

Legislative History—Policy 6-002 Revision 28

(Section 10--Consolidated Hearing Committee; Section 11- Academic Freedom and Faculty Rights Committee)

Prepared by Bob Flores, for the Institutional Policy Committee, June 2011.

The proposal for revisions to Policy 6-002 was approved by the Academic Senate May 2, 2011, and approved by the Board of Trustees May 10, 2011, with a designated effective date of July 1, 2011.

Contents:

- (i) Senate office cover sheet.
- (ii) Memorandum to Vice Presidents (April 5, 2011).
- (iii) Final version of Policies as approved by Senate & Trustees.

Checklist & coversheet form—for submitting to Academic Senate Executive Committee
Proposal for addition/revision of University Regulation.

1. Regulation(s) involved (type, number, subject): **U-Policy 6-002**
2. Responsible Policy Officer (name & title): **Sr.VP's David Pershing & Lorris Betz**
3. Contact person(s) for questions & comments (name, email, phone#): **Susan Olson, Assoc. V.P. Academic Affairs, susan.olson@utah.edu, 581-8763**
4. Presenter to Senate Exec (if different from contact person. name, phone#):
5. Approvals & consultation status.
 - a. Administrative Officers who have approved (VP/President, name & date): **Sr. VP's Pershing & Betz, Pres. Young**
 - b. Committees/Councils/other Officers consulted: **Academic Freedom & Faculty Rights Committee. Office of General Counsel. Institutional Policy Committee.**
6. Check YES or NA (not applicable) of documents submitted--- (In digital form. Preferred file format MS Word doc. Special exception allowed for PDF format if previously arranged.)
 - YES** Explanatory memorandum (key points of proposal, rationale).
 - YES** VP/Presidential approval signatures (separate sheet, or affixed to memo cover).
 - YES** Text of proposed Regulation addition/revision.
 - YES** (If revision of existing Regulation) text changes are clearly marked, using permanent font markings (not MS Word 'Track' Changes non-permanent markings).

Date submitted to Senate Office: April 12, 2011

The Executive Committee will consider whether the proposal is ready for presentation to the full Senate, and if so will schedule it for a subsequent Senate meeting either as i) a matter of academic significance-- set on the "Intent" & "Debate" Calendars over two monthly meetings with final "approval" voting at the second, or ii) not academically significant--set on the "Information" Calendar for a single monthly meeting, with opportunity for questions and recommendations. See Policy 1-001 <http://www.regulations.utah.edu/general/1-001.html>; Rule 1-001 <http://www.regulations.utah.edu/general/rules/R1-001.html>; Senate procedures <http://www.admin.utah.edu/asenate/index.html>. Further information-- Senate Office: Nancy Lines 581-5203 nancy.lines@utah.edu.

Approved
Please forward
Mick K... 4/12/11

Please forward
David W. Pershing
4/11/11



Associate Vice President for Faculty

201 South Presidents Circle, Room 205 Salt Lake City, Utah 84112-9007 (801) 581-8763 FAX (801) 585-6812

TO: Senior Vice Presidents David W. Pershing and A. Lorris Betz

FROM: Associate Vice Presidents Susan M. Olson and Richard J. Sperry

Susan M. Olson
Richard J. Sperry

DATE: April 5, 2011

SUBJECT: Small revisions to the Consolidated Hearing Committee policy and Academic Freedom and Faculty Rights Committee policy (University Policy 6-002-III, Sections 10 & 11.)

Attached for your approval and referral to the President are revisions to the policy describing the procedures of the Consolidated Hearing Committee (CHC). The Office of General Counsel has been assembling a more extensive set of revisions for the CHC to discuss with faculty and administrators, but those attached here have moved along separately for a couple of reasons. The Academic Freedom and Faculty Rights Committee (AFFRC), currently chaired by Professor Ray Gunn, met on Friday, March 18, and reviewed and approved the substantive revisions presented here.

The revisions fall into three groups. The first group (changes to Section A. 2. d., Section B. 4., and Section D. 3. iv.) arises from the desire to clarify the jurisdiction of the CHC relative to matters heard by the AFFRC. A CHC panel's recommendation in a case appealed from the AFFRC led the then-chair of the AFFRC to believe that the CHC had too narrowly construed its jurisdiction over the case. While not all parties share the perception that this CHC panel did, in fact, construe its jurisdiction narrowly, all parties agree that jurisdiction of the CHC should extend to all matters appropriately heard by the AFFRC.

