

**Legislative History**  
**April 9, 2007 Revisions of University Policies regarding the Academic  
Freedom and Faculty Rights Committee.**

Prepared by Bob Flores for the Institutional Policy Committee.

These revisions were approved by the Academic Senate April 2, 2007 and by the Board of Trustees April 9, 2007, and took effect April 9, 2007.

Affected Policies:

**Policy 6-307** Rev. 5 (formerly PPM 9-5.5 Section 6)

**Policy 6-308** Rev. 5 (formerly PPM 9-5.5 Sections 7 & 8)

**Policy 6-001** Rev. 16 (formerly PPM 8-5)

**Policy 6-002** Rev. 24 (formerly PPM 9.3)

Note: The renumbering of all Policies from the former PPM numbering to the new University Regulations numbering occurred September 15, 2008.

What follows is the set of materials provided in the April 2, 2007 agenda of the Academic Senate.

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

FROM: Susan M. Olson, Associate Vice President for Faculty  
Richard J. Sperry, Associate Vice President for Health Science

DATE: March 5, 2007; revised March 23, 2007

SUBJECT: Follow-up policy revisions to creation of Consolidated Hearing Committee and changes to Academic Freedom and Faculty Rights Committee

In 2004 the Academic Senate, administration, and Trustees created the Consolidated Hearing Committee (CHC) to replace the hearing function previously exercised by several other faculty committees. This change necessitated revisions to numerous university policies, which we have been gradually working on since that time. Last year the principal policy describing the functions of the Academic Freedom and Faculty Rights Committee (formerly named the Academic Freedom and Tenure Committee) was revised to clarify its role as a conciliation rather than hearing body and to pull together its other functions, which were scattered across various sections of the Policies and Procedures Manual (PPM). The proposed policy revisions attached here, recommended after thorough consideration by the Academic Freedom and Faculty Rights Committee (AFFRC), continue those clean-up efforts.

PPM 9-5.5 has not been revised since 1980 and apparently was not brought into consistency even with changes to the Code of Faculty Rights and Responsibilities (PPM 8-12) made in the 1990's. The language of PPM 9-5.5, which calls for reporting "proposed removals and dismissals" to the Academic Senate, is inconsistent with the old procedures of the Faculty Hearing Committee, which the CHC replaced in 2004. These called for the Senate to receive an account of cases "appropriately worded or modified to protect any necessary confidentiality." At some point, now unknown, the language about reporting removals and dismissals began to be simply ignored.

The AFFRC concurs that the existing "Section 6. Resignations, Removals, and Dismissals" needs updating. The reporting called for of "proposed removals and dismissals" to the Academic Senate is now inconsistent with the detailed procedures of the Consolidated Hearing Committee (CHC) and the latter policy's standards for confidentiality and reporting in PPM 9-3, Sec. 10, IV. D.:

Each CHC panel that hears a case will provide a brief account of the issue(s) involved and the decision, appropriately worded or modified to protect any necessary confidentiality, to the Office of the Academic Senate. Pursuant to its duty to report, the CHC may make a confidential report to the Academic Senate Executive Committee regarding a serious concern about the systemic operation of a program, department or college and request that the Executive Committee relay that concern to the cognizant senior vice president.

While recent university policy has thus protected the privacy of the rare faculty member subject to removal as a disciplinary action, the commitment to reporting resignations remains. The revisions proposed here retain the existing statement of principle against forced resignations, the procedure of reporting faculty resignations to the Senate, and the right of “any faculty member” to “request the review of any resignation.” We believe that that right, while rarely invoked, preserves an important mechanism for the faculty (via the AFFRC) to advise the president if it finds that one or more resignations reflect a serious problem within an academic unit. The procedures for such a review of a resignation are updated to reflect the current procedures of the AFFRC.

Of the other parts of PPM 9-5.5, “Section 7. Grievances” is retained, even though it duplicates language in PPM 9-3, Sec. 11, III. 2. d. that enumerates the various responsibilities of the AFFRC. Having a paragraph so labeled may assist faculty members in finding their way to the AFFRC if needed. In contrast, “Section 8. Requests for Opinions,” in which “The president may refer to the Academic Senate any matters concerning academic freedom and tenure upon which the president feels it would be well to have an opinion,” is simply moved verbatim to the list of responsibilities of the AFFRC (new item 2. c. in PPM 9-3, Sec. 11, III.).

Another proposed change in both the sections on resignations and on grievances is to remove the Board of Trustees as a level of review for such disputes. It is the understanding of the administration that the Board of Trustees has no desire to become involved in individual disputes within the university and that it is better practice for such matters to be definitely resolved at the level of the university president if not before.

