

Legislative History
Policy 6-316 Revision 11 (Faculty Code—Section Section 4-B-8)
Prepared by Bob Flores for the Institutional Policy Committee

Revision 11 was approved by the Academic Senate: April 5, 2010, and approved by Board of Trustees: April 13, 2010, to take effect April 13, 2010.

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Academic Senate – April 5, 2010
Executive Committee – March 15, 2010



Please forward
David W. Pershing
03/15/10

Associate Vice President for Faculty

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Approved
Please forward

TO: Senior Vice President for Academic Affairs David W. Pershing and Senior Vice President for Health Sciences A. Lorris Betz

FROM: Susan M. Olson, Associate Vice President for Academic Affairs, and Richard J. Sperry, Associate Vice President for Health Sciences

DATE: March 8, 2010

Susan M. Olson

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SUBJECT: Proposed minor revision to Code of Faculty Rights and Responsibilities re confidences from students

Ever since the tragic shootings at Virginia Tech, Northern Illinois University, and elsewhere, universities have been reviewing their procedures for identifying troubled students and taking steps to avoid violent situations. The Student Affairs professionals at the University of Utah have convened a new Behavioral Intervention Team (BIT) to monitor and interact with students who exhibit some troubling behaviors. The BIT team is an interdisciplinary team including representation from faculty as well as professionals from various areas of Student Affairs, the General Counsel's office, and, as needed, Public Safety. The BIT process entails communication and coordination among numerous people on campus who have contact with these students.

A provision in the current Faculty Code appears to limit faculty members' ability to participate in such constructive communications. The language of University Policy 6-316, Section 4. B. 8. now states:

Faculty members must not reveal matters related in explicit confidence by a student, except as required by law or university policy. Personal matters relating to a student must not be revealed by faculty members except to persons entitled to such information by law or university policies. Faculty members may, however, report their assessment of a student's academic performance and ability to persons making legitimate inquiry provided such disclosure is in accordance with the Family Educational Rights and Privacy Act ("FERPA").

According to the Office of General Counsel, no law or University policy would require a faculty member to disclose information provided in confidence by a student, even if the information raised serious health or safety concerns for that student or others. Although the law would permit such a disclosure, it would not require it. Therefore, a strict reading of this section of the Faculty Code suggests that a faculty member who was aware of and conscientiously following the Code should not reveal such information to the BIT or to any other campus official. This seems like a bad, and likely unintended, result.

In consultation with the Dean of Students and the Office of General Counsel, we are proposing a revision to this language. The full details of the proposed revisions are on the attached page. The gist of the change would be that faculty members “must report” to the Department of Public Safety (“campus security”) behavior that poses an “imminent risk to health or safety of the student or other individuals.” Faculty members also would be encouraged to report to the Dean of Students office “information regarding a student that raises concerns regarding the student’s health or safety or the health or safety of others.” The Dean of Students would then determine if the student should be monitored by the BIT.

On Friday, February 26, Dean of Students Annie Christensen, Robert Payne from the Office of General Counsel, and Susan Olson met with the Academic Freedom and Faculty Rights Committee (AFFRC) to discuss this proposed amendment. Under Policy 6-002, Sec. 11. C. 2. h., the AFFRC “oversees” the Faculty Code and makes recommendations for changes. After discussing the University’s procedures and resources for responding to disturbed and threatening students, the committee (chaired by Dr. Reaz Chaudhuri) voted unanimously to recommend the proposed change.

The principle of respecting student confidences still pertains in the vast majority of student-faculty communication, as faculty members develop supportive relationships with students. In a minority of instances, however, the student is in crisis and different action is necessary. The Dean of Students’ office is available to help such students and direct them to other resources. The mandatory reporting of behavior posing an “imminent risk” is intended to prompt faculty to action when and if they receive information about a serious health and safety concern. The “must” language expresses the conviction that all members of the community have a shared responsibility to help protect the health and safety of others. The proposed language is thus akin to the following language regarding academic misconduct: “A faculty member who discovers or receives a complaint of misconduct relating to an academic activity for which the faculty member is responsible **shall take action** under this code and impose an appropriate sanction for the misconduct” (Policy 6-400, Sec. V. B. 2.)(emphasis added).

It is extremely unlikely that that the new mandatory reporting requirement would ever be used as the basis for sanctioning faculty for failing to report a potential risk. Determining whether behavior poses an “imminent risk” always requires judgment and discretion. Furthermore, the mandatory language helps protect faculty against the possibility of a student’s complaint about a faculty member’s reporting (including revealing information shared in confidence), based on a good-faith but mistaken perception of an imminent risk. Removing the old language which discouraged communication is just one step toward informing the campus community about procedures everybody should follow to assist students in distress and ultimately keep our campus safe.

If you and the president agree to recommend this amendment to the Faculty Code, it would proceed to the Academic Senate Executive Committee, Senate, and Board of Trustees. Dean Christensen looks forward to the opportunity of this policy revision to provide the campus community with more information about the Behavioral Intervention Team. Please direct questions about campus resources for responding to troubled and threatening students to Dean

Christensen's office at 801-581-7066 or AFrost@sa.utah.edu and questions about the proposed Faculty Code revision to Susan Olson at susan.olson@utah.edu or 581-8763.

