crisis which threatens the mission/role of the institution as a whole, which requires programmatic reductions or closings which may entail faculty reductions or dismissals to enable the institution to accomplish its mission/role, and which cannot be alleviated by less drastic means.

2.5.2 Serious distortion of an academic program.

A serious distortion of an academic program will be deemed to occur when the faculty remaining in the program would not be qualified to meet generally accepted program standards (Policy 406.4.4.1, Plan for faculty reduction).

2.5.3 Declaration of Financial Exigency

2.5.3.1 Board of Trustees; Utah Board of Higher Education.

The president may, in accordance with the procedures below and with the approval of the Board of Trustees and the advice of the Faculty Senate, and the Staff Employees Association,

recommend to the Utah Board of Higher Education that a state of financial exigency be declared. A financial exigency may also be initiated by the Utah Board of Higher Education. A financial exigency exists only after it has been declared by the Utah Board of Higher Education.

2.5.3.2 Initiation.

When the president of the university identifies a possible financial exigency, the president will inform the Budget and Faculty Welfare Committee, the Faculty Senate, and the Staff Employees Association concerning the causes and possible consequences of the crisis. The president will also identify the measures considered by the university up to that point for dealing with the crisis, including a possible declaration of financial exigency, possible strategies that may be alternative to program reduction or program elimination, reasons why the university's financial circumstances may necessitate academic program reduction or elimination, and the time frame by which decisions must be made by those entitled to participate in the consultative process.

Time considerations will be critical when the university must judge whether or not a financial exigency exists. To the extent that such a judgment must be made in a brief time frame for a given situation, the time periods for the consultative process provided for in this policy will be specified by written notice from the president giving those for whom the consultative processes were provided the fullest possible amount of time under the circumstances. In that regard, the president will use their best efforts to secure the fullest period of time possible for consideration of these matters and the responses hereto.

2.5.3.3 Consultation.

Within the time period established by the President, the Faculty Senate will receive and consider the comments and advice of the Budget and Faculty Welfare Committee, as well as timely-presented views of any other faculty or administrative body, or those of individual faculty members, and will make a recommendation to the president concerning financial exigency.

Within the time period established by the president and before making a recommendation to the Utah Board of Higher Education, the president will receive and consider the comments and advice presented on the matter by the Budget and Faculty Welfare Committee, the Faculty Senate, and the Staff Employees Association.

2.5.3.3 Recommendation.

The president will submit their final recommendation on the declaration of financial exigency in writing to the Board of Trustees prior to submitting it to the Utah Board of Higher Education. The president will attach the written comments and recommendations of the Faculty Senate, and the Staff Employees Association. The president will also send a copy of the final recommendations to the Faculty Senate, and the Staff Employees Association.

2.5.4 Program Elimination or Reduction Because of Financial Exigency

2.5.4.1 Iterative process.

After declaration of financial exigency by the Utah Board of Higher Education, an iterative process of university program elimination or reduction may begin. The intent of this process is to ensure the continuing integrity of academic programs and the overall mission of the university. The first step in this process will be for every administrative, academic, nonacademic, and structural component of the university to assess its programs with regard to legal mandate, essentiality to the mission/role of the university, and quality. During subsequent steps, support services will be reduced to the extent feasible while preventing significant impairment of the university's ability to fulfill its mission/role.

2.5.4.2 Administrative and support services.

The president will ask the provost and the appropriate vice presidents to develop reduction and/or elimination plans in the areas of university-wide support services and non-academic programs. Such plans will be reviewed by the President's Executive Committee, the Council of Deans, the Budget and Faculty Welfare Committee, and the relevant committees of the Staff Employees Association and will be integrated with academic elimination or reduction plans (See Policy 406.4.3.3, Academic program elimination or reduction) in light of the overall academic mission of the university.

If a non-academic program has been reduced or eliminated, university-wide support services must be re-evaluated and reduced as appropriate. These reductions will precede further reductions in or elimination of academic programs.

2.5.4.3 Academic program elimination or reduction.

The president, after consultation with the President's Executive Committee, the Council of Deans, and the Budget and Faculty Welfare Committee, will direct the provost to develop plans for academic program elimination or reduction. These plans will include a timetable for their implementation.

The development of academic program elimination or reduction plans must involve consultation among departmental and college faculties to identify areas under consideration for academic program eliminations or reductions. The following criteria and information sources will be considered by those making judgments about which programs should be eliminated or reduced because of financial exigency: (a) legal mandate; (b) the general academic quality of the program with regard to scholarship, teaching, and service; (c) the extent of importance that the program has for the mission of the university; (d) the mission and goals of the university; (e) Graduate Council review; (f) findings by national accreditation bodies; (g) reports by appropriate national ranking sources; (h) such other systematically derived information, based on long-term considerations of program quality, as may be available; (i) the capacity of the program to generate external funding; (j) faculty/student ratios; (k) cost effectiveness when compared to similar programs at other universities; and (l) relationship to the Utah Board of Higher Education Master Plan for Higher Education in the

State of Utah.

The above list is not ranked and is not inclusive.

If an academic program is eliminated or reduced, the support services and administrative oversight associated with it will be re-evaluated and reduced if appropriate. Any reductions in support services will precede further reduction or elimination of academic programs.

2.5.4.4 Review.

If a plan calls for the elimination or reduction of a specific program, center, institute, school, department, college, campus, or site, that element of the plan will be reviewed by the Budget and Faculty Welfare Committee; the Educational Policies Committee; the Graduate Council, where appropriate; the faculty members and/or faculty committee most directly involved in the program; the appropriate department head or supervisor, dean, the vice president for extension, and, where applicable, the vice president for statewide campuses ; relevant college committees or councils; relevant committees of the Staff Employees Association; and relevant student advisory committees. The views of these bodies will be forwarded to the Faculty Senate for its consideration within the time periods prescribed by the president. The conclusions of the above bodies and the Faculty Senate will be forwarded to the provost who will consider them and forward them, along with the provost's own recommendation, to the president. When the president's recommendations are submitted to the Board of Trustees and the Utah Board of Higher Education, they will be accompanied by the Faculty Senate's recommendations. After the Board of Trustees and the Utah Board of Higher Education have approved the plan by the university to eliminate a program, the appropriate dean or vice president, of the program, center, institute, school, department, college, campus, or site will give written notice of the elimination to all persons, including students, in the program, center, institute, school, department, college, campus, or site.

2.5.4.5 Timetable.

Once financial exigency has been declared, the president will submit to the Faculty Senate a timetable for relieving the state of exigency. Further, the president will report progress in this endeavor to the Faculty Senate on a quarterly basis.

2.5.5 Terminations; Reductions in Status

2.5.5.1 Plan for faculty reduction.

As the process described in Policy 406.4.3, Program Elimination or Reduction Because of Financial Exigency, is taking place, the dean of each college will, in consultation with the departments, department heads, appropriate college committees, and, where appropriate, with the vice president for statewide campuses, devise an orderly sequence of steps which will constitute the college's faculty reduction plan. Included in such a plan will be explicit criteria by which individual faculty will be identified with the various programs under consideration for reduction or elimination. Program reductions are never to be declared with the aim of singling out a specific faculty member.

Insofar as feasible, the plan will emphasize the creation of various incentives such as

voluntary retirement, early retirement, resignation, reduction in status, salary reduction, severance pay, or similar actions that will result in immediate or eventual cost savings for the university, and that are voluntarily entered into by individual faculty members rather than imposed by university authority.

When non-voluntary faculty reductions are necessary, unless explicitly stated and compelling academic reasons exist to the contrary, consideration will be given first to not filling existing faculty vacancies and not filling vacancies from resignations, retirements, or deaths.

Consideration should next be given to the termination of instructional positions occupied by teaching assistants and faculty with special appointments (e.g., adjunct, visiting, and temporary). Next, consideration should be given to the termination of faculty with term appointments.

Finally, consideration should be given to the termination of tenure-eligible or tenured faculty members. The integrity of the tenure system will be respected. Within an academic program, the appointment of a faculty member with tenure will not be terminated in favor of retaining a faculty member without tenure, except in extraordinary circumstances where a serious distortion of the specific academic program would otherwise result. The question of serious distortion will be decided by the Educational Policies Committee and the Faculty Senate, with the approval of the president and the Board of Trustees. The finding of serious distortion will be based on criteria which include, but are not limited to, essentiality of service and work, field of specialization, and maintenance of necessary programs or services.

Termination or reduction in status of tenured, tenure-eligible, or term appointment faculty members will follow the procedures below.

2.5.5.2 Review procedure.

Proposed faculty reduction plans will be reviewed by affected department and college faculties in light of the future strength, balance, quality of teaching, research, extension, and mission of the department and college, tempered by concern for individual circumstances. Faculty response to such reduction plans will be forwarded in a timely manner to the appropriate department heads, deans, or the vice president for extension.

The dean will notify, in writing, any faculty member who is the subject of a recommendation for reduction. A faculty member who is so identified may respond in writing at any point in the review with their comments becoming part of the record to be forwarded to the next level of review. Deans will consider such a response and will add the dean's separate recommendations and forward the complete file to the provost or the appropriate vice president.

The provost or any appropriate vice provost will review the recommendations of the dean and any timely faculty response, as well as any appeals filed as in Policy 406.4.4.3, Appeal to the provost.

2.5.5.3 Appeal to the provost.

If a faculty member chooses to formally appeal to the provost, the faculty member must

submit, within thirty (30) days of their receipt from the dean of a notice of a recommendation for termination or reduction in status, a written notice of intent to appeal to the provost. A faculty member who has submitted notice of intent to appeal must file a formal written appeal with the provost within ninety (90) days of receipt of the notice of proposed termination.

2.5.5.4 Notice of termination or reduction in status.

The provost will forward the complete file with a recommendation to the president. The provost will also notify any affected faculty members in writing of the provost's recommendation to the president. Written notice from the president or from the president's designee will be given to a faculty member who is terminated due to program elimination or reduction because of financial exigency as follows: (a) if the appointee is untenured and in the first (1st) year of service, notice will be given at least three (3) months prior to termination or reduction in status;

(b) if the appointee is untenured and in the second (2nd) year of service, notice will be given at least six (6) months prior to termination or reduction in status; (c) if the appointee is tenured or is untenured but in the third (3rd) or subsequent year of service, notice will be given at least twelve (12) months prior to termination or reduction in status.

The notice must include the following: (a) the effective date of termination; (b) a statement of the reasons for the declaration of financial exigency; (c) the basis, the procedures, and the criteria used for termination; (d) opportunities for appeal, including access to appropriate documentation, and the appealable issues as set forth in Policy 406.4.45, Appeal and hearing below; and (e) the reinstatement rights.

2.5.5.5 Appeal and hearing.

A faculty member may appeal a termination only for: (a) violation of their academic freedom, legal, statutory, or constitutional rights; (b) failure to comply with this policy, the Utah Board of Higher Education policy, or with the plan for personnel reduction approved by the Utah Board of Higher Education; or (c) arbitrary or capricious action. Within thirty (30) days of receiving a notice from the president for termination or reduction in status, a faculty member who intends to appeal must notify, in writing, the president and the Academic Freedom and Tenure Committee of the intent to appeal. The formal appeal, with supporting documentation, must be filed with the Academic Freedom and Tenure Committee within forty-five (45) days of receipt of notice from the president. A hearing will then be conducted in a timely manner by the Academic Freedom and Tenure Committee, in accordance with procedures in Policy 407, Academic Due Process: Sanctions and Hearing Procedures.

2.5.5.6 Relocation.

During the grace period of three (3) years, and with the assistance of the appropriate administrators (e.g., deans, department heads, vice president for extension), and with the consent of the receiving unit, every reasonable and good faith effort will be made to enable the affected faculty members who wish to do so to obtain suitable positions elsewhere in the university if qualified.

2.6 REINSTATEMENT RIGHTS

2.6.1 For Tenured Faculty

In cases of termination of tenured faculty members, the position concerned may not be filled by replacement within a period of three (3) years from the effective date of the termination unless the tenured faculty member has been offered a return to employment in that position and has not accepted the offer within thirty (30) calendar days after the offer was extended.

2.6.2 For Non-Tenured Faculty

In cases of termination of non-tenured faculty members, the position concerned may not be filled by replacement within a period of one (1) year from the effective date of the termination unless the person terminated has been offered a return to employment in that position and the person terminated has not accepted the offer within thirty (30) calendar days.

2.6.3 Termination of Offer of Reinstatement

If an offer of reinstatement is not accepted within the timelines stated above, the university and the Utah Board of Higher Education have no further obligation to the person terminated. After the expiration of the applicable reinstatement period as provided herein, the institution and the Utah Board of Higher Education have no further obligation to the affected faculty member.

2.6.4 Faculty Status and Benefits after Reinstatement

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

2.7 MAJOR FINANCIAL CRISIS

6.1

2.7.1 Major financial crisis.

To constitute a major financial crisis, a situation facing the university will : (a) be significantly and demonstrably more than a minor, temporary, and/or cyclical fluctuation in operating funds; and (b) involve substantial risk to the survival of departments, colleges, or other major academic components of the university. A substantial risk to survival is considered one where a substantial reduction occurs in (1) the ability to fulfill the mission of the academic unit, (2) the number of students served by the academic unit, or (3) the number and quality of course offerings.

2.7.2 Declaration of Major Financial Crisis

2.7.2.1 Initiation.

If the president of the university identifies a possible major financial crisis, the president will inform the Budget and Faculty Welfare Committee, the Faculty Senate, and the Staff Employees Association of the causes and possible consequences of the crisis. The president will also identify the measures considered by the university up to that point for dealing with the crisis, including a possible declaration of financial exigency, strategies that may be alternatives to program reduction or program elimination, reasons why the university's financial circumstances may necessitate academic program reduction or elimination, and the time frame by which decisions must be made by those entitled to participate in the consultative process. The president will use their best efforts to secure the fullest period of time possible for consideration of these matters and the responses hereto.

2.7.2.2 Consultation.

The Faculty Senate will receive and consider the comments and advice of the Budget and Faculty Welfare Committee and the Staff Employees Association, as well as timely presented views of any other faculty or administrative body, on whether the president should declare the existence of a major financial crisis. The Faculty Senate will then express its views in writing to the president. The Staff Employees Association will also have the opportunity to express their views in writing to the president.

2.7.2.3 Implementation.

The president, with the approval of the Board of Trustees, may declare the existence of a major financial crisis after following (1) and (2) above. The university's actions in response to the crisis will be governed by Policies 406.4.3, Program Elimination or Reduction Because of Financial Exigency, and 406.4.4, Terminations; Reductions in Status.

2.7.3 Program Elimination or Reduction Because of Major Financial Crisis

2.7.3.1 Strategies.

When the president has declared the existence of a major financial crisis, the president will consult the President's Executive Committee, the Council of Deans, the Graduate Council, appropriate directors of non-academic programs, the Budget and Faculty Welfare Committee, and the Educational Policies Committee concerning strategies for dealing with the crisis. These will include examination of feasibility of all of the following: restrictions on enrollment, reductions or elimination of non-academic programs, across-the-board budget reductions, phased reductions, attrition, reductions in supplies, and, reduction or elimination of academic programs. The president will then outline to the Faculty Senate the strategies the president proposes to follow in developing

a specific plan for coping with the crisis. After receiving input from the groups above, the Faculty Senate will make whatever recommendations it deems appropriate concerning such strategies.