According to University Policy 6-002--III- Section 11-A. the AFFRC may receive complaints of alleged violations of academic freedom from "all members of the University

academic community, which is defined here to include the faculty, whether with or without tenure or continuing appointment, administrative officers, academic staff, and students.” In addition, the AFFRC also serves as a broader grievance committee for faculty members only. Section 11. C. 2. d. of Policy 6-002 states:

The Committee is empowered to investigate an academic grievance (other than matters concerning retention, tenure or promotion) on a complaint by a faculty member after the faculty member has had the matter reviewed by the appropriate administrative authorities. This authority extends to the rights and duties of faculty members engaged in the academic processes of teaching, research, thinking, and the communication of the products of these processes; the making of academic evaluations; and participation in departmental, collegial and university governance as provided by university policies and Procedures.

The three amendments making up this first set of proposed revisions make clear that the CHC may hear appeals of faculty members’ *academic grievances*, as defined above, after review by the AFFRC and not just appeals of claimed *violations of academic freedom*, narrowly defined. In addition to consulting with the current membership of the AFFRC, as noted above, Associate Vice President Olson also recently confirmed with Graduate Dean Chuck Wight, who personally served along with AVP Olson and others as a member of the drafting committee for the CHC in 2003, that that was the original intention of the drafting committee. The wording in the policy since that time referring to the “academic freedom” jurisdiction of the CHC was a short-hand of sorts for the whole jurisdiction of the since-renamed Academic Freedom and Tenure Committee. Thus, we see these revisions as merely a clarification and not new policy.

The second set of revisions (changes to Section C. 8. and Section D. 2. a.) are two that the Office of General Counsel believes are important to the proper functioning of the CHC. The current policy requires a hearing to be scheduled no more than 40 calendar days from the date that parties are notified that a complaint has been filed. This has proven difficult with some cases during the fall and spring semesters and virtually impossible when cases arise during the summer. The proposed language would provide more flexibility in scheduling, especially during the summer, without abandoning the norm of as speedy a hearing as possible.

The proposed revision of Section D.2. a. is needed to respond to a decision in the U.S. District Court for the District of Utah about parties’ right to counsel in cases in which property rights are at stake. The policy’s existing language that a party’s attorney may not speak at the hearing is inconsistent with the Court’s decision. Indeed, the University has been complying with the ruling for several years now, notifying parties of their legal right in the correspondence occurring in specific cases, but it is much preferable to change the language in the policy to avoid confusion and the possibility of miscommunication.

The third set of revisions includes very small editorial changes, such as correcting cross-references to University policies and the now-changed name of the Academic Freedom and Tenure Committee to the Academic Freedom and Faculty Rights Committee. The corrected

cross-references, made to Policy 6-002 in both Section 10 about the CHC and Section 11 about the AFFRC, have been added since the AFFRC reviewed the revisions on March 18, but they are entirely non-substantive.

As noted above, the Office of General Counsel and the Academic Senate may wish to convene a more thorough review of the CHC procedures and suggest other revisions. We believe that it makes sense to proceed with these few changes now, however, and save others for a later academic year.

Cc: Associate Professor Ray Gunn, 2010-11 Chair, Academic Freedom and Faculty Rights
Committee

{draft 2011-04-05} {as approved by Senate May 2, and Trustees May 10, 2011}

Policy 6-002. Revision ~~27~~ 28. The Academic Senate

...

