

Regulations Library

The University of Utah

Policy: 6-316 Rev: 8

Date: February 14, 2005

Policy 6-316: Code of Faculty Rights and Responsibilities

Section 1. General Provisions

- A. The document which follows is a code of responsibility adopted by the faculty of the University of Utah.

For the purposes of this document, the expression "the university" refers to the University of Utah, an institution of higher learning and research, chartered by the State of Utah and governed under the authority of a Board of Trustees and the State Board of Regents. It is a corporate entity, consisting essentially of a faculty, a student body, and an administration. Thus, when reference is made to the university, it should be understood that, as the context indicates, either the corporate entity itself or a designated element of it is intended

The university is not just a corporate body created by operation of law. It is also a community of people associated in activities related to thought, truth, and understanding. It must therefore be a place where the broadest possible latitude is accorded to innovative ideas and experiments, where independence of thought and expression are not merely tolerated but actively encouraged. Because thought and understanding flourish in a climate of intellectual freedom; because the pursuit of truth is primarily a personal enterprise, a code of faculty responsibility must be strongly anchored to principles of intellectual freedom and personal autonomy. This code should be interpreted and applied with these principles firmly in mind.

- B. The standards of conduct set forth in this code are stated in terms of ethical canons and rules. The ethical canons state precepts of aspiration; breaches of their provisions are not a basis for disciplinary sanctions. Violations of the rules are sanctionable. Conduct which is not in violation of a rule of this code is not subject to disciplinary sanction under this code.
- C. As used in this code, the term "faculty member" includes a person employed by the university as the president, vice president, director of libraries, dean, professor, associate professor, assistant professor, instructor, librarian, associate librarian, and assistant librarian, including a person holding an auxiliary appointment (research, clinical, lecturer, adjunct, visiting), whether or not that person is employed by the university in a full-time capacity. All provisions of this code apply to faculty members.
- D. Except as otherwise expressly provided in this Code, suspension or dismissal from the university may be imposed on a faculty member as a sanction only for violation of one or more rules of this code and only in accordance with the procedures laid down in **Policy 6-002**, Consolidated Hearing Committee. Termination for medical reasons, financial exigency, or program discontinuation are not considered sanctions under this code, and are governed by procedures explained in other parts of the University Regulations Library [see especially **Policy 6-313**, Section 3.B,C and D and Section 4].
- E. The university endorses the American Association of University Professors statement on recruitment and resignations (1961), Statement of Principles on Academic Freedom and Tenure (1940), and Statement of the Academic Freedom of Students (1965). See University

Regulations, Section 1.

Section 2. Academic Rights of Faculty Members

- A. Faculty members have the legal rights and privileges of citizens. They may not be subject to punishment or reprisal for the exercise of such rights and privileges.
- B. Faculty members have the right to academic freedom and the right to examine and communicate ideas by any lawful means even should such activities generate hostility or pressures against the faculty member or the university. Their constitutionally protected exercise of freedom of association, assembly, and expression, including participation in political activities, does not constitute a violation of duties to the university, to their profession, or to students.
- C. Where their rank and status are appropriate, faculty members have the right to vote on faculty appointments, promotions, and tenure, and to vote for representatives to college and university legislative bodies .
- D. Faculty members have a right to due process and peer judgment in any disciplinary matter involving the possibility of substantial sanctions. This includes a right to be heard, a right to decision and review by impartial persons or bodies, and a right to adequate notice. The Consolidated Hearing Committee is the appropriate body to hear charges of a violation of this Code of Faculty Responsibility, unless some other hearing body is specified in this Code.
- E. Faculty members have a right to support and assistance from the university in maintaining a climate suitable for scholarship, research, and effective teaching and learning. Faculty members are entitled to an academic environment free from violence or systematic disruption, and to a teaching environment adequately equipped for meeting the teaching mission of the university.
- F. Consistent with state law, faculty members have a right to university support in professional activities inside and outside the classroom, both on and off campus, both in defense of academic freedom, and in defense of any resulting litigation, including funds for legal assistance. Professional activities are those described or required by each Department's RPT and/or financial compensation criteria.
- G. Faculty members have a right to assistance from the university in improving their skills and developing their talents as teachers and scholars.
- H. Faculty members have a right to fair and equitable financial remuneration commensurate with their rank, duties, performance, and professional stature.
- I. The above list of rights is not exhaustive. Other rights, such as the faculty's right to a meaningful role in the governance of the university, including primary responsibility for course content and materials, degree requirements, and curriculum, are found in the Policies and Procedures Manual.