The policies below apply when, after receipt of the recommendations of the Faculty Senate, the president has concluded that a declared major financial crisis entails academic program reduction or elimination.

2.7.3.2 Iterative process.

After declaration of a major financial crisis by the president an iterative process of university program elimination or reduction may begin. This process should be carried out in a manner that best ensures the continuing integrity of academic programs. The first step in this process will be for every administrative, academic, non-academic, and structural component of the university to assess its programs with regard to quality and essentiality to the mission of the university. During subsequent steps, support services will be reduced to the extent feasible to prevent significant impairment of the university's ability to fulfill its mission/role.

2.7.3.3 Administrative and support services.

The president will ask the provost and the appropriate vice presidents to develop reduction and/or elimination plans in the areas of university-wide support services and nonacademic programs. Such plans will be reviewed by the President's Executive Committee, the Council of Deans, the Budget and Faculty Welfare Committee, and the Staff Employees Association, and will be integrated with academic elimination or reduction plans in light of the overall mission/role of the university.

If a non-academic program has been reduced or eliminated, university-wide support services must be re-evaluated and reduced as appropriate. Any reductions in support services or administrative oversight will precede further reductions in or elimination of academic programs.

2.7.3.4 Academic program elimination or reduction.

The president will direct the provost to assist academic departments in developing plans to implement academic program elimination or reduction. The individual academic departments of the university will be asked to evaluate their programs, consider alternatives to program reduction or elimination, and examine possible time frames (including multiyear) for accomplishing possible budget reductions. The dean of each college and, where appropriate, the vice president for statewide campuses will review the departmental reports and comment upon them. The departmental reports and comments from the deans, and, where appropriate the vice president for statewide campuses will be forwarded to the President's Executive Committee; the Council of Deans; the Graduate Council, where appropriate; and the Educational Policies Committee for their review and comment. All comments from these entities will then be forwarded to the President's Executive Committee for consideration.

The following criteria and information sources will be considered by those making

judgments about which programs should be eliminated or reduced because of a major financial crisis: (a) legal mandate; (b) the general academic quality of the program with regard to scholarship, teaching, and service; (c) the extent of importance that the program has for the mission of the university; (d) the mission and goals of the university; (e) the comments from entities in the paragraph above; (f) findings by national accreditation bodies; (g) reports by appropriate national ranking sources; (h) such other systematically derived information, based on long-term considerations of program quality, as may be available; (i) the capacity of the program to generate external funding; (j) faculty/student ratios; (k) cost effectiveness when compared to similar programs at other universities; and (l) relationship to the Utah Board of Higher Education Master Plan for Higher Education in the State of Utah. The above list is neither ranked nor inclusive.

If an academic program is eliminated or reduced, those support services associated with it will be re-evaluated and reduced if appropriate. These reductions will precede further reductions or elimination of academic programs. Unless financial exigency is declared, tenured faculty members may not be terminated because their program was reduced, except when program elimination has occurred.

2.7.3.5 Review.

If a plan calls for the elimination or reduction of a specific program, center, institute, school, department, college, campus, or site, that element of the plan will be reviewed by the Budget and Faculty Welfare Committee; the Educational Policies Committee; the Graduate Council; the faculty members and/or faculty committee most directly involved in the program; the appropriate department head, dean, or the vice president for extension and, where appropriate, the vice president for statewide campuses; relevant college committees or councils; and relevant student advisory committees. The views of these bodies will be forwarded to the Faculty Senate for its consideration within the time periods prescribed by the president. The conclusions of the above bodies and the Faculty Senate will be forwarded to the president who will consider them in the review of the proposed plan. The views of the Faculty Senate on the plans will be forwarded to the Board of Trustees and/or to such other body as may be required by state law or university policy.

2.7.3.6 Timetable.

Once a major financial crisis has been declared, the president will submit a timetable for relieving the crisis to the Faculty Senate and the Staff Employees Association. Further, the president will report progress in this endeavor to the Faculty Senate, and the Staff Employees Association on a quarterly basis.

2.7.4 Terminations; Reductions in Status

The procedures described in Policy 406.4.4, Terminations; Reductions in Status, will apply, except that the appointment of a faculty member with tenure will not be terminated in favor of retaining a faculty member without tenure unless program elimination has occurred.



POLICY MANUAL

FACULTY

Number ~~41007~~

Subject: Academic Due Process: Sanctions and Hearing Procedures

Effective Date: July 1, 1997

Revision Dates: October 12, 2001; January 30, 2004; August 31, 2006;

March 2, 2008; May 23, 2008; March 6, 2009; August 21, 2009; July 8, 2011; May 3, 2013, May 2, 2014, May 1, 2015

Date of Last Revision: ~~May 1, 2015~~ November 8, 2023.

~~41007.1~~ INTRODUCTION PURPOSE AND SCOPE

This ~~section of the policy manual~~ describes allowable sanctions that may be imposed on a faculty member. Additionally, this section and specifies procedures for the imposition of a sanction and for conducting a grievance hearing.

Where administrators have faculty assignments, they are subject to the provisions of this policy, and the such provisions outlined herein to will be carried out by their immediate supervisor(s).

~~In the absence of the president, or where a potential or actual conflict of interest exists, the president may designate a tenured faculty member to act on his/her/their behalf. If the provost is not a tenured faculty member or where a potential or actual conflict of interest exists, the provost may designate a tenured faculty member to act on his/her/the provost's behalf.~~

In all proceedings in this policy, the University's policies regarding records will be followed ~~rights of access to records are maintained~~ (see Policy 405.62.4, TENURE, PROMOTION, AND REVIEW: GENERAL PROCEDURES—University Records: Access).

Notwithstanding any provisions of this policy or related policies, the University reserves the right to take any action as ~~it~~ may be required by law, ~~including without limitation, actions necessary to discharge the University's federal, state, or local legal obligations as applied to the University through legislative action, regulation, or administrative rule and/or guidance.~~

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1.1 Non-punitive Measures Outside of Formal Sanctions

Minor departures from professional behavior responsibilities can often be corrected simply by calling the matter to the attention of the faculty member involved.

Non-punitive measures outside of formal sanctions such as guidance, leave of absence, voluntary resignation, or early retirement should be considered and taken in lieu of a sanction when: (1) it the measure is available; (2) it the measure will provide reasonable assurance that the faculty member will not repeat his/her their violation of professional responsibility; (3) substantial institutional interests are not undermined through use of the measure; and (4) the faculty member consents thereto the measure. The faculty member should consult with the Americans with Disabilities Act (ADA) Coordinator within the Office of Human Resources (HR) if performance issues are medically related.

1.2 Definitions of Days

In all proceedings under Policy 407, a day is defined as a calendar day (Sunday through Saturday, excluding official university holidays).

41007.2 SANCTIONS ACADEMIC DUE PROCESS

Apparent failures to comply with the standards of conduct (see Policy 403 Academic Freedom and Professional Responsibility) are approached by positive attempts to clarify expectations and manage performance. Attempts to correct behavior will be proportional to the gravity of the conduct in question and guides by consistency and established precedent.

2.1 Setting Expectations and Identifying Minor Issues

Minor departures from standards of conduct can often be corrected by the faculty member's department head or immediate supervisor calling the matter to the attention of the faculty member. The department head or immediate supervisor will address minor issues by informing the faculty member of the behavior and explaining how the faculty member can improve. The faculty member should be offered guidance, training, mentorship, and/or other resources to improve performance.

2.1.1 Communication of Expectations

In addition to any verbal communication, a letter or email from the department head or immediate supervisor will be used to communicate expectations to the faculty member when a minor issue in conduct has been observed. The communication will include a description of the conduct in question, provide guidance and direction for correction, and explain the expectations for future performance. The communication does not constitute formal disciplinary action and is kept by the department head or immediate supervisor. The faculty member may request a one-on-one meeting to discuss the communication of expectations with their department head or immediate supervisor.

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2.2 Measures in Lieu of Sanctions

Measures such as a letter of expectations, a performance improvement plan, resignation or early retirement should be considered and taken in lieu of sanction when:

- (a) the measure is available;
- (b) the measure will provide reasonable assurance that the faculty member will not repeat the violation of professional responsibility;
- (c) substantial institutional interests are not undermined through use of the measure; and
- (d) the faculty member consents to the measure.

The faculty member should consult with the American with Disabilities Act (ADA) Coordinator in the Office of Human Resources if performance issues are medically related.

2.3 Administrative Leave

The president or provost, in consultation with the Offices of Human Resources, Equity, and General Counsel, as appropriate, may place a faculty member on administrative leave with full pay pending completion of the procedures described below or in Policy 305 Discrimination Complaints, Policy 321 Respectful Workplace, Interim Policy 339 Title IX Sexual Misconduct in an Employment or Education Program or Activity, Policy 339A Non-Title IX Sexual Misconduct, or when a faculty member is alleged to have violated these policies or charged with a crime that affects an institutional interest.

Administrative leave is designed to protect the institution, the faculty member, and the integrity of the university procedures and processes related to the underlying allegations or charge.

Factors that will be considered in making the determination include:

- (a) The severity of the alleged conduct;
- (b) Number and recency of alleged violation or crime;
- (c) Number of individuals affected alleged conduct or crime;
- (d) Risk of potential harm to campus community (students, employees, visitors);
- (e) Potential risk of ongoing misconduct and/or repetitive behavior underlying the alleged violation or charged crime;
- (f) Potential for retaliation;
- (g) Whether investigation can be conducted effectively with the faculty member remaining in the physical and/or virtual work environment;
- (h) Existing power imbalance between faculty member and individuals affected by the alleged policy violation or charged crime; and
- (i) Impact of leave of faculty member.

These factors may be revisited and reassessed at any time during the administrative leave period.

Administrative leave is a non-punitive, interim measure outside of formal sanctions and distinguished from suspension imposed as a sanction. Administrative leave will remain in effect until such time a faculty member is cleared of the alleged policy violation, a material change in the circumstances that gave rise to the administrative leave occurs or is acquitted of such crime

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that gave rise to administrative leave.

2.4 Sanctions

~~Misconduct~~ contrary to the standards of conduct set forth in Policy 403 Academic Freedom and Professional Responsibility may lead to sanctions. Sanctions will be considered when failures to meet standards of conduct are severe or demonstrate a pattern of behavior that cannot be addressed through setting expectations and identifying minor issues (Policy 410.2.1), communication of expectations (Policy 410.2.1.1), or measures in lieu of sanctions (410.2.2). ~~Minor departures from responsible professional behavior responsibilities (Policy 403.3, Professional Responsibility; Standards of Conduct) can often be corrected simply by calling the matter to the attention of the faculty member involved. Such minor lapses are handled within the faculty member's academic unit. (Policy 410.1.1) However, all conversations between the faculty member and any administrative officer with oversight of the faculty member's academic unit (Department Head, Dean, etc.) pertaining to potential violations of Policy 403~~ Policy 403 ACADEMIC FREEDOM AND PROFESSIONAL RESPONSIBILITY, Standards of Conduct shall be memorialized in writing by the administrative officer(s) involved and shall include a statement of the nature of the potential violation. At the conclusion of such a meeting the accused alleged faculty member shall be afforded the opportunity to sign the memorandum as being a faithful reflection of the conversation. A dated copy of each memorandum shall be provided to the faculty member within 24 hours of the conversation(s). The faculty member may also provide a dated response to such a memorandum/a in writing within three (3) days (see 407.1.2 ACADEMIC DUE PROCESS); SANCTIONS AND HEARING PROCEDURES—Definition of Days) that memorializes their own understanding of the conversation(s) involved. A copy of all memoranda and any related documents shall be retained by the academic unit with copies also being placed in the faculty member's file. Electronic communications employing official USU channels are acceptable for transmittal. The purpose of these memoranda is to memorialize the content of the conversations rather than to establish facts or supply evidence of guilt or innocence. If further relevant facts or evidence require subsequent conversations, they should also be memorialized as described above. Memoranda shall be kept for the period required by the applicable State of Utah retention schedule.

~~Apparent failures to comply with the standards of conduct are approached by positive attempts to improve faculty performance such as sustained attempts to inform, persuade, and improve. If appropriate, positive efforts to improve faculty performance shall precede or accompany all sanctions. Complaints related to issues that must be handled by the Office of Equity will follow protocols described in the appropriate parts of Section 300 PERSONNEL POLICIES of the university code.~~

2.4.1 Sanctioning Authority and Conflicts of Interest

Sanctions are mutually exclusive and are imposed by the provost under the authority of the president. The provost serves as the Sanctioning Authority. The provost, in consultation and with approval from the president, will determine when a sanction will be imposed.

There may be instances when a faculty member subject to a sanction believes that the Sanctioning Authority has a conflict of interest in relation to the faculty member's case.

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When a faculty member subject to a sanction believes the Sanctioning Authority has a conflict of interest, they may allege that conflict in writing to the provost. The president will review the allegation of conflict and determine whether an actual conflict exists and communicate their determination to the faculty member in writing. If the president determines that there is an actual conflict of interest, they will serve as the Sanctioning Authority. Where the president is alleged to have a conflict of interest, that allegation will be considered and determined by the Board of Trustees.

2.4.2 Review of Alleged Misconduct

When an allegation of misconduct by a faculty member has been made, the provost will conduct or delegate the authority to conduct a review of the allegation and determine if there are sufficient grounds to impose a sanction.

If the review indicates that sufficient grounds exist to support the allegation of misconduct, the provost will report in writing the outcome to the president and begin the sanction process. If the preliminary review does not indicate sufficient grounds to support the allegation, the provost will also report that result to the president. The procedures for sanctions are described in 410.2.5 Procedures for Reprimands and 410.2.6 Procedures for Sanctions Other Than Reprimands.

2.1 Authorized Sanctions

(1) Reprimand.

A reprimand is a written statement detailing a violation of the standards of conduct set forth in ~~Policy 403~~ ~~Policy 403~~ ACADEMIC FREEDOM AND PROFESSIONAL RESPONSIBILITY.

(2) Probation.

Probation is a period of time, not to exceed one (1) year, during which faculty members who have violated the standards of conduct set forth in ~~Policy 403~~ ~~Policy 403~~ ACADEMIC FREEDOM AND PROFESSIONAL RESPONSIBILITY are afforded the opportunity to demonstrate their ability to comply with their professional responsibilities. Failure to fulfill the terms of probation may result in the imposition of another sanction.

(3) Suspension.

Suspension is the barring of a faculty member from the exercise of all or part of his/her their duties for a period of time, not to exceed one (1) year. Suspension may be imposed with full pay, partial pay, or without pay.

(4) Reduction in rank.

Reduction in rank is a one-step reduction in faculty rank as defined in Policies 401.4 and

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~~401.5. Reduction in rank is different from reduction in status (see Policy 406.2.3 (2)).~~
~~PROGRAM DISCONTINUANCE FOR ACADEMIC REASONS— Definition of termination and reduction in status).~~

~~(5) Dismissal:~~

~~Dismissal is the ending of employment.~~

~~Termination and non-renewal are defined here to differentiate them from dismissal. Termination and non-renewal are not sanctions. Termination means the ending of employment of a tenured faculty member or a faculty member with a term appointment for program discontinuance, financial crisis, or bona fide financial exigency. Non-renewal means the ending of employment of a faculty member without tenure or a faculty member with a term appointment by non-renewal of his/her/their contract (see Policy 405, Tenured and Term appointments: Evaluation, Promotion, and Retention).~~

~~2.2~~ 2.4.3 Purpose of Sanctions

~~The imposition of a~~ A ~~sanction should serve~~ s one or more of the following purposes:

- ~~(1a)~~ (a) to induce self-improvement and reform by a faculty member whose conduct demonstrates the need for self-improvement and reform;
- ~~(2b)~~ (b) to indicate to the faculty member the seriousness of his/her/their violation and thereby deter him/her/them from future violations;
- ~~(3c)~~ (c) to reassure the institutional community that violations of the standards of conduct will not be tolerated, thereby helping ~~to~~ maintain respect for and commitment to the standards by other members of the institutional community; or
- ~~(4d)~~ (d) to remove from institutional employment faculty members whose violation of the standards of conduct makes them unsuitable to continue in beneficial service to the institution.