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

A. Charge

1. The Consolidated Hearing Committee ("CHC") is the hearing body for grievances and complaints brought against faculty members (as defined in (**Policy 6-316, Section 1**, General Provisions) at the University of Utah or by faculty members asserting rights including appeals from retention, promotion and tenure decisions. The CHC may also choose not to hold hearings and to dismiss complaints brought before it under certain circumstances. The CHC may also seek the expertise and assistance of other committees or individuals it deems appropriate to facilitate the hearing process. The CHC functions as a panel of five faculty members constituted anew for each case. Each panel is drawn from a larger pool elected by the Academic Senate. (See ~~VIII~~ Part III-Sec. 10-H below).
2. In particular, the CHC is the hearing body for the following University proceedings:
 - a. Any authorized and timely appeal for review following the cognizant senior vice president's ("Sr. VP's") recommendation to the president at the conclusion of a formal retention/promotion/tenure review. (**Policy 6-303**);
 - b. Formal hearings of complaints of discrimination against a faculty member or an academic unit based upon race, color, religion, national origin, sex (including claims of sexual harassment), age, sexual orientation, gender identity/expression, or **protected veteran** if the discrimination complaint is raised in the context of another faculty proceeding. (Otherwise, complaints of discrimination brought against faculty, students, and staff members are heard through the OEO/AA process. (**Policy 5-210**);
 - c. Proceedings to sanction a faculty member for violations of the Code of Faculty Rights and Responsibilities, ("Faculty Code") ~~Policy 6-316~~ or to review an imposed administrative reprimand. (**Policy 6-316, Section 6**, Administrative Reprimand);
 - d. Hearings of matters involving faculty members' academic grievances, as defined in Policy 6-002-III-Sec.11-C-2-d., or complaints by members of the university community (including faculty members and students) when abridgement of academic freedom is alleged;
 - e. Proceedings for terminations or reductions in status of faculty members for medical reasons;
 - f. Appeals of a faculty member's dismissal or reduction in status in the event of financial exigency or program discontinuance;

- g. Appeals by faculty, students, or staff of any restrictions on speech under University speech policies;
- h. Formal hearings of allegations of Research Misconduct against a faculty member pursuant to **Policy 7-001** (sponsored research). Formal hearings of (sponsored) research misconduct against a student, staff member, or other individual not a faculty member are heard by the Research Misconduct Hearing Committee. (Note: allegations of misconduct in non-sponsored research shall be filed as an allegation under the Faculty Code.

B. Route to CHC

The route to the CHC varies with the different matters it is authorized to hear. It is the hearing body for matters initially considered but not resolved by other committees, offices, or individuals.

1. Denial of retention, promotion, or tenure.

The faculty candidate or another authorized party (see **Policy 6-303**, ~~Section G.4.-III-I, "Appeal of recommendation..."~~) may file an appeal after the Senior Vice President's recommendation at the conclusion of the RPT process. Grounds for an appeal are that the recommendation was arbitrary, capricious, unreasonable, discriminatory with respect to characteristics that are protected under law or University policies, or a result of malice; that procedural violations denied the appellant basic fairness and due process; and that the recommendation rests on a violation of academic freedom. (See Part III-Sec.10-D-3-b-i below, "CHC Standard of Review..." ~~Section IV.C.2.a. below.~~)

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

If a complaint or appeal contains an allegation of illegal discrimination or harassment raised in the context of another matter (e.g. denial of retention, promotion, or tenure or alleged in tandem with other violations of the Faculty Code) that claim of discrimination or harassment shall be referred to the OEO/AA for an investigation and a report back to the CHC. Any appeal from the OEO/AA findings, conclusions and recommendations shall be made to the CHC.

Complaint alleging violation of Faculty Code.

- a. If an alleged violation of the Faculty Code is not informally resolved by proximate administrators, the aggrieved party may file a **formal complaint** in the office of the cognizant senior vice president. That office may also attempt informal resolution and then forward the complaint to the CHC if no informal resolution has occurred. (See **Policy 6-316, Section 6**, Complaints)
- b. A faculty member may ask the CHC to review an administrative reprimand. (See **Policy 6-316, Section 6**, Administrative Reprimand)

Violation of academic freedom or an academic grievance.

Any concern involving an alleged violation of academic freedom or an academic grievance, as defined in Policy 6-002-III-Sec.11-C-2-d, is brought initially to the Academic Freedom and ~~Tenure~~ Faculty Rights Committee ("**AFTCAFFRC**"). If the

AFTCAFFRC does not resolve the matter informally, the complainant may **request a hearing** from the CHC. (See **Policy 6-313, Section 2** **Policy 6-002-III-Sec.11, AFFRC....**)

{Drafting Note: The above former cross-reference to 6-313 was erroneous, resulting from a renumbering of policies that occurred several years ago. In older versions of this Policy it was a reference over to PPM 8-7 Sec. 2, and the correct renumbering of that some years ago should have been to new number 6-002 Part III-Sec.11., not to Policy 6-313. The hyperlink to 6-313 should be eliminated.}

Medical termination or reduction in status.