Section 3. Ethical Canons

- A. The Basic Aspiration A faculty member is primarily a teacher and a scholar. Above all the single overriding canon is: to strive for excellence and to inspire excellence in others.
- B. Duties to Students University teaching should reflect consideration for the dignity of students and their rights as persons. Students as well as faculty are entitled to academic freedom and autonomy in their intellectual pursuits and development. Teachers must therefore treat students with courtesy and respect. They must not require students to accept their personal beliefs or opinions and must strive in the classroom to maintain a climate conducive to thinking and learning. They must not misuse their position, authority, or relationship with students.
- C. Professional Obligations Faculty members should seek knowledge and value the pursuit of truth. They should strive to contribute to their discipline, and should support and encourage the efforts of others. Faculty members should maintain and improve their effectiveness as teachers and scholars.
- D. Obligations to the University A faculty member's position is one of trust and responsibility to

the university and the students, faculty, and staff who constitute the university community. Faculty members should merit such trust and responsibility by devoted service. They should strive to maintain and improve the academic quality of their department, college, and the university. When called upon to serve in administrative posts or on committees, faculty members should strive to achieve the legitimate purposes of the university with due consideration for the interests of other persons involved.

Section 4. Rules

A. General Duties

1. Faculty members must conduct themselves, in their interactions with other faculty members, administrators, staff members, students, and participants [as defined in **Policy 5-210**] in accordance with reasonable standards of professionalism. Examples of inappropriate behavior include but are not limited to requiring the performance of inappropriate personal services; assigning tasks for punishment rather than for educational or job-related reasons; intentional disruption of teaching, research or administrative activities; and intentional neglect of necessary communications.
2. Faculty members must not discriminate against, harass, or impose prejudicial treatment upon other faculty members, staff members, students, or participants (as that term is defined in the sexual harassment policy, **Policy 5-210**) because of race, color, religion, national origin, gender, sexual orientation, country of citizenship, age, political beliefs, or status as a person with a disability, veteran, or because of any other criterion or characteristic that is an impermissible basis, under applicable constitutional or statutory provisions. This injunction includes decisions or recommendations concerning admissions, employment, promotion, retention, tenure, grading, and other professional matters. [For policies on discrimination and sexual harassment, see **Policies 5-106, 5-107 and 5-210.**]
3. Faculty members must not intentionally violate current university rules and regulations.
4. Faculty members must comply with reasonable and appropriate instructions of their chair, dean, cognizant vice president, president or other authorized university officer respecting the timely performance of their essential duties.
5. Faculty members must competently perform their responsibilities as teachers and members of the faculty. Decisions related to a faculty member's competence in the areas of teaching, scholarship, responsibility, and service will be based on regulations and guidelines outlined in **Policy 6-302** and consistent with relevant college or departmental criteria. Competence issues related to a faculty member's medical condition will be handled under **Policy 6-002, Section 10.**

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 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").
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.
 - a. 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.
 - b. 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.

- c. 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.
- d. 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.

C. Professional Obligations

1. Faculty members are responsible for insuring that approval has been obtained from the appropriate review committees prior to initiating or becoming involved in research that involves human subjects, vertebrate animals, radiation or radioactive compounds, biohazards, toxic substances, or any other material or activity covered by university, state or federal regulation. Faculty members are also responsible for monitoring ongoing research and teaching activities under their supervision to ensure that they continue to be conducted in accord with approved protocols. In addition, faculty must ensure that all personnel involved in such activities under their supervision are fully trained in accordance with relevant regulations.
2. Faculty members must avoid any form of misconduct in sponsored research, non-sponsored research, and in other forms of professional activity. When reporting the results of their research or professional activities, faculty members must be honest in the presentation of the data and in the description of the work. Misconduct is defined as fabrication or falsification of data and/or results, plagiarism, or other practices that seriously deviate from those practices that are commonly accepted within the research community for proposing, conducting, or reporting research. It does not include honest error or honest differences in interpretations of judgments of data and/or results. [For policy on sponsored research misconduct, see [Policy 7-001](#).]
3. Faculty members must not plagiarize or permit the appearance that they are the author of work done by others.
4. When faculty members are engaged in joint research or other professional efforts with colleagues, they must exercise reasonable care to discharge their agreed obligations.<
5. Faculty members whose commitments to the university include research, publication, or other professional endeavors must exercise reasonable care to discharge their agreed commitments.
6. When faculty members serve as supervisors of the professional work of other persons, they must not exploit their position for personal or pecuniary gain.