~~2.3~~ 2.4.4 Imposing a Sanction

~~The decision to impose a sanction will~~ should be guided by consistency and established precedent, practices of fairness and, professionalism, and should be designed to allow for an escalating set of consequences where appropriate. A sanction ~~shall~~ will be imposed when:

- ~~(1a)~~ (a) the purpose set forth in Policy ~~41007.2.2~~ 410.2.2 ~~SANCTIONS –Purpose cannot be adequately served by non-punitive measures in lieu outside of formal sanctions (410.2.2);~~
- ~~(2b)~~ (b) the sanction is not disproportionately severe in relation to the violation of the standards of conduct for which it is imposed; and
- ~~(3c)~~ (c) the imposition of such sanction is fair and just to the faculty member involved, giving due consideration to the situation and to any relevant matters tending to mitigate the seriousness of the violation.

~~Sanctions are mutually exclusive and are imposed by the authority of the president. However, probation and another sanction consequent on the failure to fulfill the terms of probation~~

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~~cannot be imposed simultaneously.~~ Sanctions are not cumulative; the sanctions are progressive in severity, but do not have to be imposed progressively.

2.4.5 Authorized Sanctions

The following list describes the authorized sanctions that may be imposed for violations of the standards of conduct in Policy 403. Failure to fulfill the terms of a sanction may result in further discipline.

(a) Reprimand.

A reprimand is a written statement detailing a violation of the standards of conduct in Policy 403.

(b) Sanction-based probation.

Sanction-based probation is a period of time, not to exceed one (1) year, during which faculty members who have violated the standards of conduct set forth in Policy 403 are afforded the opportunity to demonstrate their ability to comply with their professional responsibilities.

(c) Suspension.

Suspension is the barring of a faculty member from the exercise of all or part of their duties for a period of time, not to exceed one (1) year. Suspension may be imposed with full pay, partial pay, or without pay.

(d) Reduction in rank.

Reduction in rank is a one-step reduction in faculty rank as defined in Policy 401. Reduction in rank is different from reduction in status (see Policy 406).

(e) Dismissal for cause.

Dismissal for cause is the ending of employment.

Termination and nonrenewal are defined here to differentiate them from dismissal for cause. Termination and nonrenewal are not sanctions. Termination is the ending of employment of a tenured faculty member or a faculty member with a term appointment for program discontinuance, financial crisis, or bona fide financial exigency. Nonrenewal is the ending of employment of a faculty member without tenure or a faculty member with a term appointment by nonrenewal of their contract (see Policy 406).

2.4.2.4.6 Restitution Remediation

When a sanction less than dismissal ~~for cause~~ is imposed, the terms of ~~the sanction imposition~~ may include the requirement that the faculty member take reasonable action to ~~make restitution or to~~ remedy a situation created by a violation of the standards of conduct.

2.5.2.4.7 Double Jeopardy Compounding Violations

When a faculty member has been found non-responsible for an alleged violation of policy, the behavior underlying the allegation will not be raised against the faculty member again in subsequent allegations.

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~~However, where the faculty member is found responsible for a violation of policy, that finding may be relevant, and can be used in a compounding analysis for sanction or to prove a pattern or practice of misconduct.~~

~~No faculty member shall be twice subject to proceedings under this policy for the same instance of a violation of a standard of conduct.~~

Where a faculty member has been subject to proceedings in a court of law, a sanction ~~will~~ shall not be imposed on the faculty member for the same acts unless the acts constitute violations of the standards of conduct in University Policies Policy 403 ACADEMIC FREEDOM AND PROFESSIONAL RESPONSIBILITY.

2.4.8 Extensions for Good Cause

~~With good cause, the schedule of events for sanctions may be suspended for a reasonable time either because one or more participants are unavailable to participate for other serious and compelling reasons. Such extensions will be by mutual agreement between the faculty member and other parties.~~

41007.2.53 PROCEDURES FOR REPRIMANDS

3.1 2.5.1 Notification of Intent to Issue a Reprimand

If a faculty member's department head or immediate supervisor, ~~in consultation with the and academic dean or the vice president for extension, or provost, where appropriate, chancellor or regional statewide campus dean associate vice president~~ believes that a faculty member has violated the standards of conduct in Policy 403 Academic Freedom And Professional Responsibility and such violation warrants a reprimand, they ~~shall~~ will notify the faculty member of the basis of the proposed reprimand in writing. ~~The notice will include the standard violated and the specific actions, behavior, or circumstance that violated the standards of conduct.~~ The faculty member ~~shall~~ will be afforded an opportunity to meet with those imposing the reprimand within seven (7) days of receiving the notification and explain why they believe and persuade them that the proposed reprimand should not be imposed. If a reprimand is imposed, it must be issued within five (5) days of the meeting.

3.2 2.5.2 Review of Reprimand

If a faculty member believes that the reprimand has been unjustly imposed, ~~he or she~~ the faculty member may request a review of the reprimand by the Academic Freedom and Tenure (AFT) Committee. Such a request must will be made in writing to the chair of ~~AFT the committee~~ within twenty (20) days after the faculty member receives of the imposition of the reprimand. ~~The faculty member's request must include a detailed written statement explaining why they believe the reprimand was unjustly imposed.~~ Within twenty (20) days of receipt of a written request for review, the chair of the AFT Academic Freedom and Tenure Committee shall will select by lot and convene a special panel of three (3) members of the AFT Academic Freedom and Tenure Committee for a hearing (see Policy 402.12.3.(2)). ~~The panel shall~~ will provide the faculty member with the opportunity to submit a detailed

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Commented [NK17]: This section was revised to ensure that the notification included adequate detail for an outside observer to understand the violation. A standard timeline was also added to ensure consistency across the institution.

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Commented [NK18]: The written statement was added as part of the faculty member's request to streamline the process of a review and hearing. AFT will no longer be responsible for determining if there is merit for a hearing. Any faculty member who requests a hearing will receive one.

~~written statement if he or she they desires. The panel shall will decide whether the facts merit a reprimand hearing. Submission of a request for review does not automatically result in a reprimand hearing.~~

~~The panel may seek to bring about a settlement of the matter with the consent of all parties involved. If settlement is not possible or appropriate within twenty (20) days after the panel is convened, the panel will decide whether or not to hold a hearing on the matter.~~

~~3-3~~ 2.5.3 Reprimand Hearing

The reprimand hearing will occur within ten (10) days after the panel has been formed-review of the reprimand by the panel. The hearing will be informal but will provide the faculty member and those imposing the reprimand with the opportunityrights to be present, to be heard, and to present evidence.

Within ten (10) days ofafter the hearing, the panel will report its findings and recommendations in writing to the faculty member and to those imposing the reprimand. If the panel determines that the written-reprimand is unjust or otherwise inappropriate, such sanction shallwill be rescinded by those who imposed it and removed from the faculty member's file. A letter with the hearing panel's decision will be drafted by the panel and a copy will be sent to the faculty member and those who imposed the reprimand.

41007.2.64 PROCEDURES FOR SANCTIONS OTHER THAN REPRIMANDS

~~A sanction, other than a reprimand (see 410.2.5), Probation, suspension with other than full pay, reduction in rank, and dismissal may be imposed on a faculty member after it has been determined, by the proceedings set forth or referred to in this policy or in Policy 305 (Discrimination Complaints), that he or she the faculty member has violated the standards of conduct in Policy 403 Academic Freedom And Professional Responsibility, Policy 305, Policy 339, or Policy 339A. The president or provost may place a faculty member on administrative leave with full pay pending completion of the procedures described below or in Policy 305 Discrimination Complaints, Policy 339 Sexual Misconduct In An Employment Or Educatational Program Or Activity, and its sub-policies. Administrative leave is intended to be an interim a non-punitive measure outside of formal sanctions and is to be distinguished from suspension imposed as a sanction.~~

The sanction process will be transparent, expeditious, and equitable for all involved parties. Faculty may choose to be accompanied by an advocate or observer during any sanction-related meeting with USU personnel or other representative(s). Faculty may request a reasonable delay of an ad hoc meeting to obtain such assistance and must be informed of all relevant progress or decisions made in their absence per section 410.2.4.8 Extensions for Good Cause.

The following procedures will be followed in all proceedings to impose a sanction other than a reprimand, the following procedures shall govern, except for proceedingsedures involving which govern allegations of

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~~research fraud (see Policy 407.8 Addressing Inquiries Into Allegations Of Scientific Research Misconduct In Research And Imposing Sanctions For Research Fraud)~~

~~(a) Discrimination (Policy 410.2.10 Discrimination, Sexual Misconduct, Aand Disallowed Relationships and Policy 305 Discrimination Complaints),~~

~~(b) Sexual misconduct (Policy 410.2.10 Discrimination, Sexual Misconduct, Aand Disallowed Relationships, Policy 339 Sexual Misconduct In An Employment Or Educational Program Or Activity, and its sub-policies),~~

~~The sanction process will be transparent and expedient for the accused, the accuser(s), and all other cognizant interested parties. Faculty may choose to be accompanied by an advocate or observer during any sanction related meeting with USU personnel or other representative(s), may request a reasonable delay of an ad hoc meeting to obtain such assistance, and must be informed of all relevant progress or decisions made in their absence.~~

4.1 2.6.1 Initiation of a Sanction

~~The provost as the Sanctioning Authority Whenever there are grounds to believe that a faculty member has failed to comply with the standards of conduct in Policy 403- ACADEMIC FREEDOM AND PROFESSIONAL RESPONSIBILITY, the president, upon their own initiative, upon a recommendation from a department head, supervisor, academic dean, the vice president for extension, chancellor, regional campus dean associate vice president of for statewide campus, or other administrative office, upon request of the Board of Trustees, or upon the receipt of complaints from any person, may initiate proceedings for a sanction when a review of alleged misconduct (410.2.4.2 Review of Alleged Misconduct) has produced sufficient grounds to believe that a faculty member has failed to comply with the standards of conduct in Policy 403. probation, suspension, reduction in rank, or dismissal of a faculty member.~~

4.2 2.6.2 Notice of Intent to Impose a Sanction

~~At the direction of the president, The provost shall will arrange cause for written notice to be delivered personally or by certified mail, return receipt requested, to the faculty member for whom a sanction has been recommended under investigation. A copy of this notice shall will be sent to the chair of the Academic Freedom and Tenure AFT Committee, along with a statement confirming the date the faculty member received it. Copies will also be sent to the faculty member's department head or immediate supervisor and academic dean, vice president for extension, or, where appropriate, chancellor or regional campus dean associate vice president of for statewide campus.~~

~~Notice of intent to impose a sanction Such notice shall will contain the following:~~

- ~~(a) A concise and clear statement of the facts, conduct, or circumstances reported alleged to constitute failure to comply with the standards of conduct in Policy- 403 Policy 403 Academic Freedom Andand Professional Responsibility, including a statement of the standard (s) or standards the faculty member is alleged to have violated.~~
- ~~(b) A statement of the sanction proposed.~~
- ~~(c) A statement that (a) the faculty member has the right to be heard in a conference~~

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Commented [NK19]: Allegations of research misconduct are determined by the Office of Research. If a sanction is warranted, the procedures in this section will be followed. See 410.2.9

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with the provost (see Policy 407.4.5 Procedures for Sanctions Other than Reprimands – Conference with Provost) either in person or by electronic conferencing; (b) ~~should~~ the faculty member desire, the faculty member may have- invite a person advisor of his/her/their own choosing to be present and serve as a supportive resource and/or advisor at such a conference; (c) this conference must be requested in writing within five (5) days after receipt of the notice by the faculty member; and (d) this conference must be held within ten (10) days after receipt of notice by the faculty member.

- (d) A statement of the schedule of events that lead to a formal hearing, and that a faculty member, should they desire, may invite a person of their choosing to be present and serve as a supportive resource and/or be accompanied at such hearing by an advisor at such a hearing of his/her/their own choosing.
- (e) A statement that within twenty (20) days of the receipt of this notice, the faculty member, ~~if he or she~~ the faculty member wishes/should they wish to contest the alleged violation, must file in writing with the chair of the Academic Freedom and Tenure Committee a statement of intent to contest the alleged violation through formal hearing; and that failure to do so will result in the imposition of the proposed sanction.
- (f) A statement that within 20-forty (40) days of the filing of the written statement of intent to contest the alleged violation through formal hearing notice of intent to impose a sanction, the faculty member must file, with the chair of the hearing panel, a written response which answers the alleged violation contained in the original notice; and that failure to do so will result in the imposition of the proposed sanction.

4.3 2.6.3 Schedule of Events

The proceedings ~~shall~~will commence with the receipt by the faculty member of the written notice to impose a sanction as described in Policy ~~407.4-2410.2.6.2-Procedures for Sanctions and Other Reprimands –~~ Notice of Intent to Impose a Sanction. ~~The provost must deliver a A~~ copy of the notice ~~must be delivered by the provost~~ to the chair of the ~~Academic Freedom and Tenure~~AFT Committee within ten (10) days of receipt of notice by the faculty member.

2.6.3.1 Conference with the Provost.

A faculty member notified of an intent to impose a sanction has the right to be heard in conference with the provost either in person or by electronic conferencing. If the faculty member desires a conference with the provost, ~~he or she~~ the faculty member must request it within five (5) days of receipt of notice. The conference must be held within ten (10) days of receipt of notice. The purpose of the conference is to attempt to reach an agreement or settlement. In the event that the alleged violations are disposed of by mutual agreement or negotiation at the conference, no hearing need be held. A copy of the settlement will be sent to the chair of the AFT Committee.

The right to a conference with the provost is at the discretion of the faculty member. Requesting or rejecting such a conference does not abrogate the faculty member's right to a formal hearing.

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2.6.3.2 Notice of Intent to Contest the Alleged Violation

~~A faculty member notified of intent to impose a sanction must file a notice of intent to contest the alleged violation if the faculty member desires a formal hearing. The notice of intent to contest the alleged violation must be filed with the~~ The faculty member must present to the chair of the Academic Freedom and Tenure AFT Committee a written statement of intent to contest the alleged violation through formal hearing within twenty (20) days of receipt of notice. Failure to do so will result in entry of the faculty member's default and the imposition of the proposed sanction.

The chair of the Academic Freedom and Tenure Committee must notify the provost of the faculty member's intent to contest the alleged violation through formal hearing within ten (10) days of receiving such statement of intent. The chair of the Academic Freedom and Tenure Committee must appoint four members of a hearing panel (Policy 402.12.3(7), 6 Senate Standing Committees – Academic Freedom and Tenure Committee – Hearing Panels), including a hearing panel chair, within ten (10) days of the filing of the written statement of intent to contest the alleged violation through formal hearing. The ~~president-provost will~~ must appoint an administrative member of the hearing panel within the same time.