Proceedings to terminate or to award a contract with substantially reduced status to a faculty member for medical reasons shall be preceded by discussions with a faculty member's department chairperson, dean, and/or cognizant senior vice president looking to a mutually acceptable resolution of the problem, such as an accommodation under the Americans with Disabilities Act. If no such resolution is achieved, the cognizant senior vice president files a written statement with the CHC alleging a faculty member's inability to perform the essential functions of the job. (See **Policy 6-313, Section 5 3, "...Termination for Medical Reasons."**) *{Drafting Note: In addition to correcting the text so that it shows Section 3 rather than Section 5, there is also the problem that the URL link that should lead to 6-313 is currently erroneously linking to 6-113--- so the correction needed is to change that hidden hyperlink to lead to this URL: <http://www.regulations.utah.edu/academics/6-313.html>}*

6. Appeal of a dismissal or reduction in status in the event of financial exigency or program discontinuance.

The faculty member first appeals such dismissal or reduction in status to the cognizant senior vice president, who makes a recommendation. The faculty member can then appeal the Sr. Vice President's decision to terminate or reduce status, but only for (1) violation of his/her academic freedom or constitutional rights, (2) failure to comply with the policy, with related institutional policy, or with the plan for personnel reduction approved by the Board of Regents, or (3) illegal discrimination. (See **Policy 6-313, Section ~~s-6 and 7~~ 4, "Financial Exigency", and Section 5, "Program Discontinuance"**).

7. Appeals from restrictions on speech under University Speech Policies.

After an administrator makes a decision restricting speech, a student, staff, or faculty member may appeal the matter to the Committee on Student Affairs. The party may appeal the decision of COSA to the CHC only if the appellant alleges a violation of the Utah or United States Constitution or of academic freedom. (See **Policy 1-007 "University Speech Policy," and Policy 6-401, "COSA"**.)

{Drafting Note: The first correction is to fix the hidden hyperlink under "Policy 1-007" --- which is broken and should link to : <http://www.regulations.utah.edu/general/1-007.html> . Second, add the text "University Speech Policy." Third, add the text about 6-401, and then Fourth, add a link to the URL for 6-401. <http://www.regulations.utah.edu/academics/6-401.html> }

[Text omitted]

C. Steps Preceding the Hearing

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2. Chair Selection

The Office of the Senate shall select a chair and the members of the panel within 10 business days of receipt of the appeal and shall forward the materials to each of them. (See ~~Section VIII-C~~ [Part III-Sec.10-H](#) below)

[Text omitted]

Preliminary Review, Referral, and Dismissal of the Complaint

After reviewing the complaint/appeal, the response and the appended file, if any, the CHC shall determine whether to dismiss the complaint or whether to refer the complaint or certain allegations within it to another University entity. If informal resolution has not previously been attempted, the CHC may refer the matter for informal resolution efforts, as it deems appropriate. (In some circumstances, such as in appeals from denial of retention, promotion or tenure, informal resolution efforts may not be appropriate).

a. Referral

i. Mixed Complaints or Appeals.

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

ii. Hearing on all allegations.

The CHC chair shall consult with the director of OEO/AA, chair of [AFTCAFFRC](#), or Research Integrity Officer as the chair deems appropriate to facilitate fair and prompt proceedings and the timely return of the case to the CHC for a formal hearing on the entire matter. Any reports resulting from a referral shall be made available to all parties prior to the hearing.

b. Dismissal.

The CHC may conduct a preliminary review of the written record (without the parties) to determine whether to dismiss an appeal or complaint or to decide it on its merits. The CHC may dismiss a matter only under the limited circumstances set forth below. If a matter is dismissed, the aggrieved party may appeal to the President who can affirm the dismissal or return the matter to the CHC with instructions.