D. Obligations to the University

1. Faculty members must not purposely mislead the university by misrepresenting their qualifications as a faculty member or eligibility for university benefits.
2. Faculty members must not utilize their relationships with students or other university professional relationships, their status as a faculty member, or their access to university facilities and services, in a manner which involves or is part of a course of conduct constituting knowing participation in a criminally punishable violation of law and which is likely to interfere substantially with effective fulfillment of university functions or obligations, including the obligations and duties imposed by this Code of Faculty Responsibility. No sanctions, however, may be imposed under this provision in a manner that will deprive any faculty member of the rights of free expression and

association, as guaranteed by the constitutions of the United States, and the State of Utah.

3. Faculty members must avoid exploiting the university's name or their own relation with the university for personal reasons unrelated to their legitimate academic or professional activities. They must not intentionally create the impression, in public appearances or statements, that they are representing the university, unless in fact, they are.
4. Faculty members must not misappropriate university property. They must not knowingly use university property in violation of state or federal law. They must not use university property or facilities for pecuniary gain, or for personal advantage, if the use of such property or facilities has no legitimate relationship to the faculty member's academic service. For purposes of this section, professional activities which serve to maintain or improve a faculty member's academic skills and which do not violate university restrictions on outside activities have a legitimate relationship to a faculty member's academic service.
5. Faculty members must not maliciously destroy university property, purposely disrupt university programs, purposely inflict physical injury on other persons on campus, or purposely interfere with the legitimate activities of other persons on the university campus. Faculty members must not purposely and unlawfully incite others to engage in such destruction, disruption, injury, or interference. However, mere advocacy or expression shall not be considered incitement unless the advocacy or expression poses a clear and present danger of the imminent occurrence of such destruction, disruption, injury, or interference.
6. Faculty members must comply with current university regulations restricting the amount of time they may spend on nonuniversity commitments, outside consulting or other nonuniversity employment. [For policy on consulting, see **Policy 5-204**.] They must also comply with state law and university regulations relating to conflicts of interest. [For policies on conflicts of interests, see **Policy 1-006**.]
7. Faculty members must not intentionally make false assertions in initiating or in the course of any university disciplinary proceedings.
8. Faculty members may also be subject to discipline for violation of the Drug-Free Workplace Policy (**Policy 5-113**) and the Field Trip Policy (**Policy 10-003**) in accordance with the procedures described in those policies.

Section 5. Sanctions

- A. The remedies and sanctions that may be imposed for violations of this code are set forth in **Policy 6-002 Section 10.VII.B**.

Notwithstanding any contrary provisions of this code, violations of this code involving misconduct in sponsored research shall be governed by and handled in accordance with the provisions of **Policy 7-001**, and violations involving discrimination or sexual harassment shall be governed by and handled in accordance with the provisions of **Policy 5-107** and **Policy 5-210** consistent with **Policy 6-002**.

Sanctions or remedies may be imposed for a violation of this code following a decision of the President in accord with the Consolidated Hearing Committee (CHC) procedures in **Policy 6-002**.

- B. A written reprimand may be imposed by an appropriate administrator for a violation of this code without the invocation of those procedures. In such a case, the procedures in "**Administrative Reprimand**", shall be followed.
- C. Suspension means the barring of a faculty member from the exercise of his or her duties for a definite period of time.

The President of the University may impose an interim suspension with full pay on a faculty member if the President, in his or her discretion, reasonably believes that such action is

necessary to prevent substantial harm to the university or to some member of the university community. The President of the University may impose an interim suspension without pay if the President determines that the faculty member intentionally and clearly refuses to perform essential duties of a faculty member. The President shall immediately give the faculty member written notice of the interim suspension, specifying the rule or rules violated and setting forth briefly the relevant facts and supporting evidence. If the interim suspension is without pay the President shall provide the faculty member with an opportunity to meet with the President to present the faculty member's views and the reasons he/she objects to the suspension prior to its imposition. The faculty member's insurance benefits shall continue during the interim suspension without pay. An interim suspension is not to be considered a sanction but rather a temporary device for protecting the university's interests. It should be used with utmost caution.