The changes proposed to PPM 8-5 and 9-3 follow from those proposed to PPM 9-5.5. PPM 8-5, “Faculties, Committees, and Councils,” now includes in Section 2, “Composition and Authority of the Academic Senate,” the same problematic language about removals and dismissals as we are proposing to amend in PPM 9-5.5. From this section we move to PPM 9-5.5 the exception to the requirement to report faculty resignations, i.e. resignations of “those who have at the time of hiring been expressly hired for a limited period of time.” (Current practice is to report to the Senate the resignations of all regular faculty and, at the request of the School of Medicine, all clinical faculty.) We thus propose a shortened statement in PPM 8-5 of the right to be informed of and to question resignations and a cross-reference to PPM 9-5.5. (The proposed changes to PPM 8-5 also include various minor editorial changes reflecting recent revisions to several other policies, as listed.) The proposed changes to PPM 9-3, Section 11, on the AFFRC merely add those sections moved from PPM 9-5.5.

Cc: Professor Tony Ekdale, Chair, Academic Freedom and Faculty Rights Committee

Subject: **FACULTY REGULATIONS - Chapter V - Sections 6, 7, 8  
APPOINTMENTS, RETENTION, PROMOTION, AND TENURE**

**SECTION 6. RESIGNATIONS, REMOVALS, AND DISMISSALS**

**Purpose. A resignation is the expression of a faculty member's decision to discontinue employment with the university. A resignation is distinguished from a dismissal, which is the expression of the university's decision to terminate a faculty member's employment.**

~~While any faculty member may be dismissed for adequate cause, it is imperative that the university provide proper procedural safeguards so as to insure that dismissal proceedings are conducted fairly and that the dismissal is not a violation of academic freedom. At the same time, it is also important that a competent faculty member may not be forced to resign because of unproven rumors, unsupported insinuations of improper conduct, or other unfounded efforts to discredit his or her teaching ability or research. It is equally important for a faculty member to give reasonable advance notice of his or her pending resignation. Such notice should be given to the cognizant department chairperson or college dean at least four months in advance of the date upon which the resignation is intended to become effective. **The university provides procedural safeguards to insure that proceedings to dismiss a faculty member are conducted fairly and that the dismissal is not a violation of academic freedom (see Faculty Regulations, Chapter III, Section 10 [Consolidated Hearing Committee] and Section 11 [Academic Freedom and Faculty Rights Committee]).**~~

Procedures.

**a. Faculty members shall give reasonable advance notice of their pending resignation. Such notice should be given to the cognizant department chairperson or college dean at least four months in advance of the date upon which the resignation is intended to become effective.**

~~a.b.~~ The president **of the university** shall inform the Academic Senate of ~~whether routine or~~ under protest, and of proposed removals and dismissals. Routine resignations shall be reported by the president to the Senate at its next regular meeting. **faculty resignations, except for those faculty members expressly hired for a limited period of time.**

~~b.c.~~ Any faculty member shall have the right to request the review of any resignation. Each request for a review shall be referred to the Academic Freedom and Tenure **Faculty Rights** Committee. ~~All protested resignations or proposed dismissals or removals shall be referred to this committee for investigation and study. The committee procedures are described in University~~ **Faculty-University** Regulations, Chapter ~~VII, Section 2 and~~ appendix, **III, Section 11 (PPM 9-3. Sec. 11).** **No request for review shall delay the effective date of any resignation.**

e.d. The president **of the university** and the faculty member **who requested the review** shall be notified in writing of the committee's recommendation, and shall be given **provided with** a copy of the record of the hearing. ~~An information report of the decision shall also be given to the Academic Senate. If the president rejects the report, the president shall state the reasons for doing so, in writing to the Academic Freedom and Tenure **Faculty Rights** Committee and to the faulty **faculty** member. , and provide an opportunity for written response before transmitting the case to the University Board of Trustees. Action by the University Board of Trustees is governed by University Regulations, Chapter VII, Section 3, third paragraph. **The decision of the president is final.**~~

## SECTION 7. GRIEVANCES

- a. Should differences arise between members of the academic staff **community**, the faculty member who feels that he/she has been aggrieved shall be privileged to have his/her case reviewed by the appropriate administrative authorities. Thereafter, the faculty member shall have the right to bring the matter to the attention of the Academic Freedom and Tenure committee, ~~which shall have full power to investigate the matter in question, including the power to appoint a subcommittee for the purpose of bringing about a reconciliation. The committee shall submit its report and recommendations to the president. Copies of the report and the recommendations shall be sent to the aggrieved member, the executive officers concerned, and the Academic Senate.~~
- b. ~~Any of the parties involved in the controversy shall have the right to appeal the matter to the **Faculty Rights** Committee on Academic Affairs of the Board of Trustees if a settlement of the case has not been reached under the above procedures. **See PPM 9-3, Sec. 11).**~~
- c. This section shall not be applicable to differences concerning retention, tenure, or promotion. See Faculty Regulations, Chapter ~~V~~ **III**, Section 4 **10 (PPM 9-3, Sec. 10).**