- i. Appeal from RPT decision: The CHC may not dismiss an appeal from an RPT decision.
- ii. Discrimination: The CHC may dismiss allegations of discrimination only if it finds, after reviewing the OEO investigation report and other submissions, that there is insufficient evidence to support a claim of discrimination or harassment, or if it finds that the issue is no longer relevant or has become moot. The CHC shall determine whether to proceed with a discrimination claim based on a review of the complaining party's statement, the reply of the responding party, the written request for the formal hearing and the OEO/AA's initial determination, attachments, and recommendations, and any comments of the parties received in response to the initial OEO/AA' summary.
- iii. Faculty Code Violations: The CHC may dismiss the complaint only if it determines that the complaint is frivolous or that the complaint fails to allege facts constituting a violation of the Faculty Code.
- iv. Academic Freedom Violations: The CHC may dismiss a complaint only if it determines that the complaint does not involve a substantial question of academic freedom or a substantial academic grievance, as defined in the rules of the Academic Freedom and [Tenure Faculty Rights Committee \(Policy 6-313, appendix Policy 6-002--III-Sec.11, AFFRC ...\)](#) or that the claimant is not directly or substantially affected by the matters of which he or she complains. The CHC must consult with [AFTCAFFRC](#) before such a complaint is dismissed. *{Drafting Note: The former cross-reference to "6-313-appendix" was erroneous, resulting from a renumbering of policies that occurred several years ago. In older versions of this Policy it was a reference over to PPM 8-7 Sec. 2, and the correct renumbering of that some years ago should have been to new number 6-002 Part III-Sec.11., not to Policy 6-313. The hidden hyperlink is broken and should be eliminated.}*
- v. Appeal of Dismissal or Reduction in Status Due to Financial Exigency or Program Discontinuance:

The CHC may dismiss the appeal on the written record only if it finds (after considering any report from [AFTCAFFRC](#)) that the appeal does not raise a substantial question of academic freedom, and if it finds (after considering any report, if any, from OEO/AA) that there is insufficient evidence to support a claim of discrimination (if any), and if it finds that the appeal fails to allege sufficient facts to constitute failure to comply with university policy or with the plan approved by the Board of Regents. Because the Procedures for the declaration of financial exigency contained

in [PPM University Regulations](#) require the demonstration of the need for such declaration after substantive consultations, notice, and hearing, the decision of the Board to declare financial exigency is not subject to contest by faculty or staff in any grievance or appeal Procedure within the institution or before the Board of Regents.

- vi. Appeal from Restrictions on Speech: The CHC may dismiss the appeal on the written record only if it finds (after considering any report from [AFTCAFFRC](#)) that the appeal does not raise a substantial question of academic freedom or violation of the Utah or United States Constitution.
- vii. Proceedings for Medical Termination or Reduction in Status: The CHC may not dismiss a case seeking termination or reduction in status for medical reasons.
- viii. Sponsored Research Misconduct. The CHC may not dismiss a request for a formal hearing in a sponsored research misconduct matter following the issuing of a summary report by the Research Misconduct Investigation Committee. (Non-sponsored research misconduct allegations are handled as Faculty Code violations pursuant to [Section H.H.2-Part III-Sec. 10-B-8-b](#) above.)

[Text omitted]

8. Scheduling of Hearing. If the CHC determines that a hearing is necessary or required, the CHC shall notify the parties of the date set for the hearing. The hearing date shall be within a reasonable time but not fewer than 15 calendar days ~~nor more than 40 calendar days~~ from the date the letter of notification of the complaint was sent to the parties unless the matter has been referred to another entity for an investigation and report. During the fall and spring semesters, the hearing generally should occur not more than 40 calendar days from the date the letter of notification of the complaint was sent to the parties. This time period may be delayed during the summer. Although the CHC, through the Office of the Senate, may endeavor to find a hearing date that will be convenient for all the parties involved, the CHC has the final authority for determining the date of the hearing. If either the complainant or the respondent fails to attend the hearing without prior notification and good cause, the CHC may proceed with the hearing and take testimony and evidence and reach a decision on the basis of that testimony and evidence.

[Text omitted]

D. Hearing Procedures

[Text omitted]

2. Hearing.

- a. The parties have a right to be represented by any person as advisor, including legal counsel, at all stages of the proceedings (including the prehearing stage). ~~An advisor (including legal counsel) will act in an advisory capacity only, and will not have the right to speak to the CHC or to the other parties or witnesses~~Each party shall personally make a narrative opening statement that states his/her position on the issues and facts and describes the relief sought. Thereafter, either the party or his/her advisor (but only one of them) shall conduct the remainder of the presentation including examinations, cross-examinations and summary statements at the conclusion of the hearing. The parties (and not their advisors) must respond to questions presented by the CHC and the opposing party.