2.6.3.3 Response to the Alleged Violation

The faculty member must file, ~~with the chair of the hearing panel,~~ a written response which answers the alleged violation contained in the original notice with the chair of the hearing panel, within twenty (20) days of the filing of the written statement of intent to contest the alleged violation, ~~through formal hearing. Appropriate, substantiating documentation will be submitted with the response. Failure to do so will result in entry of the faculty member's default and the imposition of the proposed sanction.~~

The chair of the hearing panel ~~must will~~ provide the president-provost with a copy of the faculty member's written response ~~which answers the alleged violation contained in the original notice~~ within five (5) days of receiving such response.

~~The schedule of events for sanctions may be suspended for a reasonable time if key participants are not available either in person, by teleconference, by letter, or other appropriate means. The hearing panel, appointed by the chair of the Academic Freedom and Tenure Committee, will determine by a majority vote whether a suspension of the schedule of events for sanctions is warranted.~~

4.4 Emergencies

~~Emergencies may be grounds for a reasonable extension of the time limits for filing a notice of intent to contest the alleged violation, or for responding to the alleged violation, or for conducting the hearing. Such emergencies must be of a serious and compelling nature, and any such extension shall will be by mutual agreement. Failing agreement, an extension for filing a notice of intent to contest the alleged violation is granted only by a majority vote of the Academic Freedom and Tenure Committee; an extension for filing a written response or~~

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for conducting the formal hearing is granted only by a majority vote of the hearing panel.

4.5 ~~Conference with Provost~~

~~A faculty member notified of an intent to impose a sanction has the right to be heard in conference with the provost either in person or by electronic conferencing. The schedule for requesting and holding a conference is specified in Policy 407.4.3 PROCEDURE FOR SANCTIONS AND OTHER REPRIMANDS—Schedule of Events above. Both the faculty member and the provost may each have an advisor of their own choosing present at the conference. The purpose of the conference is to attempt to reach an agreement or settlement. In the event that the alleged violations are disposed of by mutual agreement or negotiation at the conference, no hearing need be held. A copy of such settlement shall will be sent to the chair of the Academic Freedom and Tenure Committee.~~

~~The right to a conference with the provost is discretionary with the faculty member; requesting or rejecting such a conference does not abrogate the faculty member's right to a formal hearing.~~

4.6 ~~Notice of Intent to Contest the Alleged Violation~~

~~A faculty member notified of action leading to sanction must file a notice of intent to contest the alleged violation if the faculty member desires a formal hearing. The notice of intent to contest the alleged violation must be filed with the chair of the Academic Freedom and Tenure Committee within twenty (20) days of receipt of notice. Failure to do so will result in entry of the faculty member's default in the premises, and the imposition of the proposed sanction.~~

4.7 ~~Response to the Alleged Violation~~

~~The faculty member must file a written response which answers the alleged violation contained in the original notice with the chair of the hearing panel within twenty (20) days of the filing of the written statement of intent to contest the alleged violation. Appropriate, substantiating documentation shall will be submitted with the response. Failure to do so will result in entry of the faculty member's default in the premises, and the imposition of the proposed sanction.~~

4.8 ~~2.6.3.4~~ Pre-hearing Conference

~~Within ten (10) days prior to the date set for the hearing, A pre-hearing conference will be held no more than ten (10) days before the formal hearing. The formal hearing will be scheduled within forty (40) days of receipt of the faculty member's statement of intent to contest the alleged violation through formal hearing. The chair of the hearing panel will schedule the hearing date.~~

~~before tThe chair of the AFT Academic Freedom and Tenure Committee, who shall will preside at the pre-hearing conference. The, and the chair of the hearing panel will also attend.~~

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At this pre-hearing conference the provost or administrative representative and the faculty member ~~shall will~~ make available to each other ~~the names lists~~ of their proposed witnesses and ~~a list of~~ the documentary evidence to be introduced at the hearing. The pre-hearing conference ~~shall will~~ delineate the issues to be examined at the hearing, stipulate the facts to be agreed upon, and achieve such other appropriate pre-hearing objectives as will make the hearing fair, effective, and expeditious.

Before the ~~formal~~ hearing ~~begins~~, upon request, either party ~~shall will~~ allow the other to examine all documentary evidence and any written or recorded statements that were made by witnesses listed by either party.

~~4.9~~ 2.6.4 Procedures for Hearing to Contest Imposition of a Sanction

The following describes the procedures for the hearing to contest the imposition of a sanction.

~~(+)~~ 2.6.4.1 Date.

The ~~formal~~ hearing to contest the imposition of a sanction will be held within forty (40) days of receipt of the faculty member's statement of intent to contest the alleged violation through formal hearing. The chair of the hearing panel will schedule the hearing date. The formal hearing may be continued upon good cause shown by either party per 410.2.2.8. The panel will grant adjournment to enable either party to investigate evidence to which a valid claim of surprise is made.

~~(-)~~ 2.6.4.2 Records, witnesses, counsel.

Upon request by either the ~~sanctioning authority~~ provost or administrative representative, the faculty member, or any member of the hearing panel, the chair of the hearing panel ~~shall will~~ request the production of university records and the presence of witnesses to appear and testify. Compliance with such requests is an obligation of employment of any university official or employee ~~except that the privilege against self incrimination~~ and access to university records as provided in Policy 405.6.4 Tenure, Promotion, And Review: General Procedures - University Records: Access ~~shall will~~ be honored by the panel.

2.6.4.3 Witness and Counsel.

The faculty member and the ~~provost or administrative representative~~ sanctioning authority each have the right to have present any one (1) person of their choosing as ~~a~~ a supportive resource and/or advisor of their choice at all stages of the hearing. The faculty member and the ~~provost or administrative representative~~ sanctioning authority ~~shall will~~ also each have the right to ~~confront and cross examine~~ question witnesses, to present evidence and call witnesses in their own behalf, to testify, and to be present with their advisor and/or counsel at all meetings and proceedings of the panel except sessions which are closed for deliberation and vote. ~~The faculty member's advisor and the provost or administrative representative's~~ advisors are permitted to advise and counsel their respective parties but are not permitted to argue the case or interrogate witnesses. Members of the hearing panel may question witnesses and parties to the hearing.

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2.6.4.4 Confidentiality of Information Shared During Hearing

Access to anything requested pursuant to 410.2.6.4.2 Records will be temporary and will be permitted only during the sanction process. At the end of the process, such records will be returned to their proper custodians. Such files may be protected under the Family Education Rights and Privacy Act (FERPA) or Utah’s Government Records Access and Management Act (GRAMA).

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(3) 2.6.4.5 Opening the hearing to the public.

Hearings ~~shall~~will be closed to the public unless the faculty member requests that they be open and the panel determines, following such request, that an open hearing will not prejudice the interests of the university, the faculty member, or the witnesses. When an open hearing is requested by the faculty member but such request is denied, the specific reason(s) for denial ~~shall~~will be stated in the record. In any closed hearing the faculty member and the ~~provost or administrative representative sanctioning authority~~ ~~shall~~will each have the right to the presence of not more than three (3) persons each designated ~~by them~~ as observers.

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(4) 2.6.4.6 Hearing record.

A ~~verbatim~~recording of the hearing or hearings ~~shall~~will be made by the president’s office and, upon request, a written copy ~~shall~~will be made available to the faculty member ~~without cost~~.

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(5) 2.6.4.7 Burden of proof.

The burden of proof that ~~adequate sufficient~~ cause exists to impose a sanction rests with ~~the provost or administrative representative sanctioning authority~~ and ~~shall~~will be satisfied only by a preponderance of the evidence in the record considered as a whole.

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The panel ~~will is not be~~ bound by rules of evidence, and will admit any evidence that is of probative value in determining that the misconduct occurred and warrants a sanction the issues involved. Every possible effort will be made to obtain the most reliable evidence available.

The findings of fact and the recommendation will be based solely on the hearing record.

(6) 2.6.4.8 Publicity.

Except for ~~such~~ simple announcements as may be required ~~covering that state~~ the time of the hearing and similar matters, public statements and publicity about the case by all parties and persons involved or present will be avoided as far as possible until the proceedings have been completed.

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(7) 2.6.4.9 Deliberations and standards for review.

The Hhearing panel deliberations and voting ~~shall~~will be conducted in closed sessions from which all other persons are excluded. Upon request of any member of the panel, votes

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~~shall will~~ be taken by secret written ballot. A simple majority of members ~~shall will~~ be required for recommendations by the hearing panel. The panel chair ~~shall will~~ be entitled to vote on all questions. The hearing panel may recommend the sanction proposed by the provost, ~~or a less severe sanction, including or~~ no sanction ~~at all~~.

The standard of review by the hearing panel ~~shall will~~ be whether the imposition of the proposed sanction

- (a) is an arbitrary or capricious action,
- (b) fails to accord the faculty member the academic due process ~~statutory, or constitutional~~, established by these policies,
- (c) violates the academic freedom of the faculty member, or
- (d) violates the legal, statutory, or constitutional rights of the faculty member.

If the faculty member asserts a violation of statutory or constitutional civil rights in any of the protected categories (~~see Policy 305 Discrimination Based on Protected Characteristics~~) ~~of race, color, religion, sex, national origin, age, disability, marital or parental status, or veteran's status, in their faculty member's~~ written response to the alleged violation or at any time during the course of the proceedings, such claims ~~shall will~~ be immediately referred in writing to the ~~Affirmative Action/Equal Opportunity (AA/EO) Office~~ Office of Equity by the chair of the hearing panel. All such statutory and constitutional civil rights claims shall ~~be handled as outlined in Policy 305 DISCRIMINATION COMPLAINTS~~.

2.6.4.10 Recommendation of the Hearing Panel

The hearing panel must report its recommendation to the president, the provost, and to the faculty member within ~~twenty (20)~~ days of the hearing.

~~4.10~~ 2.6.4.11 Decision by the President

The president ~~shall will~~ review the report and recommendation of the hearing panel and notify the faculty member, the provost, and the chair of the ~~Academic and Freedom AFT~~ Committee of ~~his/her~~ their decision within ~~ten (10)~~ days.

2.6.4.12 Remand

Prior to making ~~his/her~~ their decision, the president may remand the matter to the hearing panel for review and further hearing, if necessary. The president ~~shall will~~ state in writing to the chair of the hearing panel the specific purposes or reasons for the remand. The further review and hearing shall ~~be limited to those purposes or reasons~~. The hearing panel ~~shall will~~ complete its review and report its conclusions to the president within ~~twenty (20)~~ days after receipt of the remand by the chair of the hearing panel. The president ~~shall will~~ review the report and notify the faculty member, the provost, and the chair of the ~~Academic Freedom and Tenure AFT~~ Committee within ~~ten (10)~~ days of ~~his/her~~ the president's decision.

The decision of the president is final.

~~4.11~~ Administrative Leave with Full Pay Pending Legal Action

~~In the event that a faculty member is charged with a felony that affects an institutional~~

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~~interest, or in the event of an investigation of the faculty member pursuant to University Policy Number 305 DISCRIMINATION COMPLAINTS SEXUAL MISCONDUCT IN AN EMPLOYMENT OR EDUCATION PROGRAM OR ACTIVITY, the provost may place the faculty member on administrative leave with full pay without following the procedures above upon written notice to the faculty member. This leave shall remain in effect until such time as the faculty member has resigned, been acquitted of the criminal charges, or been sanctioned according to procedures above.~~

410.2.7407.5 GRIEVANCES

Faculty members may grieve actions taken against them, including actions initiated by the university against the faculty member. Grievances are allegations of (a) arbitrary or capricious conduct; (b) violations of legal, constitutional, or statutory rights; or (c) violations of ~~this code or other adopted university~~ policies and procedures. A faculty member may not grieve a decision reached under Policies 410.2.07.3 PROCEDURES FOR REPRIMANDS, and 407.4 PROCEDURES FOR SANCTIONS OTHER THAN REPRIMANDS.

5.1 2.7.1 Initiation of Grievance

A faculty member who has grounds to file a grievance ~~may~~ must file written notice of intent to grieve with the chair of the Academic Freedom and Tenure (AFT) Committee within twenty (20) days of receipt of notice of termination, nonrenewal, or reduction in status.

For all other matters, the faculty member who has grounds and wishes to file a grievance must file written notice of intent to grieve with the chair of the AFT Committee in a timely fashion, but in no instance later than 120 days after the grievant knew or should have known the facts and circumstances giving rise to the grievance.

~~However, if the subject of the grievance is termination, non-renewal (including the denial of tenure), or reduction in status a faculty member must file written notice of intent to grieve with the chair of the Academic Freedom and Tenure Committee within twenty (20) days of receipt of notice of termination, non-renewal, or reduction in status.~~

Once notice of intent to grieve has been filed with the chair of the ~~Academic Freedom and Tenure~~AFT Committee, the actual grievance statement must be filed in writing with the chair of the ~~Academic Freedom and Tenure~~AFT Committee within twenty (20) days. Failure to file the grievance statement during this time dismisses the intent to grieve with prejudice against the faculty member ~~refiling the grievance~~.

~~Proceedings for grievances may be suspended for a reasonable time if key participants are not available either in person, by teleconference, by letter, or other appropriate means. The hearing panel, appointed by the chair of the Academic Freedom and Tenure Committee, will determine by a majority vote whether a suspension of grievance proceedings is warranted.~~

2.7.1.2 Extensions for Good Cause

With good cause, the schedule of events for sanctions may be suspended for a reasonable time

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either because one of more participants is unavailable to participate for other serious and compelling reasons. Such extensions will be by mutual agreement between the faculty member and other parties.

5.2 2.7.2 Grievance Statement

The grievance statement must identify include a specific identification of the grievance action, a concise summary of the evidence with supporting documentation, and a list of individuals (i.e., respondents) who are asked to respond to the grievance statement. Five (5) copies plus an additional copy for each respondent must be filed with The grievance statement must be submitted to the chair of the Academic Freedom and Tenure AFT Committee.

If a faculty member asserts a violation of statutory or constitutional civil rights in any of the protected categories identified in Policy 305 of race, color, religion, sex, national origin, age, disability, marital or parental status, or veteran's status in his/her/their grievance statement (or at any time during the course of the proceeding), such claims shall will be immediately referred in writing to the AA/EO Office of Equity by the chair of the Academic Freedom and Tenure AFT Committee and the faculty member will be notified in writing that a referral has been made. All such statutory and constitutional civil rights claims shall will be handled as outlined in Policy 407.8 OFFICE OF EQUITY POLICIES AND PROCEDURES. The chair of the Academic Freedom and Tenure Committee shall inform the faculty member in writing of the referral. 305 Discrimination Complaints.

5.3 2.7.3 Grievance Hearing Panel

Once the grievance statement has been filed a hearing panel will be formed, the chair of the Academic Freedom and Tenure Committee must, within fifteen (15) days by the chair of the AFT Committee. The, appoint a grievance-hearing panel will be formed in accordance with the process outlined in Policy 402.12.3, 6 Senate Standing Committees, – Academic Freedom and Tenure Committee – Hearing Panel. The university president will appoint the fifth member of the grievance hearing panel within fifteen (15) days of the filing of the grievance statement. The chair of the AFT Committee will appoint a chair of the hearing panel.

5.4 2.7.4 Distribution of Grievance Statement and Responses

Within five (5) days of after the filing of the grievance statement, the chair of the Academic Freedom and Tenure AFT Committee must distribute copies of the grievance statement to each of the respondents named in the grievance will make the grievance statement available to the hearing panel members.