Cc: Dean Annie Christensen
Robert Payne, Associate General Counsel

**Proposal to amend Section 4-B- 8, in the Code of Faculty Rights and Responsibilities
(Policy 6-316)**

Section 1. General Provisions ...*[contents not copied here]*

Section 2. Academic Rights of Faculty Members ...

Section 3. Ethical Canons ...

Section 4.

A. General Duties ...

B. Duties to Students

1. Faculty members are expected to meet their regularly scheduled classes. Failure to meet scheduled classes without prior notice to students is excusable only for reasons beyond the control of faculty members. Alteration of schedules, cancellation or rescheduling of classes may be done only for valid reasons and after adequate notice to students.
2. Faculty members shall engage in reasonable and substantial preparation for the teaching of courses assigned to them, consistent with their scope and nature and appropriate to the educational objectives sought to be achieved.
3. Faculty members must maintain regular office hours during which they are available for consultation with students or otherwise assure their accessibility to students.
4. Faculty members must, at the beginning of a course, give reasonable notice to students of the general content of the course, what will be required of the students, and the criteria upon which their performance will be evaluated. Evaluations must be performed promptly, conscientiously, without prejudice or favoritism, and consistently with the criteria stated at the beginning of the course. The criteria for evaluating student performance must relate to the legitimate academic purposes of the course. Grade appeals submitted by students are not considered charges of misconduct under this code. [For the appeals procedure, see the student code, **Policy 6-400, Section IV.B.**]
5. Faculty members must not misuse the classroom by preempting substantial portions of class time for the presentation of their own views on topics unrelated to the subject matter of the course. Where faculty members find it pedagogically useful to advocate a position on controversial matters, they must exercise care to assure that opportunities exist for students to consider other views. Faculty members must not reward agreement or penalize disagreement with their views on controversial topics.
6. Faculty members must not use their position, authority, or relationship with students to obtain uncompensated labor for their own personal or pecuniary gain. They may not ask students to perform services unrelated to legitimate academic requirements of a course unless the student is adequately compensated for such services. Faculty members must not solicit gifts or favors from students. They must not accept gifts or favors where they have reason to believe that such gift or favor is motivated by a desire to secure some academic advantage.
7. Faculty members must not plagiarize the work of a student. Where a faculty member and a student work together, appropriate credit must be given to the

student. Faculty members may not limit or curtail the right of a student to publish or otherwise communicate the result of the student's own scholarly activities.

8. **Faculty members ~~must~~ shall not reveal matters related in explicit confidence by a student to any person, except as required by law or ~~university~~ permitted according to this policy. ~~Personal matters relating to a student must not be revealed by faculty members except to persons entitled to such information by law or university policies~~. Faculty members may, ~~however~~, report their assessment of a student's academic performance and ability to persons making legitimate inquiry provided such disclosure is in accordance with the Family Educational Rights and Privacy Act ("FERPA"). Faculty members should report to the Dean of Students Office any information regarding the behavior of a student that raises concerns regarding the student's health or safety or the health or safety of others. Faculty members must report to the Department of Public Safety (585-COPS) the behavior of any student or other individual that poses an imminent risk to the health or safety of the student or other individuals.**
9. Faculty members have the same duties to students in clinical and research settings, in distance learning, and in other non-traditional settings as they do in the traditional classroom.
10. Any faculty member or employee of the University of Utah with authority to assign or recommend course materials for any course offered by the university shall do so based on sound academic values, without any prospect of personal financial gain.
 1. Self-authored course materials are encouraged and may be assigned; but, except for reimbursement of out-of-pocket costs, faculty may not accept or retain royalties or any other personal compensation or material benefit from the sale or furnishing of self-authored course materials to students in their own classes, or in any classes in their department or single-department college for which they have authority to assign or recommend course materials.
 2. Prior to completion of any course or teaching unit for which a faculty member has assigned or recommended self-authored materials that may generate any royalty or other author's compensation, the faculty member shall request, from all students subject to that assignment or recommendation, an anonymous statement of the number of new copies of such materials purchased by each student. This requirement can be satisfied by a form used for student course evaluations that includes the above inquiry, or by a separate survey submitted for anonymous student response before the end of the course or teaching unit. Upon completion of the survey, the faculty member shall file with his/her department chair or dean a brief statement of the number of new materials purchased as reported in the above survey and the rate of royalty or compensation last paid or contracted by the publisher to be paid. The obligation to avoid prospect of personal financial gain shall be satisfied by including with the above report a written commitment to contribute a sum, equal to the number of new books purchased by students multiplied by the reported royalty or compensation rate, to a tax exempt organization (which may include the University of Utah) not later than six

months following completion of the course. Alternatively, the requirement can be satisfied by reporting an arrangement under which the author professor's royalty is deducted as a discount from the price of the new book.

3. For purposes of this policy, the term “course materials” shall be interpreted to include not only books or similar traditional format of bound printed pages typically used in university courses at the time of adoption of this policy, but also materials, information, teaching instruments or data collections distributed in any media form, including but not limited to audio and videotapes, digital storage media such as optical or magnetic disks, and internet or similar transmittal for which fees are typically charged and author compensation provided.
4. Faculty compliance with the above procedures shall constitute complete and satisfactory demonstration that any self-authored course materials were not recommended or assigned for purposes of personal financial gain.

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