[Text omitted]

3. CHC Standard of Review and Actions.

- a. The CHC's report with its determinations, rationales and recommendations will be based on the evidence submitted to it and its assessment of the credibility of witnesses.
- b. A variety of matters can be brought to the CHC, which may necessitate different standards of review. Some, such as the consideration of RPT decisions are appeals and, as such, the CHC has a limited standard of review. Others, such as those alleging violations of the Faculty Code or alleging illegal discrimination may entail formal, de novo, fact-finding hearings. In all cases, 3 out of 5 panel members must agree on a finding or recommendation. The CHC shall report its findings and recommendations to the President in all cases.
 - i. Appeals brought from recommendations of the cognizant senior vice president in retention, promotion and tenure ("RPT") decisions.

Appellant must provide clear and convincing evidence that the recommendation was arbitrary, capricious, unreasonable, discriminatory, a result of malice, or a violation of academic freedom; and/or show by a preponderance of evidence that there were procedural defects that denied the appellant basic fairness and due process. Presumption is that the recommendation was made in the best interest of the university. The appellant may prove that the vice president's recommendation was invalid because it relied on a prior recommendation in the same review process that was procedurally defective, arbitrary, capricious, unreasonable, discriminatory, a result of malice, or a violation of academic freedom. If the CHC finds such procedural defects or arbitrary and capricious action, it shall recommend a remedy for the appellant.
 - ii. Complaint filed alleging discrimination or sexual harassment in a Mixed case. The CHC holds a hearing regarding all the issues raised in the complaint and makes findings of facts pertaining to the allegations of discrimination or sexual harassment (and follows the pertinent standard of review for other

allegations in the complaint). It may recommend remedial, corrective, and disciplinary action if it finds by a preponderance of the evidence that discrimination or harassment has been committed.

- iii. Complaint alleging violation of the Faculty Code.

The complainant must prove by clear and convincing evidence (in the record as a whole) that the respondent violated the Code. If the complainant so proves, the CHC recommends sanctions.
- iv. Complaint alleging violation of academic freedom or an academic grievance.

The claimant must prove by a preponderance of the evidence that the alleged actions occurred and that they violated academic freedom or a substantial faculty right, as defined in Policy 6-002-III- Sec. 11-C-2-d.
- v. Medical termination or reduction of status.

The University must prove the allegation of inability to perform the essential functions of the job with or without a reasonable accommodation by clear and convincing evidence.
- vi. Terminations and reductions in status from financial exigency or program discontinuance.

The appellant must prove by a preponderance of the evidence that the dismissal or reduction in status (1) violates his/her academic freedom or constitutional rights, or (2) fails to comply with the policy for such actions, with related institutional policy, or with the plan for personnel reduction approved by the Board of Regents or (3) constitutes illegal discrimination.
- vii. Appeals of restrictions on speech under University Speech policies.

The appellant must prove by a preponderance of the evidence that the restriction on speech violates the Utah or United States Constitution or academic freedom.
- viii. Complaints alleging misconduct in sponsored research.

The CHC must find, by a preponderance of the evidence, that the respondent(s) engaged in research misconduct as defined in **Policy 7-001**

[Text omitted]

[Section 10 – G]

G. Remedies and Sanctions

The CHC may recommend remedies or sanctions which it deems appropriate to the circumstances. The CHC may consult with ~~AFTC~~ the AFFRC, the Research Integrity Officer, OEO/AA or other University units or officials as it deems appropriate to "craft" the remedy or sanction.

[Text omitted]

[Section 10-H]

H. CHC Membership Composition and Selection

[Text omitted]

3. The Office of the Senate will select panel members for each hearing with the goal of constituting an impartial panel. A neutral process such as assigning CHC members on a rotating or random basis will be used. The resulting panel should have diverse academic expertise and experience. Chairs and members with the appropriate expertise as described in the second paragraph of ~~VIII. A. Part III-Sec.10-H-1~~ above shall also be selected from their separate pool through a similar neutral process. Being designated as a chair does not preclude serving as a regular member on another CHC panel.

[Text omitted]

b. In cases in which a party is a student or staff member, or if there are substantial issues that involve students or staff members, then 2 individuals from that party's pertinent peer group(s) shall replace 2 of the 5 faculty members on the panel. Those peer members shall be selected from the pool of staff or student members, which has previously been composed pursuant to ~~Policy 5-210, Section VII.C.2 "Discrimination and Harassment Hearings."~~ University Rule 5-210A "OEO/AA Procedures." {Drafting Note: and add hyperlink to URL: http://www.regulations.utah.edu/humanResources/rules/rule_5-210A.pdf }

[Text omitted]

4. Parties to hearings before the CHC may challenge any member of the CHC panel for cause. If there is a dispute regarding the participation of any CHC member, the remaining panel members shall hear that dispute and make a final decision about the participation of that member in the hearing. (Standards for conflict and bias are set forth in ~~Section III.K Part III-Sec.10-C-11, "Bias..."~~ above.)