Within twenty (20) days after the filing of the grievance statement, these respondents must file six copies of their written responses with the chair of the grievance hearing panel. Within twenty-five (25) days after the filing of the grievance statement, the chair of the grievance hearing panel must distribute the respondents' responses to the grievant will make the respondents' responses available to the grievant.

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Within twenty-five (25) days after the filing of the grievance statement, the chair of the ~~grievance hearing panel must distribute copies of the grievance statement and the respondents' responses will make the grievance statement and the respondents' responses available~~ to the remaining members of the ~~grievance~~ hearing panel.

5.5 2.7.5 Pre-hearing Conference

Within forty (40) days after the filing of the grievance statement, a pre-hearing conference ~~shall will~~ be held before the chair of the ~~Academic Freedom and Tenure AFT~~ Committee, who ~~shall will~~ preside, and the chair of the ~~grievance~~ hearing panel. At this pre-hearing conference the parties ~~shall will~~ make available to each other ~~the names lists~~ of their witnesses and ~~a list the of the~~ documentary evidence to be introduced at the hearing. The pre-hearing conference ~~shall will~~ delineate the issues to be examined at the hearing, stipulate the facts to be agreed upon, and achieve such other appropriate pre-hearing objectives as will make the hearing fair, effective, and expeditious.

Before the formal hearing begins, upon request, either party ~~shall will~~ allow the other to examine all documentary evidence and any written or recorded statements that were made by witnesses listed by either party.

2.7.6 Grievance Hearing

~~5.6~~ The following describes the procedures for the grievance hearing.

(+) 2.7.6.1 Date.

The grievance hearing will be held within twenty (20) days of the pre-hearing conference. The ~~grievance~~ hearing panel chair will schedule the hearing. The grievance hearing may be continued upon good cause shown by any of the parties and mutual agreement thereto as outlined in section 410.2.7.1.2 Extensions for Good Cause. The grievance hearing panel will grant adjournment to enable either party to investigate evidence to which a valid claim of surprise is made.

(-) 2.7.6.2 Records; witnesses; counsel.

Upon request by either of the parties to the grievance, the hearing panel ~~shall will~~ request the production of university records ~~and the presence of witnesses to appear and to testify.~~ Compliance with such requests is an obligation of employment of any university official ~~or employee except that the privilege against self incrimination~~ and access to university records as provided in Policy 405.6.4 ADVISORY COMMITTEES – University Records: Access - shall will be honored by the hearing panel.

2.7.6.3 Witnesses and Counsel

Each party to the grievance has the right to have present any one (1) person of their choosing to serve as a supportive resource and/or n advisor ~~of his/her their choice~~ at all stages of the hearing. Each party ~~shall will~~ also have the right to ~~confront and cross-examine~~ question witnesses, to present evidence and call witnesses in his/her their own behalf, to testify, and to be present with his/her their advisor at all meetings and proceedings of the hearing panel.

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~~except sessions which are closed for deliberation and vote.~~ The faculty member's advisor and the university's advisor s and counsels are permitted to advise and counsel their respective parties but are not permitted to argue the case or interrogate-question witnesses. Members of the hearing panel may question witnesses and parties to the hearing.

2.7.6.4 Confidentiality of information shared during hearing.

Access to any records requested pursuant to 2.7.6.2 will be temporary and will be permitted only during the grievance process. At the end of the process, such records will be returned to their proper custodians. Such files may be protected under the Family Education Rights and Privacy Act (FERPA) or Utah's Government Records Access and Management Act (GRAMA).

(3) 2.7.6.5 Opening the hearing to the public.

Grievance hearings shall will be closed to the public unless a party requests that they be open, the other party agrees, and the hearing panel determines that an open hearing will not prejudice the interests of any of the parties to the grievance. Where an open hearing is requested on the mutual consent of the parties but such request is denied, the specific reason(s) for denial shall will be stated in the record. In any closed grievance hearing the parties shall will have the right to choose and to have present not more than three (3) persons each designated by them as observers.

(4) 2.7.6.6 Hearing Record.

~~The recording of the hearing or hearings will be made by the president's office and, upon request, a written copy will be made available to the grievant. chair of the hearing panel will be responsible for seeing that a taped record of the hearing is taken. If a written record is desired by either party to the grievance, the parties will share equally in the cost of the transcription.~~

(5) 2.7.6.7 Burden of proof.

The burden of proof that adequate cause for grievance exists rests with the faculty member and shall will be satisfied only by a preponderance of the evidence in the record considered as a whole.

The ~~grievance~~ hearing panel will not be bound by strict rules of evidence, and may admit any evidence which is of probative value in determining the issues involved. Every possible effort will be made to obtain the most reliable evidence available.

The findings of fact and the recommendation of the hearing panel will be based solely on the hearing record.

(6) 2.7.6.8 Publicity.

Except for ~~such~~ simple pronouncements as may be required ~~covering that state~~ the time of the hearing and similar matters, public statements and publicity about the grievance by all parties and persons involved or present either party will be avoided as far as possible until the

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proceedings have been completed.

(7) 2.7.6.9 Deliberations.

Hearing panel deliberations and voting shall will be conducted in closed sessions from which all other persons are excluded. Upon request of any member of the hearing panel, votes shall will be taken by secret ballot. A simple majority of members shall will be required for recommendations. The chair shall will be entitled to vote on all questions.

(8) 2.7.6.10 Recommendation of the hearing panel.

In its finding, the hearing panel will determine only whether the grievance is valid or not valid; that is, whether or not there has been (a) arbitrary or capricious conduct, (b) violations of legal, constitutional, or statutory rights, or (c) violations of university these policies or other adopted policies and procedures.

The determination of the hearing panel shall will be binding on the Academic Freedom and Tenure-AFT Committee as a whole. AThe hearing panel shall will submit a written report and recommendation to the president within twenty (20) days of the hearing. A copy of the hearing panel's report shall will be forwarded to both all parties to the grievance.

(9) 2.7.6.11 Presidential review and recommendation.

The president shall will review the report and recommendation of the hearing panel and notify the parties to the grievance of his/her/their decision within ten (10) days of receipt of the hearing panel's report.

The decision of the president is final.

410.2.8407.6 NON-RENEWAL

6.1 ~~Definition of Non-Renewal~~

Non-renewal is the ending of employment of tenure-eligible or term appointment faculty, other than by dismissal for cause (Policy 410.2.4.5 Authorized Sanctions)~~407.2.1 (5- SANCTIONS – Authorized Sanctions – Dismissal)~~ or by termination (Policy 406.2.3 (2, Program Discontinuation for Academic Reasons – Termination; Reduction in Status – Definition of a termination and reduction in status)). When non-renewal occurs at the end of the pre-tenure probationary period for tenure-eligible faculty (Policy 405.1.4, TENURE: INTRODUCTION, RIGHTS CONFERRED, ELIGIBILITY, PRE-TENURE PROBATIONARY PERIOD – Pre-tenure Probationary Period), it is a denial of tenure.

6.2 2.8.1 Reasons for Non-Renewal

There are only three reasons for non-renewal:

- (a) + unsatisfactory performance of the faculty member's assigned role (Policy ies

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405.6.1 ~~TENURE, PROMOTION, AND REVIEW: GENERAL PROCEDURES—~~
~~Role Statement and Role Assignment (for tenured and tenure eligible faculty)~~ and
~~Policy 405.11.1) TERM APPOINTMENT: GENERAL PROCEDURES FOR~~
~~PROMOTION—~~ Role Statement and Role Assignments (for term appointment
faculty);

- (b) ~~2~~—failure to satisfy the criteria for the award of tenure (for tenure-eligible faculty);
- or
- (c) ~~3~~—cessation of extramural funding that is required for a substantial portion of the salary support of the faculty member.

~~For tenure-eligible faculty. Non-renewal prior to the end of the pre-tenure probationary period for tenure-eligible faculty is an administrative decision of the department head or immediate supervisor and the academic dean or the vice president for extension, and, where appropriate, the chancellor or regional campus dean/associate vice president for statewide campuses, and must be approved by the provost and president. In making a decision regarding non-renewal, the department head or immediate supervisor and the academic dean or the vice president for extension, and, where appropriate, the chancellor or regional campus dean is/are to take into consideration the most current and all previous reports from the Tenure Advisory Committee—when making a decision regarding non-renewal (Policy 405.6.2.(1) TENURE, PROMOTION, AND REVIEW: GENERAL PROCEDURES—Advisory Committees—Tenure Advisory Committee (TAC)).~~

~~If a tenure-eligible or term faculty member believes their appointment was nonrenewed for a reason that violates their academic freedom or legal rights, the faculty member can choose to grieve the decision. Tenure-eligible and term appointment faculty members may not have their appointments non-renewed for reasons that violate their academic freedom or legal rights.~~

~~6.3~~ **2.8.2 Notice of Non-Renewal/Nonrenewal**

~~The following describes the procedures for notifying a faculty member of nonrenewal.~~

~~(+) 2.8.2.1~~ Delivery of notice.

~~The president or the president’s designee shall/will prepare written notice of non-renewal and shall/will arrange for written notice to be delivered the notice personally to the faculty member, or shall have the notice delivered by certified mail, return receipt requested, to the faculty member. If the notice is thus mailed, it is deemed effective for all purposes. The written notice may include the reasons for nonrenewal and reference letters from the department head or immediate supervisor, dean or vice president for extension, at the president’s discretion.~~

~~(-) 2.8.2.2~~ Notification schedule for tenure-eligible and term appointment faculty.

~~For tenure-eligible faculty appointments, non-renewal must first be preceded by the following minimum notice (a) not later than March 1 for first-year and second-year appointees; (b) not later than December 10 of the year the interim comprehensive review is conducted; and for third-year appointees; (c) no later than January 29 prior to the issuance of~~

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a terminal year appointment for fourth-year and fifth-year appointees, except in the case of denial of tenure (see Policy 41007.2.86-4, ~~NON-RENEWAL—Definition of Non-Renewal~~), where minimum notice ~~shallis~~ be not later than April 15.

For term appointments commencing at times other than the beginning of the academic year, notice of non-renewal must be no later than: (a) 60 days prior to the end of the first year of service; (b) 130 days prior to the end of the second year of service; or (c) 30 days prior to the issuance of a terminal year appointment after two or more years of service.

6.4 Procedures

(1) Statement of reasons for non-renewal.

~~Reasons for non-renewal may be stated in the notice of non-renewal, at the president's discretion.~~

(2) 2.8.2.3 Conference.

Within five (5) days of the receipt of the notice of non-renewal, at the faculty member's request, a conference to discuss the non-renewal ~~shallwill~~ occur between the department head and the faculty member who received notice of nonrenewal.

(3) 2.8.2.4 Review by higher administrative level.

Within fifteen (15) days of the notice of non-renewal, at the faculty member's request, the non-renewal and relevant documentation ~~shallwill~~ be reviewed in a conference including the faculty member and the ~~academic~~ dean or vice president for extension, and, where appropriate, the ~~chancellor or regional campus dean~~ associate vice president for statewide campuses. Unless specifically requested by the faculty member, this conference ~~shallwill~~ not include the department head or supervisor.

~~410.2.9 ADDRESSING ALLEGATIONS OF RESEARCH MISCONDUCT~~ ~~407.7 INQUIRY INTO ALLEGATIONS OF SCIENTIFIC MISCONDUCT IN RESEARCH AND IMPOSING SANCTIONS FOR RESEARCH FRAUD~~

~~Research misconduct means fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results. Research Misconduct does not include honest error or differences of opinion.~~

In order to distinguish research misconduct from honest error and ambiguities of interpretation that are inherent in research, and to provide an environment that promotes integrity, the university has adopted procedures for assessing allegations and conducting inquiries and investigations related to possible research misconduct. These procedures are contained in the most recent version of "Utah State University Research Misconduct Procedures" (USU-RMP). The USU-RMP procedures primarily follow the standards provided by the Office of Research Integrity of the U.S. Department of Health and Human

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Services. The USU-RMP, including definitions, are maintained and made available by the Vice President for Research.

2.9.1 Applicability

The Research Misconduct Procedures apply to all faculty, professional employees, graduate and undergraduate researchers, trainees, technicians, staff members, fellows, guest researchers or collaborators conducting funded research at USU.

If the imposition of a sanction is recommended for a member of the faculty as a result of a finding of research misconduct the sanctions outlined in Policy 410.2.6 apply and will be governed by the procedures described in Policy 410.2.6.4.

~~In order to distinguish misconduct from honest error and ambiguities of interpretation that are inherent in scientific research, and to provide an environment that promotes integrity, the university has adopted procedures for assessing allegations and conducting inquiries and investigations related to possible scientific misconduct in research. These procedures are contained in the most recent version of "UTAH STATE UNIVERSITY Scientific Misconduct Procedures" (USU SMP). The USU SMP procedures were recommended by the Office of Research Integrity of the U. S. Department of Health and Human Services and modified by USU. The USU SMP are maintained and made available by the vice president for research and dean of the school of graduate studies. They shall also be included in the Faculty Handbook.~~

7.1 Applicability

~~The Scientific Misconduct Procedures apply to all faculty, professional employees, graduate and undergraduate researchers, trainees, technicians, staff members, fellows, guest researchers or collaborators conducting funded research at USU.~~

~~If the imposition of a sanction is recommended for a member of the faculty as a result of such inquiry and investigation, these sanctions shall apply for research fraud as defined in Policy 407.7.2.2(2.) INQUIRY INTO ALLEGATIONS OF SCIENTIFIC MISCONDUCT IN RESEARCH AND IMPOSING SANCTIONS FOR RESEARCH FRAUD—Definitions—Definition of Research Fraud for the Imposition of a Sanction and shall be governed by the procedures in described in Policy 407.4 PROCEDURES FOR SANCTIONS OTHER THAN REPRIMANDS.~~

7.2 Definitions

(1) Definitions of Scientific Misconduct in Research

~~Scientific misconduct or misconduct in science means fabrication, falsification, plagiarism, using data generated by someone else without permission, or other practices that seriously deviate from those that are commonly accepted within the scientific community for proposing, conducting, or reporting research. It does not include honest error or honest differences in interpretations or judgments of data.~~

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(2) Definition of Research Fraud for the Imposition of a Sanction

Research fraud is an act of deception which that is different from unintentional error. For the purposes of imposing a sanction under Policy 407.4 PROCEDURES FOR SANCTIONS OTHER THAN REPRIMANDS, research fraud is considered to be a violation of the standards of conduct set forth in Policy 403 POLICY 403 ACADEMIC FREEDOM AND PROFESSIONAL RESPONSIBILITY which occurs within a research setting and involves one or more of the following deceptive practices: plagiarism (Policy 403.3.2.(1) PROFESSIONAL RESPONSIBILITY; STANDARDS OF CONDUCT – Standards of Conduct – Professional Obligations); falsification of data (Policy 403.3.2.(2) PROFESSIONAL RESPONSIBILITY; STANDARDS OF CONDUCT – Standards of Conduct – Professional Obligations); misappropriation of other's ideas (Policy 403.3.2.(3) PROFESSIONAL RESPONSIBILITY; STANDARDS OF CONDUCT – Standards of Conduct – Professional Obligations); failure to exercise "reasonable care" where appropriate in research (Policy 403.3.2.(7) PROFESSIONAL RESPONSIBILITY; STANDARDS OF CONDUCT – Standards of Conduct – Professional Obligations) and 403.3.5) PROFESSIONAL RESPONSIBILITY; STANDARDS OF CONDUCT – Definition of Reasonable Care); and misuse of confidential or privileged information (Policy 403.3.2.(4) PROFESSIONAL RESPONSIBILITY; STANDARDS OF CONDUCT – Standards of Conduct – Professional Obligations);

(3) Definition of the Accuser in Scientific Misconduct

The accuser is a person who makes an allegation of scientific misconduct.