## SECTION 8. REQUESTS FOR OPINIONS

~~The president may refer to the Academic Senate any matters concerning academic freedom and tenure upon which the president feels it would be well to have an opinion. The Senate shall refer such matters to the Academic Freedom and Tenure committee for investigation and study. The report and recommendations of the committee shall be submitted to the president and to the Academic Senate.~~

**(Moved to PPM 9-3, Sec. 11 [AFFRC] and altered)** Approved: University Senate 5/5/80;  
Institutional Council 5/12/80.

*{ PPM 8-5. Proposed confirming revisions 2007. draft Mar. 2007. all changes are in boldface font.*

*These revisions are proposed to conform to various recent changes in policy and practices, including*

- 2007 revisions of PPM 9-5 regarding faculty appointments procedures;*
- 2006 renaming of the committee formerly named Academic Freedom and Tenure, and now named Academic Freedom and Faculty Rights;*
- 2004 elimination of the Faculty Hearing Committee and establishment of the Consolidated Hearing Committee;*
- 2005 renaming of committee formerly named University RPT Standards and Appeals, and now named University RPT Standards;*
- change making the University Diversity Committee into a senate-elected committee;*
- 2007 revisions of PPM 9-4 regarding the structure of college councils*
- 2007 revisions of PPM 9-5.5 regarding resignations, removals and dismissals }*

Policy 8-5 Rev-~~15~~ **16**  
Date ~~February 10, 2003~~ **\_\_\_\_\_ 2007**

Subject: UNIVERSITY REGULATIONS - Chapter V  
FACULTIES, COMMITTEES AND COUNCILS

## SECTION 1. COMPOSITION AND AUTHORITY OF THE UNIVERSITY FACULTY

The university faculty shall consist of the university president, vice presidents, deans, directors of libraries, professors (including distinguished presidential and university professors), associate professors, assistant professors, instructors, librarians, associate librarians, and assistant librarians. All shall have the full rights of faculty members except that persons holding adjunct, clinical, research, visiting, **lecturer**, or emeritus appointments shall not have the right to vote. At the discretion of the university president, academic personnel holding non-faculty appointments may be afforded faculty privileges other than the right to vote.

The university faculty shall have authority, subject to the approval of the Board of Trustees, to legislate on matters of educational policy, to enact such rules and regulations as it may deem desirable to promote or enforce such policies, and to decide upon curricula and new courses of study involving relations between schools and colleges or departments. The faculty has a right to a meaningful role in the governance of the university including primary responsibility for course content and materials, degree requirements and curriculum; it has a right to participate in decisions relating to the general academic operations of the university including budget decisions and administrative appointments. Substantial alterations in existing operations, i.e., establishment of a branch, extension center, college, professional school, division, institute, department or any new program in instruction, research, or public services, or any new degree, diploma, or certificate, shall not be made without prior approval of the State Board of Regents. Utah Code

Ann. 53B-16-102(4) (1994). The legislative power will normally be exercised by the faculty through their representatives in the Academic Senate and the college or area councils, except that the voting members of the university faculty shall have the appellate power to review all actions affecting educational policy.

## SECTION 2. COMPOSITION AND AUTHORITY OF THE ACADEMIC SENATE

There shall be an Academic Senate constituted as provided in the Faculty Regulations.

The Academic Senate shall have the power to act for the university faculty in all matters of educational policy, including requirements for admissions, degrees, diplomas, certificates, and curricular matters involving relations between schools and colleges or departments. Within this province the action of the senate shall be effective without approval, subject to the appellate power of the university faculty. Matters of educational policy coming before the Senate for action should, as a matter of course, be evaluated as to any additional expenses involved (e.g., library support costs for new programs) and proposed sources of revenue.

The Academic Senate shall also have the following powers:

- (1) to receive and consider reports from all faculty committees, councils, departments, divisions, administrative officers, schools, colleges, faculties and libraries and to take appropriate action thereon within the scope of his authority;
- (2) to consider matters of professional interest and faculty welfare and make recommendations to the university president and other administrative officers concerned;
- (3) to propose to the Board of Trustees amendments or additions to the University Regulations for the government of the university.