...

SECTION 11. Academic Freedom and Faculty Rights Committee

[Text omitted]

B. References

[Text omitted]

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

C. Academic Freedom and Faculty Rights Committee

1. Committee Formation. . . .

b. The chairperson of AFFR shall be selected in accordance with Policy 6-002, ~~Section 4.C.2 Part III-Sec.4-C-2~~. A vice chairperson shall be selected by the committee and will preside in the absence of the chairperson.

[Text omitted]

d. If a party is a student, or if there are substantial issues that involve students, then, in consultation with the ASUU President or his/her designee, the AFFR chairperson shall ask one graduate student and one undergraduate student to serve on the committee for the purpose of dealing with that case. If possible, these students shall be selected from the pool of potential student members that has previously been composed pursuant to ~~Policy 5-210, University Rule 5-210A "OEO/AA Procedures."~~ *{Drafting Note: also change the hidden hyper link to URL: http://www.regulations.utah.edu/humanResources/rules/rule_5-210A.pdf }*

2. Committee Responsibilities

[Text omitted]

d. The Committee is empowered to investigate an academic grievance . . . [Text omitted]... and university governance as provided by university policies and Procedures. See Policy 6-307, ~~Section 7~~

[Text omitted]

g. Any faculty member may refer a request for review of a resignation to the Committee for study and report. See Policy 6-307, ~~Sections 6.C. and D.~~

3. General Procedures

a. AFFR may receive a complaint directly from a member of the academic community and attempt to resolve the matter informally. If the AFFR is unable to resolve the matter to the satisfaction of the claimant, then the AFFR should explain further options for appeal to the claimant, including the possibility of filing a complaint with the Consolidated Hearing Committee (CHC). (See ~~Policy 6-002-III-Sec.10-B-4~~~~Section 10.II.D.of this policy.~~) Formal hearings required in matters involving rights and duties of faculty members are conducted by the CHC under Section 10 of this policy.

b. If a complaint is filed initially with CHC, it may refer the matter to AFFR for "consideration and report." (See ~~Policy 6-002-III-Sec.10-C-6-a~~~~Section 10.II.D. of this policy.~~) AFFR does not conduct formal hearings for the purpose of making binding determinations of fact, but it may attempt to engage in informal resolution

of disputes, and it may ask for submissions from parties to a dispute when a matter has been referred to it by the Consolidated Hearing Committee (CHC).

[Text omitted]

g. Submission of Complaints

[Text omitted]

ii. A complaint to the AFFR shall be filed with the Office of the Academic Senate. The complaint shall be signed, and it shall informally and concisely explain the grounds of the complaint and name the persons complained against. The committee may provide instructions and forms for filing complaints. These instructions and forms shall be available from the Office of the Academic Senate and may be published electronically. All parties shall comply with such instructions and use the proper forms. Complaints alleging illegal discrimination, including sexual harassment, shall be handled in accordance with Policy 5-210 and [Policy 6-002-III-Sec.10-A-2-b](#) ~~Section 10.I.B.2 of this policy.~~

[Text omitted]

7. Referrals ~~F~~from the Consolidated Hearing Committee

a. If the Consolidated Hearing Committee (CHC) refers an appeal that alleges a violation of academic freedom to the AFFR for consideration and report under ~~Section 10.III.F.1.a.ii~~ [Policy 6-002-III-Sec. 10-C-6-a-i](#), ~~“Referral.” of this policy~~, then the AFFR will consider the allegations and make a written report to CHC that expresses the committee's view on whether a violation of academic freedom has occurred. The committee may or may not include recommendations in the report to the CHC.

[Text omitted]

VII. History:

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

Revision History:

Current version:

Revision 28: Approved: Academic Senate ??

Approved: Board of Trustees ??

Effective date: ?? July 1, 2011

Legislative History of Revision 28 {link to the 2011 Rev. 28 history file}

Earlier versions:

Revision 27: Effective dates July 9, 2009 to July 1, 2011.

--end of legislative history--