When a faculty member has been subjected to an interim suspension, a complaint shall immediately be filed in accordance with **Policy 6-002**. An interim suspension may last until charges have been brought before the Consolidated Hearing Committee and it has concluded its deliberations. The CHC may recommend to the President that a suspension without pay be revoked and/or pay be reinstated if it finds that the faculty member is not then refusing to perform essential duties and that allowing the faculty member to perform those duties is in the best interests of the university. When the CHC has concluded its deliberations and the President has made a final decision, the interim suspension should cease, to be replaced with one of the sanctions listed in **Policy 6-002** or with no sanction, in accord with the President's decision. If an interim suspension was imposed without pay, a faculty member shall be entitled to reimbursement of lost salary and retirement benefits unless the faculty member is suspended or terminated as a result of CHC proceedings.

- D. Dismissal means the termination of employment of a tenured faculty member at any time, or of a tenure-track faculty member other than by non-retention, or of an auxiliary faculty member other than by non-renewal of his or her contract. Dismissal may be imposed only if the faculty member's violation of this code demonstrates that the faculty member is incompetent in the performance of his or her duties as a teacher and faculty member or lacks the ability or willingness to meet his or her responsibilities to the university.
- E. Termination from employment may also occur as a result of financial exigency, medical disability, or program discontinuation. See "**Termination for Other Reasons**" and **Policy 6-313**. These are not to be considered dismissal as a sanction under this code.
- F. Combinations of sanctions may be imposed where appropriate.
- G. Sanctions may be imposed on a faculty member when it has been determined by proceedings pursuant to **Policy 6-002, Section 10** that he or she has violated a rule of this code, if the imposition of sanctions will serve one or more of the following purposes:
 - 1. To induce self-improvement and reform by a faculty member.
 - 2. To indicate to the faculty member the seriousness of his or her violation and thereby deter him or her from future violations.
 - 3. To reassure the university community that violations of the rule which the faculty member has broken will not be tolerated, thereby serving to maintain respect for and commitment to the rules by other members of the university community.
 - 4. To dismiss from university employment a faculty member who has demonstrated by his or her conduct an inability or an unwillingness to meet his or her responsibilities to the university.
- H. Sanctions are at best a painful necessity. In deciding on sanctions, the following factors should be considered:
 - 1. Whether the purposes set forth in Paragraph 7 above can be adequately served by less severe measures;
 - 2. Whether the sanction is disproportionately severe in relationship to the rule violation for which it is imposed;

3. Whether the imposition of the sanction is fair and just to the faculty member involved, giving due consideration to his or her situation, to his or her prior service to the university, and to any relevant matters tending to mitigate the seriousness of his or her violation; and
 4. Whether the imposition of the sanction is necessary to protect the integrity and effective operation of the University or any of its colleges, departments, faculty, staff, or students.
- I. When non-punitive measures such as guidance, counseling, therapy, leave of absence, voluntary resignation, or early retirement are available and will provide reasonable assurance that the faculty member will not repeat his or her violation of the rule, and if the faculty member consents thereto, such measures should be taken in lieu of disciplinary sanctions under this code unless substantial university interests would thereby be undermined.
 - J. No faculty member shall be twice subject to proceedings under this code for the same act.

Section 6. Procedures

Please see **Attachment A** for a diagram of the Procedures.

A. Concerns

1. As a public institution, the university, including its faculty, is open to comments and criticisms from students, faculty, staff, administrators, and other interested citizens. Such comments and criticisms should be directed to appropriate university officials. The official will respond to such comments in a timely and appropriate fashion.
2. The University encourages informal resolution of problems and affected persons are urged to discuss their concerns with the involved faculty member, with the relevant department chair and dean (unless either is the complainant or respondent). Informal resolution of concerns by mutual consent of all parties is highly desired and is appropriate at any time. Use of a qualified mediator should also be considered.

B. Complaints

1. If informal resolution is inappropriate or not achieved within 30 days, any person directly aggrieved by the allegation or any faculty member, student or staff member may file a complaint alleging a violation of the rules of this code by a faculty member. Complaints alleging illegal discrimination, including sexual harassment, will be handled in accordance with **Policy 5-210**. Complaints alleging charges of misconduct in sponsored research will be handled in accordance with **Policy 7-001**. Other complaints of violations of this code may be filed in the office of the Senior Vice President for Academic Affairs or the Senior Vice President for Health Sciences depending on the department of the responding faculty member. If either vice president is the complainant or the respondent, the other vice president shall act under these rules. The complaint shall be in writing and signed, shall set forth briefly the relevant facts, shall specify the rule or rules violated, and shall describe any previous effort to resolve the complaint. Instructions and forms for filing complaints, shall be available from the vice presidents' offices and the Academic Senate office and published electronically in an **Appendix** to the Policy and Procedures Manual. All parties shall comply with such instructions and use the proper forms. The cognizant Vice President shall provide the responding faculty member with a copy of the complaint.
2. In consultation with the appropriate dean(s) and chair/director (unless either is the complainant or respondent), the cognizant vice president shall determine whether efforts at informal resolution are appropriate and, if so, shall take whatever steps are useful to that end. These steps may include delegation of the informal resolution process to another person, meetings with the complainant and respondent, or any other processes that the vice president believes will assist in reaching an informal resolution.
3. If informal resolution is inappropriate, or if additional efforts at informal resolution are not successful within 30 days of the filing of the complaint, the vice president shall forward the complaint, with a description of efforts at informal resolution, to the Consolidated Hearing Committee (hereafter "CHC") and notify the respondent and the complainant,