(4) Definition of the Respondent in Scientific Misconduct

The respondent is the person against whom an allegation of scientific misconduct is directed or the person who is subject of the inquiry or investigation.

7.3 Research Integrity Officer

The Research Integrity Officer is responsible for assessing allegations of scientific misconduct and determining when such allegations warrant inquiries and for overseeing any inquiries and investigations. This officer will be the vice president for research and dean of the school of graduate studies.

7.4 Inquiry into Allegations of Scientific Misconduct

The procedures detailed in the USU SMP will be followed when an allegation of possible misconduct in science is received by an academic or administrative officer. Special circumstances in an individual case may dictate a variation from the normal procedure when doing so is deemed to be in the best interest of the university. Any change from the normal procedure must ensure fair treatment to the subject of the inquiry or investigation. Any significant variation must be approved in advance by the vice president for research and dean of the school of graduate studies.

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7.5 Protection of the Good Faith Accuser and the Respondent

University employees who receive or learn of an allegation of scientific misconduct will treat the accuser with fairness and respect and, when the allegation has been made in good faith, will take reasonable steps to protect the position, confidentiality, and reputation of the accuser and other individuals who cooperate with the university against retaliation. Likewise, university employees who receive or learn of an allegation of scientific misconduct will treat the respondent with fairness and respect. In both instances, university employees will protect, to the maximum extent possible, the confidentiality of information regarding the accuser, the respondent, and other affected individuals.

410.2.10 ALLEGATIONS OF DISCRIMINATION AND SEXUAL MISCONDUCT

2.10.1 Discrimination and Sexual Misconduct Complaint Adjudication

Complaints alleging that a faculty member engaged in discrimination or retaliation in violation of any provision(s) of Policy 305 shall in all respects be processed, investigated, heard, and sanctioned pursuant to the procedures set forth in Policy 305. Likewise, complaints alleging that a faculty member engaged in sexual misconduct in violation of Policy 339, or its sub-policies shall in all respects be processed, investigated, heard, and sanctioned pursuant to the procedures set forth in Policy 339 and its sub-policies.

2.10.2 Appeals of Discrimination and Sexual Misconduct Determinations or Sanctions

Allegations involving potential violations of Policy 305 or Policy 339 or Policy 339A are adjudicated pursuant to a hearing panel composed of members of the Equity Hearing Council as described in the procedures for Policy 305, Policy 339, and Policy 339A respectively. Any appeal to the determination or sanction resulting from Policy 305, Policy 339, or Policy 339A violation will include at least one faculty member on the appeal panel.

2.10.3 Report of Discrimination of Sexual Misconduct to the Academic Freedom and Tenure Committee

Whenever a referral has been made to the Office of Equity by the chair of the AFT Committee or hearing panel chair related to a discrimination or sexual misconduct claim by a faculty member pursuant to Policy 410.2.6, the grievance process will be stayed until the conclusion of the Office of Equity process. Once concluded the Office of Equity will notify the chair of the AFT Committee and the chair of the hearing panel of whether there will be an investigation and will meet with them to share the results of any such investigation.

2.10.4 Exclusive Action

A faculty member may not file a grievance under Policy 410.2.6 to challenge the proceedings under section 410.2.9, including without limitation proceedings under Policy 305, Policy 339, and Policy 339A.

410.3 DISCRIMINATION, SEXUAL HARASSMENT, AND DISALLOWED CONSENSUAL RELATIONSHIPS

8.1 Grievance and Sanction Protocols

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~~(1) Initiation~~

~~Pursuant to University Policy 305 DISCRIMINATION COMPLAINTS, any Utah State University employee, job applicant, or student who feels he or she~~they~~ may have been the victim of discrimination in employment and/or academic-related practices and decisions, unfair employment practice, or sexual harassment may file a Complaint with the Office of Equity.~~

~~(2) Procedures~~

~~All such Complaints, including Complaints alleging that a faculty member violated any provision(s) of Policy 403 ACADEMIC FREEDOM AND PROFESSIONAL RESPONSIBILITY or Policy 339 SEXUAL MISCONDUCT IN AN EMPLOYMENT OR EDUCATION PROGRAM OR ACTIVITY under the purview of the Office of Equity shall be processed and investigated pursuant to the protocols set forth in University Policy 305 SEXUAL MISCONDUCT IN AN EMPLOYMENT OR EDUCATION PROGRAM OR ACTIVITY and/or pursuant to the applicable Office of Equity processes and procedures. Any sanction sought following such an investigation must follow the procedures set forth in section Policy 407.3 PROCEDURES FOR REPRIMANDS and/or Policy 407.4 PROCEDURES FOR SANCTIONS OTHER THAN REPRIMANDS of this policy as applicable. Faculty may appeal the final decision of the Equity Office investigation to a panel composed of members of the Equity Office Council as described in Policy 306. A faculty member will serve as the Chair and at least two-thirds of the membership of the appeal hearing panel will consist of faculty members having tenure or term faculty at the penultimate rank or above.~~

~~(3) Administrative leave with full pay pending final disposition~~

~~In extraordinary circumstances, where the provost concludes that serious and immediate harm will ensue if the faculty member continues to work, and after consulting the chair of the Academic Freedom and Tenure Committee, the provost may at any time during or after an inquiry or investigation into a sexual harassment complaint recommend to the president that any faculty member accused of sexual harassment may be placed on administrative leave with full pay.~~

~~(4) Report to the Academic Freedom and Tenure Committee~~

~~Whenever a referral has been made by an Academic Freedom and Tenure grievance committee to the Office of Equity, the Director of the Office of Equity shall meet with the Academic Freedom and Tenure grievance committee and the chair of the Academic Freedom and Tenure Committee to discuss any inquiry or investigation.~~

~~(5) Exclusive action~~

~~A faculty member may not file a grievance under Policy 407.5 GRIEVANCES to challenge the proceedings under this policy.~~

~~(6) Protection of the Parties~~

~~The office of Equity Policy 306 generally describes a grievance process that is extended to the members of the University community listed in Policy 305 DISCRIMINATION COMPLAINTS. This process is designed to faithfully balance the rights of individuals to make Complaints and the rights of individuals to respond to Complaints. To help ensure the~~

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integrity of this process, a party found to have been intentionally dishonest in making allegations or responding to allegations may be subject to sanction or other university discipline.

8.2 Other Investigatory Methods

Neither the terms of this section ~~407.8 DISCRIMINATION, SEXUAL MISCONDUCT, AND DISALLOWED RELATIONSHIPS~~ nor the terms of Policy 305 ~~DISCRIMINATION COMPLAINTS~~ preclude other investigatory methods, such as an official internal investigation approved by the Provost so long as the procedures set forth in Section 407.3 and/or 407.4 Policy 407.3 ~~PROCEDURES FOR REPRIMANDS~~ and/or Policy 407.4 ~~PROCEDURES FOR SANCTIONS OTHER THAN REPRIMANDS~~ as applicable, govern the implementation of any sanction(s) stemming from such an investigation.

8.3 Disallowed Consensual Relationships

A disallowed consensual relationship (see Policy 403 ~~Policy 403 ACADEMIC FREEDOM AND PROFESSIONAL RESPONSIBILITY~~) may be grieved pursuant to section Policy 407.8 ~~DISCRIMINATION, SEXUAL MISCONDUCT, AND DISALLOWED RELATIONSHIPS~~ of this policy and Policy 305 ~~DISCRIMINATION COMPLAINTS~~. However, neither the terms of this section Policy 407.8 ~~DISCRIMINATION, SEXUAL MISCONDUCT, AND DISALLOWED RELATIONSHIPS~~ nor the terms of Policy 305 ~~DISCRIMINATION COMPLAINTS~~ preclude other investigatory methods relating to disallowed consensual relationships, such as internal investigation, so long as the procedures set for in section 407.3 and/or 407.4, Policy 407.3 ~~PROCEDURES FOR REPRIMANDS~~ and/or Policy 407.4 ~~PROCEDURES FOR SANCTIONS OTHER THAN REPRIMANDS~~, as applicable, govern the implementation of any sanction(s) subject to sanction or other university discipline.

410.3 RESPONSIBILITIES

3.1 Revision of Policy

Revisions of this policy will be directed by the Professional Responsibilities and Procedures Committee with input from the full faculty senate, university administration, and other organizations as appropriate.

410.4 REFERENCES

410.5 RELATED USU POLICIES

- Policy 305
- Policy 321
- Policy 339
- Policy 339A
- Policy 403
- Policy 405
- Policy 406
- Policy 407

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- Policy 408
- Policy 409

410.6 DEFINITIONS

6.1 Definition of Days

- In all proceedings under this policy, a day is defined as a calendar day. Deadlines that fall on a weekend will be moved forward to the next business day.

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POLICY MANUAL

FACULTY

Number 410

Subject: Academic Due Process: Sanctions and Hearing Procedures

Effective Date: July 1, 1997

Revision Dates: October 12, 2001; January 30, 2004; August 31, 2006;

March 2, 2008; May 23, 2008; March 6, 2009; August 21, 2009; July 8, 2011; May 3, 2013, May 2, 2014, May 1, 2015

Date of Last Revision: November 8, 2023.

410.1 PURPOSE AND SCOPE

This policy describes allowable sanctions that may be imposed on a faculty member. Additionally, this section specifies procedures for the imposition of a sanction and for conducting a grievance hearing.

Where administrators have faculty assignments, they are subject to the provisions of this policy, and the provisions outlined herein will be carried out by their immediate supervisor(s).

In all proceedings in this policy, the University's policies regarding records will be followed (see Policy 405.2.4 University Records: Access).

Notwithstanding any provisions of this policy or related policies, the University reserves the right to take any action as may be required by law.

410.2 ACADEMIC DUE PROCESS

Apparent failures to comply with the standards of conduct (see Policy 403 Academic Freedom and Professional Responsibility) are approached by positive attempts to clarify expectations and manage performance. Attempts to correct behavior will be proportional to the gravity of the conduct in question and guided by consistency and established precedent.

2.1 Setting Expectations and Identifying Minor Issues

Minor departures from standards of conduct can often be corrected by the faculty member's department head or immediate supervisor calling the matter to the attention of the faculty member. The department head or immediate supervisor will address minor issues by informing

the faculty member of the behavior and explaining how the faculty member can improve. The faculty member should be offered guidance, training, mentorship, and/or other resources to improve performance.

2.1.1 Communication of Expectations

In addition to any verbal communication, a letter or email from the department head or immediate supervisor will be used to communicate expectations to the faculty member when a minor issue in conduct has been observed. The communication will include a description of the conduct in question, provide guidance and direction for correction, and explain the expectations for future performance. The communication does not constitute formal disciplinary action and is kept by the department head or immediate supervisor. The faculty member may request a one-on-one meeting to discuss the communication of expectations with their department head or immediate supervisor.

2.2 Measures in Lieu of Sanctions

Measures such as a letter of expectations, a performance improvement plan, resignation or early retirement should be considered and taken in lieu of sanction when:

- (a) the measure is available;
- (b) the measure will provide reasonable assurance that the faculty member will not repeat the violation of professional responsibility;
- (c) substantial institutional interests are not undermined through use of the measure; and
- (d) the faculty member consents to the measure.

The faculty member should consult with the American with Disabilities Act (ADA) Coordinator in the Office of Human Resources if performance issues are medically related.

2.3 Administrative Leave

The president or provost, in consultation with the Offices of Human Resources, Equity, and General Counsel, as appropriate, may place a faculty member on administrative leave with full pay pending completion of the procedures described below or in Policy 305 Discrimination Complaints, Policy 321 Respectful Workplace, Interim Policy 339 Title IX Sexual Misconduct in an Employment or Education Program or Activity, Policy 339A Non-Title IX Sexual Misconduct, or when a faculty member is alleged to have violated these policies or charged with a crime that affects an institutional interest.

Administrative leave is designed to protect the institution, the faculty member, and the integrity of the university procedures and processes related to the underlying allegations or charge. Factors that will be considered in making the determination include:

- (a) The severity of the alleged conduct;
- (b) Number and recency of alleged violation or crime;
- (c) Number of individuals affected alleged conduct or crime;
- (d) Risk of potential harm to campus community (students, employees, visitors);

- (e) Potential risk of ongoing misconduct and/or repetitive behavior underlying the alleged violation or charged crime;
- (f) Potential for retaliation;
- (g) Whether investigation can be conducted effectively with the faculty member remaining in the physical and/or virtual work environment;
- (h) Existing power imbalance between faculty member and individuals affected by the alleged policy violation or charged crime; and
- (i) Impact of leave of faculty member.

These factors may be revisited and reassessed at any time during the administrative leave period.

Administrative leave is a non-punitive, interim measure outside of formal sanctions and distinguished from suspension imposed as a sanction. Administrative leave will remain in effect until such time a faculty member is cleared of the alleged policy violation, a material change in the circumstances that gave rise to the administrative leave occurs or is acquitted of such crime that gave rise to administrative leave.

2.4 Sanctions

Conduct contrary to the standards of conduct set forth in Policy 403 Academic Freedom and Professional Responsibility may lead to sanctions. Sanctions will be considered when failures to meet standards of conduct are severe or demonstrate a pattern of behavior that cannot be addressed through setting expectations and identifying minor issues (Policy 410.2.1), communication of expectations (Policy 410.2.1.1), or measures in lieu of sanctions (410.2.2).

2.4.1 Sanctioning Authority and Conflicts of Interest

Sanctions are mutually exclusive and are imposed by the provost under the authority of the president. The provost serves as the Sanctioning Authority. The provost, in consultation and with approval from the president, will determine when a sanction will be imposed.

There may be instances when a faculty member subject to a sanction believes that the Sanctioning Authority has a conflict of interest in relation to the faculty member's case.

When a faculty member subject to a sanction believes the Sanctioning Authority has a conflict of interest, they may allege that conflict in writing to the provost. The president will review the allegation of conflict and determine whether an actual conflict exists and communicate their determination to the faculty member in writing. If the president determines that there is an actual conflict of interest, they will serve as the Sanctioning Authority. Where the president is alleged to have a conflict of interest, that allegation will be considered and determined by the Board of Trustees.

2.4.2 Review of Alleged Misconduct

When an allegation of misconduct by a faculty member has been made, the provost will conduct or delegate the authority to conduct a review of the allegation and determine if there are

sufficient grounds to impose a sanction.

If the review indicates that sufficient grounds exist to support the allegation of misconduct, the provost will report in writing the outcome to the president and begin the sanction process. If the preliminary review does not indicate sufficient grounds to support the allegation, the provost will also report that result to the president. The procedures for sanctions are described in 410.2.5 Procedures for Reprimands and 410.2.6 Procedures for Sanctions Other Than Reprimands.

2.4.3 Purpose of Sanctions

A sanction serves one or more of the following purposes:

- (a) to induce self-improvement and reform by a faculty member whose conduct demonstrates the need for self-improvement and reform;
- (b) to indicate to the faculty member the seriousness of their violation and thereby deter them from future violations;
- (c) to reassure the institutional community that violations of the standards of conduct will not be tolerated, thereby helping 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 violation of the standards of conduct makes them unsuitable to continue in beneficial service to the institution.