**In accord with [PPM 9-5] t**~~The~~ university president shall inform the Academic Senate of proposed appointments and promotions of faculty members and shall recommend these appointments and promotions to the Board of Trustees at its next meeting unless there is objection to any of these recommendations by a majority of the Senate quorum. Objections shall be referred to the Executive Committee of the senate for investigation and the report of the Executive Committee shall be transmitted by the university president to the Board of Trustees.

The university president shall also inform the Academic Senate of **all** resignations, ~~whether routine or under protest, and of proposed removals and dismissals~~. Any faculty member shall have the right to request the review of any resignation ~~or proposed dismissal~~. Each request for such a review must be referred to the Academic Freedom and ~~Tenure~~ **Faculty Rights** Committee **for proceedings as described in PPM 9-5.5, Sec. 6.** ~~which shall make a review of the case and transmit its findings to the Academic Senate. Mandatory referral to the Academic Freedom and Tenure Committee of protested resignations, dismissals, and removals of faculty members is applicable to faculty with or without tenure or continuing appointment, with the exception that it does not include those who have at the time of hiring been expressly hired for a limited period of~~

~~time. Upon the basis of the findings of the Academic Freedom and Tenure Committee, the senate shall then approve or disapprove the protested resignation, removal, or dismissal by roll call vote. Minutes shall be kept of all proceedings of the Academic Freedom and Tenure Committee and of the senate pertaining to protested resignations, removals, and dismissals. Copies of these minutes, including the roll call vote of any senate action taken, shall be available to the Board of Trustees. The Board of Trustees will not act on any appeal unless and until the appeal has first been referred to the Academic Freedom and Tenure Committee and that committee has made a report of its findings to the Academic Senate.~~

The university president may refer to the Senate any matter upon which the university president feels it would be useful to have the advice of that body. When such matters pertain to academic freedom or faculty rights ~~and tenure~~, the Senate shall refer them to the Academic Freedom and ~~Tenure~~ **Faculty Rights** Committee for study and report back to the Senate and university president. The university president may also appoint an ad hoc committee of faculty members and others when appropriate to advise the university president when a question arises concerning the competence or conduct of a staff or faculty member in a given department.

### SECTION 3. COMPOSITION AND AUTHORITY OF UNIVERSITY COMMITTEES

The Academic Senate shall establish an Executive Committee to include the following voting members: ten faculty members elected annually from the Senate's elected membership to serve one year, the ASUU president, a graduate and an undergraduate representative from the student Academic Senators, one of whom shall be the Student Senate Chair and the other of whom shall be selected by the Student Senate; and the President of the Academic Senate. The President of the Academic Senate shall chair the committee but shall vote only when necessary to prevent an equal division of the committee. The ex officio, non-voting members will include the university president, the vice president for academic affairs and the vice president for health sciences or their designees, the president-elect of the Academic Senate, and the past-president of the Academic Senate.

The Executive Committee shall screen and review matters for the Academic Senate and perform other functions as assigned to it by ~~Faculty~~ Regulations or by action of the Academic Senate. (See Faculty Regulations, Chap. III. **[PPM 9-3]**)

The Executive Committee is empowered to receive confidential committee reports indicating a serious concern about the systemic operation of a program, department or college, and to request further supporting information from any committee so empowered to report. If the Executive Committee concludes that there is a serious concern about the systemic operation of a program, department or college, it shall bring this to the attention of the cognizant vice president and provide supporting information. The cognizant vice president shall acknowledge receiving the report and in a timely fashion inform the Executive Committee and the originating committee what steps are being taken to investigate or resolve the concerns and, subsequently, inform both committees of the outcome of the investigation and of any resolution achieved.

The Academic Senate shall elect annually members of the following committees from faculty members other than ex officio members of the Senate and the Executive Committee of the

Senate: Academic Freedom and Faculty Rights Committee, Academic Policy Advisory Committee, Annuities and Salaries Committee, Faculty Budget and Planning Advisory Committee, ~~Faculty Hearing Committee~~ Consolidated Hearing Committee, Library Policy Advisory Committee, Personnel and Elections Committee, University RPT Standards ~~and Appeals~~ Committee, University Diversity Committee, and such other committees determined by the Senate to be needed to serve the interests of the university.

Vacancies in faculty positions on elected committees shall be filled either by the runner-up from the original elections or by special election by the Senate. (See Faculty Regulations, Chapter III.) **[PPM 9-3]**

The university president shall appoint, before the opening of the academic year, such standing committees as the work of the university may require. Special committees may be appointed at any time as the university president may deem wise, which shall report to the faculty, or to the appropriate council, or to the university president the progress of their work and their recommendations.