and the cognizant department chair/director and dean of the same. From this point forward the office of the vice president shall be a party to the proceedings.

4. From the outset, the university, the Committee, and all participants shall take reasonable steps to protect the rights and, to the extent appropriate, the confidentiality of all parties involved, including individuals who in good faith report perceived misconduct.

C. Administrative Reprimand

1. At any time, the President, Senior Vice President for Academic Affairs, the Senior Vice President for Health Sciences, deans and department chairs may impose written reprimands on faculty members who report to them.
2. Prior to imposing a reprimand, the administrator shall provide the faculty member with a copy of the proposed reprimand, the reasons for it, and provide the faculty member with an opportunity to respond, including a written response to be placed in the faculty member's file. The response shall be received within 15 calendar days of the letter of intent to impose the reprimand and shall be considered by the administrator prior to the imposition of the reprimand.
3. A faculty member may ask the CHC to review an imposed reprimand. In that event the reprimand shall be withdrawn and the administrator may make a complaint under (B) (1) above which shall thereafter be handled in the same way as any other formal complaint. If at the conclusion of such proceedings the reprimand is judged to be unwarranted, all references to the reprimand, including the faculty member's response, shall be removed from the faculty member's file at the request of the faculty member.

Section 7. Termination for Other Reasons

- A. A faculty member may be terminated or may receive a contract with substantially reduced status for reasons other than violation of this code in the following situations:
 1. Medical reasons which result in the faculty member's inability to perform, even with reasonable accommodations, the essential functions of his or her duties and responsibilities as a faculty member. [See **Policy 6-313**, Section 3.B]
 2. Financial exigency or bona fide discontinuance of a program. [See **Policy 6-313**, Section 3.C-D]
- B. Proceedings to terminate or to award a contract with substantially reduced status to a faculty member for medical reasons as per 1.
 1. (a) above shall be preceded by discussions with the faculty member's department chairperson, dean, and/or cognizant vice president looking to a mutually acceptable resolution of the problem. The university shall offer to extend a leave to the faculty member consistent with its current leave policies before termination proceedings are initiated. In the course of the discussions the vice president or the vice president's delegate shall notify the faculty member of the right to be examined, at university expense, by a health care practitioner chosen by the faculty member. The university also has the right to request the faculty member to submit to another examination by a health care practitioner chosen and paid for by the university.
 2. In the event of failure to reach a mutually acceptable resolution, proceedings to terminate or to award a contract with substantially reduced status to a faculty member for medical reasons shall be initiated by a written statement alleging with reasonable particularity the faculty member's inability to perform the essential functions of the job, made by the president or the president's delegate. The issue shall proceed to a hearing before the Consolidated Hearing Committee ("CHC"). In addition to the procedures specified in 8-7 (4), if the CHC believes that the medical evidence from the two prior health examinations is inconclusive, the CHC may order a third examination at the university's expense, to be conducted by a health care practitioner selected jointly by the faculty member and the university or, if they fail to agree, by the CHC.
- C. For proceedings pursuant to 1.(b) above, the administration shall consult with and give

consideration to advice offered by the Executive Committee of the Academic Senate and other appropriate bodies of the faculty prior to terminating or awarding a contract with substantially reduced status to a faculty member for financial exigency or bona fide discontinuance of a program or department of instruction.

Section 8. Applicability

- A. This code does not preclude nor does it apply to proceedings to terminate the employment of a nontenured faculty member at the end of his or her contract period by nonrenewal of his or her contract.
- B. Conduct which would breach a rule of this code committed prior to the final adoption of the code shall not be a basis for proceedings under this code. Where such conduct would constitute a basis for dismissal for cause under a previously applicable regulation proceedings may be brought in accordance with such regulation.

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Approved: Academic Senate 1/10/05

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