2.4.4 Imposing a Sanction

The decision to impose a sanction will be guided by consistency and established precedent. A sanction will be imposed when:

- (a) the purpose set forth in Policy 410.2.4 Sanctions cannot be adequately served by measures in lieu of sanctions (410.2.2);
- (b) the sanction is not disproportionately severe in relation to the violation of the standards of conduct for which it is imposed; and
- (c) the imposition of such sanction is fair and just to the faculty member involved, giving due consideration to the situation and to any relevant matters tending to mitigate the seriousness of the violation.

Sanctions are not cumulative; the sanctions are progressive in severity, but do not have to be imposed progressively.

2.4.5 Authorized Sanctions

The following list describes the authorized sanctions that may be imposed for violations of the standards of conduct in Policy 403. Failure to fulfill the terms of a sanction may result in further discipline.

- (a) Reprimand.

A reprimand is a written statement detailing a violation of the standards of conduct in Policy 403.

- (b) Sanction-based probation.

Sanction-based probation is a period of time, not to exceed one (1) year, during which faculty members who have violated the standards of conduct set forth in Policy 403 are afforded the opportunity to demonstrate their ability to comply with their professional responsibilities.

(c) Suspension.

Suspension is the barring of a faculty member from the exercise of all or part of their duties for a period of time, not to exceed one (1) year. Suspension may be imposed with full pay, partial pay, or without pay.

(d) Reduction in rank.

Reduction in rank is a one-step reduction in faculty rank as defined in Policy 401. Reduction in rank is different from reduction in status (see Policy 406).

(e) Dismissal for cause.

Dismissal for cause is the ending of employment.

Termination and nonrenewal are defined here to differentiate them from dismissal for cause. Termination and nonrenewal are not sanctions. Termination is the ending of employment of a tenured faculty member or a faculty member with a term appointment for program discontinuance, financial crisis, or bona fide financial exigency. Nonrenewal is the ending of employment of a faculty member without tenure or a faculty member with a term appointment by nonrenewal of their contract (see Policy 406).

2.4.6 Remediation

When a sanction less than dismissal for cause is imposed, the terms of the sanction may include the requirement that the faculty member take reasonable action to remedy a situation created by a violation of the standards of conduct.

2.4.7 Compounding Violations

When a faculty member has been found non-responsible for an alleged violation of policy, the behavior underlying the allegation will not be raised against the faculty member again in subsequent allegations.

However, where the faculty member is found responsible for a violation of policy, that finding may be relevant, and can be used in a compounding analysis for sanction or to prove a pattern or practice of misconduct.

Where a faculty member has been subject to proceedings in a court of law, a sanction will not be imposed on the faculty member for the same acts unless the acts constitute violations of the standards of conduct in University Policies.

2.4.8 Extensions for Good Cause

With good cause, the schedule of events for sanctions may be suspended for a reasonable time either because one or more participants are unavailable to participate for other serious and compelling reasons. Such extensions will be by mutual agreement between the faculty member and other parties.

410.2.5 PROCEDURES FOR REPRIMANDS

2.5.1 Notification of Intent to Issue a Reprimand

If a faculty member's department head or immediate supervisor, in consultation with the dean or the vice president for extension or provost, believes that a faculty member has violated the standards of conduct in Policy 403 Academic Freedom and Professional Responsibility and such violation warrants a reprimand, they will notify the faculty member of the basis of the proposed reprimand in writing. The notice will include the standard violated and the specific actions, behavior, or circumstance that violated the standards of conduct. The faculty member will be afforded an opportunity to meet with those imposing the reprimand within seven (7) days of receiving the notification and explain why they believe the proposed reprimand should not be imposed. If a reprimand is imposed, it must be issued within five (5) days of the meeting.

2.5.2 Review of Reprimand

If a faculty member believes that the reprimand has been unjustly imposed, the faculty member may request a review of the reprimand by the Academic Freedom and Tenure (AFT) Committee. Such a request will be made in writing to the chair of AFT within twenty (20) days of the imposition of the reprimand. The faculty member's request must include a detailed written statement explaining why they believe the reprimand was unjustly imposed. Within twenty (20) days of receipt of a written request for review, the chair of the AFT Committee will select by lot and convene a panel of three (3) members of the AFT Committee for a hearing (see Policy 402.12.3.2).

2.5.3 Reprimand Hearing

The reprimand hearing will occur within ten (10) days after the panel has been formed. The hearing will provide the faculty member and those imposing the reprimand with the opportunity to be present, to be heard, and to present evidence.

Within ten (10) days of the hearing, the panel will report its findings and recommendations in writing to the faculty member and to those imposing the reprimand. If the panel determines that the reprimand is unjust or otherwise inappropriate, such sanction will be rescinded by those who imposed it and removed from the faculty member's file. A letter with the hearing panel's decision will be drafted by the panel and a copy will be sent to the faculty member and those who imposed the reprimand.

410.2.6 PROCEDURES FOR SANCTIONS OTHER THAN REPRIMANDS

A sanction, other than a reprimand (see 410.2.5), may be imposed on a faculty member after it has been determined, by the proceedings set forth or referred to in this policy or in Policy 305 (Discrimination Complaints), that the faculty member has violated the standards of conduct in Policy 403 Academic Freedom and Professional Responsibility, Policy 305, Policy 339, or Policy 339A

The sanction process will be transparent, expeditious, and equitable for all involved parties. Faculty may choose to be accompanied by an advocate or observer during any sanction-related meeting with USU personnel or other representative(s). Faculty may request a reasonable delay of an ad hoc meeting to obtain such assistance and must be informed of all relevant progress or decisions made in their absence per section 410.2.4.8 Extensions for Good Cause.

The following procedures will be followed in all proceedings to impose a sanction other than a reprimand, except for proceedings involving:

- (a) Discrimination (Policy 410.2.10 Discrimination, Sexual Misconduct, and Disallowed Relationships and Policy 305 Discrimination Complaints),
- (b) Sexual misconduct (Policy 410.2.10 Discrimination, Sexual Misconduct, and Disallowed Relationships, Policy 339 Sexual Misconduct in an Employment or Educational Program or Activity, and its sub-policies).

2.6.1 Initiation of a Sanction

The provost as the Sanctioning Authority may initiate proceedings for a sanction when a review of alleged misconduct (410.2.4.2 Review of Alleged Misconduct) has produced sufficient grounds to believe that a faculty member has failed to comply with the standards of conduct in Policy 403.

2.6.2 Notice of Intent to Impose a Sanction

The provost will arrange for written notice to be delivered personally or by certified mail, return receipt requested, to the faculty member for whom a sanction has been recommended. A copy of this notice will be sent to the chair of the AFT Committee, along with a statement confirming the date the faculty member received it. Copies will also be sent to the faculty member's department head or immediate supervisor and dean, vice president for extension, or, where appropriate, vice president for statewide campus.

Notice of intent to impose a sanction will contain the following:

- (a) A concise and clear statement of the facts, conduct, or circumstances alleged to constitute failure to comply with the standards of conduct in Policy 403 Academic Freedom and Professional Responsibility, including a statement of the standard(s) the faculty member is alleged to have violated.

- (b) A statement of the sanction proposed.
- (c) A statement that (a) the faculty member has the right to be heard in a conference with the provost (see Policy 407.4.5 Procedures for Sanctions Other than Reprimands – Conference with Provost) either in person or by electronic conferencing; (b) should the faculty member desire, the faculty member may invite a person of their choosing to be present and serve as a supportive resource and/or advisor at such a conference; (c) this conference must be requested in writing within five (5) days after receipt of the notice by the faculty member; and (d) this conference must be held within ten (10) days after receipt of notice by the faculty member.
- (d) A statement of the schedule of events that lead to a formal hearing, and that a faculty member, should they desire, may invite a person of their choosing to be present and serve as a supportive resource and/or advisor at such a hearing.
- (e) A statement that within twenty (20) days of the receipt of this notice, the faculty member, should they wish to contest the alleged violation, must file in writing with the chair of the Academic Freedom and Tenure Committee a statement of intent to contest the alleged violation through formal hearing; and that failure to do so will result in the imposition of the proposed sanction.
- (f) A statement that within forty (40) days of the notice of intent to impose a sanction, the faculty member must file, with the chair of the hearing panel, a written response which answers the alleged violation contained in the original notice; and that failure to do so will result in the imposition of the proposed sanction.

2.6.3 Schedule of Events

The proceedings will commence with the receipt by the faculty member of the written notice to impose a sanction as described in Policy 410.2.6.2 Notice of Intent to Impose a Sanction. The provost must deliver a copy of the notice to the chair of the AFT Committee within ten (10) days of receipt of notice by the faculty member.

2.6.3.1 Conference with the Provost

A faculty member notified of an intent to impose a sanction has the right to be heard in conference with the provost either in person or by electronic conferencing. If the faculty member desires a conference with the provost, the faculty member must request it within five (5) days of receipt of notice. The conference must be held within ten (10) days of receipt of notice. The purpose of the conference is to attempt to reach an agreement or settlement. In the event that the alleged violations are disposed of by mutual agreement or negotiation at the conference, no hearing need be held. A copy of the settlement will be sent to the chair of the AFT Committee.

The right to a conference with the provost is at the discretion of the faculty member. Requesting or rejecting such a conference does not abrogate the faculty member's right to a formal hearing.

2.6.3.2 Notice of Intent to Contest the Alleged Violation

A faculty member notified of intent to impose a sanction must file a notice of intent to

contest the alleged violation if the faculty member desires a formal hearing. The notice of intent to contest the alleged violation must be filed with the chair of the AFT Committee within twenty (20) days of receipt of notice. Failure to do so will result in entry of the faculty member's default and the imposition of the proposed sanction.

The chair of the Academic Freedom and Tenure Committee must notify the provost of the faculty member's intent to contest the alleged violation through formal hearing within ten (10) days of receiving such statement of intent. The chair of the Academic Freedom and Tenure Committee must appoint four members of a hearing panel (Policy 402.12.3.6 Senate Standing Committees – Academic Freedom and Tenure Committee – Hearing Panels), including a hearing panel chair, within ten (10) days of the filing of the written statement of intent to contest the alleged violation through formal hearing. The provost will appoint an administrative member of the hearing panel within the same time.

2.6.3.3 Response to the Alleged Violation

The faculty member must file a written response which answers the alleged violation contained in the original notice with the chair of the hearing panel within twenty (20) days of the filing of the written statement of intent to contest the alleged violation. Appropriate, substantiating documentation will be submitted with the response. Failure to do so will result in entry of the faculty member's default and the imposition of the proposed sanction.

The chair of the hearing panel will provide the provost with a copy of the faculty member's written response within five (5) days of receiving such response.

2.6.3.4 Pre-hearing Conference

A pre-hearing conference will be held no more than ten (10) days before the formal hearing. The formal hearing will be scheduled within forty (40) days of receipt of the faculty member's statement of intent to contest the alleged violation through formal hearing. The chair of the hearing panel will schedule the hearing date.

The chair of the AFT Committee will preside at the pre-hearing conference. The chair of the hearing panel will also attend. At this pre-hearing conference the provost or administrative representative and the faculty member will make available to each other the names of their proposed witnesses and a list of the documentary evidence to be introduced at the hearing. The pre-hearing conference will delineate the issues to be examined at the hearing, stipulate the facts to be agreed upon, and achieve such other appropriate pre-hearing objectives as will make the hearing fair, effective, and expeditious.

Before the hearing, upon request, either party will allow the other to examine all documentary evidence and any written or recorded statements that were made by witnesses listed by either party.

2.6.4 Procedures for Hearing to Contest Imposition of a Sanction

The following describes the procedures for the hearing to contest the imposition of a sanction.

2.6.4.1 Date.

The hearing to contest the imposition of a sanction will be held within forty (40) days of receipt of the faculty member's statement of intent to contest the alleged violation through formal hearing. The chair of the hearing panel will schedule the hearing date. The formal hearing may be continued upon good cause shown by either party per 410.2.2.8. The panel will grant adjournment to enable either party to investigate evidence to which a valid claim of surprise is made.

2.6.4.2 Records

Upon request by either the sanctioning authority, the faculty member, or any member of the hearing panel, the chair of the hearing panel will request the production of university records and the presence of witnesses to appear and testify. Compliance with such requests is an obligation of employment of any university official or employee and access to university records as provided in Policy 405.6.4 Tenure, Promotion, and Review: General Procedures – University Records: Access will be honored by the panel.

2.6.4.3 Witness and Counsel.

The faculty member and the sanctioning authority each have the right to have present any one (1) person of their choosing as a supportive resource and/or advisor at all stages of the hearing. The faculty member and the sanctioning authority will also each have the right to question witnesses, to present evidence and call witnesses in their own behalf, to testify, and to be present with their advisor and/or counsel at all meetings and proceedings of the panel except sessions which are closed for deliberation and vote. Advisors are permitted to advise and counsel their respective parties but are not permitted to argue the case or interrogate witnesses. Members of the hearing panel may question witnesses and parties to the hearing.

2.6.4.4 Confidentiality of Information Shared During Hearing

Access to anything requested pursuant to 410.2.6.4.2 Records will be temporary and will be permitted only during the sanction process. At the end of the process, such records will be returned to their proper custodians. Such files may be protected under the Family Education Rights and Privacy Act (FERPA) or Utah's Government Records Access and Management Act (GRAMA).

2.6.4.5 Opening the hearing to the public.

Hearings will be closed to the public unless the faculty member requests that they be open and the panel determines, following such request, that an open hearing will not prejudice the interests of the university, the faculty member, or the witnesses. When an open hearing is requested by the faculty member but such request is denied, the specific reason(s) for denial will be stated in the record. In any closed hearing the faculty member and the sanctioning authority will each have the right to the presence of not more than three (3) persons each designated as observers.

2.6.4.6 Hearing record.

A recording of the hearing or hearings will be made by the president's office and, upon request, a written copy will be made available to the faculty member.

2.6.4.7 Burden of proof.

The burden of proof that sufficient cause exists to impose a sanction rests with sanctioning authority and will be satisfied only by a preponderance of the evidence in the record considered as a whole.

The panel is not bound by rules of evidence and will admit any evidence that is of probative value in determining that the misconduct occurred and warrants a sanction. Every possible effort will be made to obtain the most reliable evidence available.

The findings of fact and the recommendation will be based solely on the hearing record.

2.6.4.8 Publicity.

Except for simple announcements as may be required that state the time of the hearing and similar matters, public statements and publicity about the case by all parties and persons involved or present will be avoided as far as possible until the proceedings have been completed.

2.6.4.9 Deliberations and standards for review.

The hearing panel deliberations and voting will be conducted in closed sessions from which all other persons are excluded. Upon request of any member of the panel, votes will be taken by secret written ballot. A simple majority of members will be required for recommendations by the hearing panel. The panel chair will be entitled to vote on all questions. The hearing panel may recommend the sanction proposed by the provost, a less severe sanction, or no sanction at all.

The standard of review by the hearing panel will be whether the imposition of the proposed sanction

- (a) is an arbitrary or capricious action,
- (b) fails to accord the faculty member the academic due process established by these policies,
- (c) violates the academic freedom of the faculty member, or
- (d) violates the legal, statutory, or constitutional rights of the faculty member.

If the faculty member asserts a violation of statutory or constitutional civil rights in any of the protected categories (see Policy 305 Discrimination Based on Protected Characteristics), in their written response to the alleged violation or at any time during the course of the proceedings, such claims will be immediately referred in writing to the Office of Equity by the chair of the hearing panel. All such statutory and constitutional civil rights claims shall

2.6.4.10 Recommendation of the Hearing Panel

The hearing panel must report its recommendation to the president, the provost, and to the faculty member within twenty (20) days of the hearing.

2.6.4.11 Decision by the President

The president will review the report and recommendation of the hearing panel and notify the faculty member, the provost, and the chair of the AFT Committee of their decision within ten (10) days.

2.6.4.12 Remand

Prior to making their decision, the president may remand the matter to the hearing panel for review and further hearing, if necessary. The president will state in writing to the chair of the hearing panel the specific purposes or reasons for the remand. The hearing panel will complete its review and report its conclusions to the president within twenty (20) days after receipt of the remand by the chair of the hearing panel. The president will review the report and notify the faculty member, the provost, and the chair of the AFT Committee within ten (10) days of the president's decision.

The decision of the president is final.

410.2.7 GRIEVANCES

Faculty members may grieve actions taken against them, including actions initiated by the university against the faculty member. Grievances are allegations of (a) arbitrary or capricious conduct; (b) violations of legal, constitutional, or statutory rights; or (c) violations of university policies and procedures. A faculty member may not grieve a decision reached under Policies 410.2.5.3 Procedures for Reprimands and 410.2.6.4 Procedures for Sanctions.

2.7.1 Initiation of Grievance

A faculty member who has grounds to file a grievance must file written notice of intent to grieve with the chair of the Academic Freedom and Tenure (AFT) Committee within twenty (20) days of receipt of notice of termination, nonrenewal, or reduction in status.

For all other matters, the faculty member who has grounds and wishes to file a grievance must file written notice of intent to grieve with the chair of the AFT Committee in a timely fashion, but in no instance later than 120 days after the grievant knew or should have known the facts and circumstances giving rise to the grievance.

Once notice of intent to grieve has been filed with the chair of the AFT Committee, the actual grievance statement must be filed in writing with the chair of the AFT Committee within twenty (20) days. Failure to file the grievance statement during this time dismisses the intent to grieve with prejudice against the faculty member refileing the grievance

2.7.1.2 Extensions for Good Cause

With good cause, the schedule of events for sanctions may be suspended for a reasonable time either because one of more participants is unavailable to participate for other serious and compelling reasons. Such extensions will be by mutual agreement between the faculty member and other parties.

2.7.2 Grievance Statement

The grievance statement must identify a specific action, a concise summary of the evidence with supporting documentation, and a list of individuals who are asked to respond to the grievance statement. The grievance statement must be submitted to the chair of the AFT Committee.

If a faculty member asserts a violation of statutory or constitutional civil rights in any of the protected categories identified in Policy 305 in their grievance statement (or at any time during the course of the proceeding), such claims will be immediately referred in writing to the Office of Equity by the chair of the AFT Committee and the faculty member will be notified in writing that a referral has been made. All such statutory and constitutional civil rights claims will be handled as outlined in Policy 305 Discrimination Complaints.

2.7.3 Grievance Hearing Panel

Once the grievance statement has been filed a hearing panel will be formed within fifteen (15) days by the chair of the AFT Committee. The hearing panel will be formed in accordance with the process outlined in Policy 402.12.3.6 Senate Standing Committees – Academic Freedom and Tenure Committee – Hearing Panel. The university president will appoint the fifth member of the hearing panel within fifteen (15) days of the filing of the grievance statement. The chair of the AFT Committee will appoint a chair of the hearing panel.

2.7.4 Distribution of Grievance Statement and Responses

Within five (5) days of the filing of the grievance statement, the chair of the AFT Committee will make the grievance statement available to the hearing panel members.

Within twenty (20) days after the filing of the grievance statement, the respondents must file their written responses with the chair of the hearing panel. Within twenty-five (25) days after the filing of the grievance statement, the chair of the hearing panel will make the respondents' responses available to the grievant.

Within twenty-five (25) days after the filing of the grievance statement, the chair of the hearing panel will make the grievance statement and the respondents' responses available to the remaining members of the hearing panel.

2.7.5 Pre-hearing Conference

Within forty (40) days after the filing of the grievance statement, a pre-hearing conference will be held before the chair of the AFT Committee, who will preside, and the chair of the hearing panel. At this pre-hearing conference the parties will make available to each other the names of their witnesses and a list of the documentary evidence to be introduced at the hearing. The pre-hearing conference will delineate the issues to be examined at the hearing, stipulate the facts to be agreed upon, and achieve such other appropriate pre-hearing objectives as will make the hearing fair, effective, and expeditious.

Before the formal hearing begins, upon request, either party will allow the other to examine all documentary evidence and any written or recorded statements that were made by witnesses listed by either party.

2.7.6 Grievance Hearing

The following describes the procedures for the grievance hearing.

2.7.6.1 Date.

The grievance hearing will be held within twenty (20) days of the pre-hearing conference. The hearing panel chair will schedule the hearing. The grievance hearing may be continued upon good cause shown by any of the parties and mutual agreement thereto as outlined in section 410.2.7.1.2 Extensions for Good Cause. The grievance hearing panel will grant adjournment to enable either party to investigate evidence to which a valid claim of surprise is made.

2.7.6.2 Records

Upon request by either of the parties to the grievance, the hearing panel will request the production of university records. Compliance with such requests is an obligation of employment of any university official and access to university records as provided in Policy 405.6.4 Advisory Committees – University Records: Access will be honored by the hearing panel.

2.7.6.3 Witnesses and Counsel

Each party to the grievance has the right to have present any one (1) person of their choosing to serve as a supportive resource and/or advisor at all stages of the hearing. Each party will also have the right to question witnesses, to present evidence and call witnesses in their own behalf, to testify, and to be present with their advisor at all meetings and proceedings of the hearing panel. The faculty member's advisor and the university's advisor are permitted to advise and counsel their respective parties but are not permitted to argue the case or question witnesses. Members of the hearing panel may question witnesses and parties to the hearing.

2.7.6.4 Confidentiality of information shared during hearing.

Access to any records requested pursuant to 2.7.6.2 will be temporary and will be permitted only during the grievance process. At the end of the process, such records will be returned to

their proper custodians. Such files may be protected under the Family Education Rights and Privacy Act (FERPA) or Utah's Government Records Access and Management Act (GRAMA).

2.7.6.5 Opening the hearing to the public.

Grievance hearings will be closed to the public unless a party requests that they be open, the other party agrees, and the hearing panel determines that an open hearing will not prejudice the interests of any of the parties to the grievance. Where an open hearing is requested on the mutual consent of the parties but such request is denied, the specific reason(s) for denial will be stated in the record. In any closed grievance hearing the parties will have the right to choose and to have present not more than three (3) persons each designated by them as observers.

2.7.6.6 Hearing Record.

The recording of the hearing or hearings will be made by the president's office and, upon request, a written copy will be made available to the grievant.

2.7.6.7 Burden of proof.

The burden of proof that adequate cause for grievance exists rests with the faculty member and will be satisfied only by a preponderance of the evidence in the record considered as a whole.

The hearing panel will not be bound by strict rules of evidence and may admit any evidence which is of probative value in determining the issues involved. Every possible effort will be made to obtain the most reliable evidence available.

The findings of fact and the recommendation of the hearing panel will be based solely on the hearing record.

2.7.6.8 Publicity.

Except for simple pronouncements as may be required that state the time of the hearing and similar matters, public statements and publicity about the grievance by all parties and persons involved or present will be avoided as far as possible until the proceedings have been completed.

2.7.6.9 Deliberations.

Hearing panel deliberations and voting will be conducted in closed sessions from which all other persons are excluded. Upon request of any member of the hearing panel, votes will be taken by secret ballot. A simple majority of members will be required for recommendations. The chair will be entitled to vote on all questions.

2.7.6.10 Recommendation of the hearing panel.

In its finding, the hearing panel will determine only whether the grievance is valid or not valid; that is, whether or not there has been (a) arbitrary or capricious conduct, (b) violations of legal,

constitutional, or statutory rights, or (c) violations of university policies and procedures.

The determination of the hearing panel will be binding on the AFT Committee as a whole. The hearing panel will submit a written report and recommendation to the president within twenty (20) days of the hearing. A copy of the hearing panel's report will be forwarded to all parties to the grievance.

2.7.6.11 Presidential review and recommendation.

The president will review the report and recommendation of the hearing panel and notify the parties to the grievance of their decision within ten (10) days of receipt of the hearing panel's report.

The decision of the president is final.

410.2.8 NONRENEWAL

Nonrenewal is the ending of employment of tenure-eligible or term appointment faculty, other than by dismissal for cause (Policy 410.2.4.5 Authorized Sanctions) or by termination (Policy 406.2.3.2 Program Discontinuation for Academic Reasons – Termination; Reduction in Status – Definition of a termination and reduction in status). When nonrenewal occurs at the end of the pre-tenure probationary period for tenure-eligible faculty (Policy 405.1.4 Tenure: Introduction, Rights Conferred, Eligibility, Pre-Tenure Probationary Period – Pre-tenure Probationary Period), it is a denial of tenure.

2.8.1 Reasons for Non-Renewal

There are three reasons for nonrenewal:

- (a) unsatisfactory performance of the faculty member's assigned role (Policy 405.6.1 Role Statement and Role Assignment (for tenured and tenure eligible faculty) and Policy 405.11.1 Role Statement and Role Assignments (for term appointment faculty));
- (b) failure to satisfy the criteria for the award of tenure (for tenure-eligible faculty); or
- (c) cessation of extramural funding that is required for a substantial portion of the salary support of the faculty member.

For tenure-eligible faculty nonrenewal prior to the end of the pre-tenure probationary period is an administrative decision of the department head or immediate supervisor and the dean or the vice president for extension and must be approved by the provost and president. In making a decision regarding nonrenewal, the department head or immediate supervisor and the dean or the vice president for extension are to take into consideration the most current and all previous reports from the Tenure Advisory Committee (Policy 405.6.2.1 Tenure Advisory Committee (TAC)).

If a tenure-eligible or term faculty member believes their appointment was nonrenewed for a reason that violates their academic freedom or legal rights, the faculty member can choose to grieve the decision.

2.8.2 Notice of Nonrenewal

The following describes the procedures for notifying a faculty member of nonrenewal.

2.8.2.1 Delivery of notice.

The president or the president's designee will prepare written notice of nonrenewal and will arrange for written notice to be delivered personally or by certified mail, return receipt requested, to the faculty member. The written notice may include the reasons for nonrenewal and reference letters from the department head or immediate supervisor, dean or vice president for extension, at the president's discretion.

2.8.2.2 Notification schedule for tenure-eligible and term appointment faculty.

For tenure-eligible faculty appointments, nonrenewal must first be preceded by the following minimum notice (a) not later than March 1 for first-year and second-year appointees; (b) not later than December 10 of the year the interim comprehensive review is conducted; and (c) no later than January 29 prior to the issuance of a terminal year appointment for fourth-year and fifth-year appointees, except in the case of denial of tenure (see Policy 410.2.8 Nonrenewal), where minimum notice is no later than April 15.

For term appointments commencing at times other than the beginning of the academic year, notice of nonrenewal must be no later than (a) 60 days prior to the end of the first year of service; (b) 130 days prior to the end of the second year of service; or (c) 30 days prior to the issuance of a terminal year appointment after two or more years of service.

2.8.2.3 Conference.

Within five (5) days of the receipt of the notice of nonrenewal, at the faculty member's request, a conference to discuss the nonrenewal will occur between the department head and the faculty member who received notice of nonrenewal.

2.8.2.4 Review by higher administrative level.

Within fifteen (15) days of the notice of nonrenewal, at the faculty member's request, the nonrenewal and relevant documentation will be reviewed in a conference including the faculty member and the dean or vice president for extension, and, where appropriate, the associate vice president for statewide campuses. Unless specifically requested by the faculty member, this conference will not include the department head or supervisor.

410.2.9 ADDRESSING ALLEGATIONS OF RESEARCH MISCONDUCT

Research misconduct means fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results. Research Misconduct does not include honest error or differences of opinion.

In order to distinguish research misconduct from honest error and ambiguities of interpretation

that are inherent in research, and to provide an environment that promotes integrity, the university has adopted procedures for assessing allegations and conducting inquiries and investigations related to possible research misconduct. These procedures are contained in the most recent version of "[Utah State University Research Misconduct Procedures](#)" (USU-RMP). The USU-RMP procedures primarily follow the standards provided by the Office of Research Integrity of the U.S. Department of Health and Human Services. The USU-RMP, including definitions, are maintained and made available by the Vice President for Research.

2.9.1 Applicability

The Research Misconduct Procedures apply to all faculty, professional employees, graduate and undergraduate researchers, trainees, technicians, staff members, fellows, guest researchers or collaborators conducting funded research at USU.

If the imposition of a sanction is recommended for a member of the faculty as a result of a finding of research misconduct the sanctions outlined in Policy 410.2.6 apply and will be governed by the procedures described in Policy 410.2.6.4.

410.2.10 ALLEGATIONS OF DISCRIMINATION AND SEXUAL MISCONDUCT

2.10.1 Discrimination and Sexual Misconduct Complaint Adjudication

Complaints alleging that a faculty member engaged in discrimination or retaliation in violation of any provision(s) of Policy 305 shall in all respects be processed, investigated, heard, and sanctioned pursuant to the procedures set forth in Policy 305. Likewise, complaints alleging that a faculty member engaged in sexual misconduct in violation of Policy 339, or its sub-policies shall in all respects be processed, investigated, heard, and sanctioned pursuant to the procedures set forth in Policy 339 and its sub-policies.

2.10.2 Appeals of Discrimination and Sexual Misconduct Determinations or Sanctions

Allegations involving potential violations of Policy 305 or Policy 339 or Policy 339A are adjudicated pursuant to a hearing panel composed of members of the Equity Hearing Council as described in the procedures for Policy 305, Policy 339, and Policy 339A respectively. Any appeal to the determination or sanction resulting from Policy 305, Policy 339, or Policy 339A violation will include at least one faculty member on the appeal panel.

2.10.3 Report of Discrimination of Sexual Misconduct to the Academic Freedom and Tenure Committee

Whenever a referral has been made to the Office of Equity by the chair of the AFT Committee or hearing panel chair related to a discrimination or sexual misconduct claim by a faculty member pursuant to Policy 410.2.6, the grievance process will be stayed until the conclusion of the Office of Equity process. Once concluded the Office of Equity will notify the chair of the AFT Committee and the chair of the hearing panel of whether there will be an investigation and will meet with them to share the results of any such investigation.

2.10.4 Exclusive Action

A faculty member may not file a grievance under Policy 410.2.6 to challenge the proceedings under section 410.2.9, including without limitation proceedings under Policy 305, Policy 339, and Policy 339A.

410.3 RESPONSIBILITIES

3.1 Revision of Policy

Revisions of this policy will be directed by the Professional Responsibilities and Procedures Committee with input from the full faculty senate, university administration, and other organizations as appropriate.

410.4 REFERENCES

410.5 RELATED USU POLICIES

- Policy 305
- Policy 339
- Policy 339A
- Policy 403
- Policy 405
- Policy 406
- Policy 407
- Policy 408
- Policy 409

410.6 DEFINITIONS

6.1 Definition of Days

- In all proceedings under this policy, a day is defined as a calendar day. Deadlines that fall on a weekend will be moved forward to the next business day.