The university president, administration or Academic Senate will notify the Personnel and Elections Committee about the creation of any university-wide standing committees. Upon the creation of a university-wide standing committee, the Personnel and Elections Committee will review the committee charter and membership requirements, and shall make any requested nominations.

Committees of the faculty and of the Academic Senate shall act only within the limits set for them.

#### SECTION 4. COMPOSITION AND AUTHORITY OF SCHOOL AND COLLEGE FACULTIES

A school or college faculty shall consist of the dean of the school or college and such members of the staffs of departments pursuing research or offering a major, a teaching major, or prescribed work in the school or college as are eligible to membership in the university faculty. If a department serves more than one school or college, the department chairperson may designate a staff member to represent the department at meetings of the faculties of schools or colleges other than that to which the department is assigned for administrative purposes without abrogating the right of other members of the department to participate and vote in the meetings of such faculties. The president shall be an ex officio member of all school and college faculties.

**In accord with [PPM 9-4]** College or area councils shall be created by the colleges of the university with compositions defined by the colleges involved, subject to the approval of the Executive Committee. College or area councils may include councils serving more than one college where appropriate. Such councils shall have decision-making authority, as stated in Faculty Regulations, subject to review by the Executive Committee of the Academic Senate and subject to the power of the Academic Senate to legislate on matters of general university concern.

*Remaining Sections 5-7 unamended*

Approved: Academic Senate ~~2/3/10~~ 2007

Approved: Board of Trustees ~~2/10/03~~ 2007

Policy 9-3 Rev 23  
Date May 8, 2006

9-3R22.html

Subject: FACULTY REGULATIONS – Chapter III  
THE ACADEMIC SENATE

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## SECTION 11 ADADEMIC FREEDOM AND FACULTY RIGHTS COMMITTEE

### I. ACADEMIC FREEDOM

Academic freedom in the pursuit and dissemination of knowledge through all media shall be maintained at the University of Utah. Such freedom shall be recognized as a right of 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 of the University. The University of Utah endorses the 1961 statement of the American Association of University Professors concerning recruitment and resignations, the 1940 "Statement of Principles on Academic Freedom and Tenure" of the American Association of University Professors and the Association of American Colleges, and the 1965 "Statement on the Academic Freedom of Students" of the American Association of University Professors.

### II. REFERENCES

PPM 2-32 Discrimination and Sexual Harassment Complaint Policy  
PPM 8-5 Faculties, Committees and Councils  
PPM 8-10 Code of Student Rights and Responsibilities  
PPM 9-3 The Academic Senate  
PPM 9-5.5 Appointments, Retention, Promotion and Tenure

### III. ACADEMIC FREEDOM AND FACULTY RIGHTS COMMITTEE

#### 1. COMMITTEE FORMATION

The Academic Senate shall elect an Academic Freedom and Faculty Rights Committee (AFFR) of twelve members chosen from the voting members of the faculty other than the ex officio members of the Senate. The Senate President or the Senate President's designee shall be an ex officio nonvoting member of the committee.

**b.a.** The committee members shall be elected for a term of three years on a rotating basis so that the Senate shall annually elect four committee members to fill vacancies caused by the expiration of terms of office.

**e.b.** The chairperson of AFFR shall be selected in accordance with PPM 9-3 § 4.C(2). A vice chairperson shall be selected by the committee and will preside in the absence of the chairperson.

**d.c.** It shall be the duty of the chairperson or, in his/her absence, of the vice chairperson, to call meetings of the committee at least once each semester and more frequently if need arises. Meetings also shall be called by the chairperson or, in his/her absence, by the vice chairperson, upon the written request of three members of the committee. At least five (5) days written notice of all meetings of the committee and of its agenda shall be given to its members.

**e.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 PPM 2-32.

## 2. COMMITTEE RESPONSIBILITIES

a. It shall be the duty of the committee to make an annual report each spring semester to the Academic Senate. It also shall be a responsibility of the committee to keep fully informed on the most important controversies on academic freedom and ~~tenure~~ **faculty rights** in higher education; to survey problems of academic freedom and ~~tenure~~ **faculty rights** at the University of Utah; and to inform the Senate on these matters in its annual report. Pursuant to its duty to report, the committee may make a confidential report and request to the Academic Senate Executive Committee that a report of a serious concern about the systemic operation of a program, department or college, be made to the cognizant vice president.

b. AFFR shall have the power to investigate, either on its own initiative or at the request of any member of the university academic community, into any matter which the committee reasonably believes may involve issues of academic freedom at the university.

**c. The president of the university may refer to the Academic Freedom and Faculty Rights Committee any matters concerning academic freedom and faculty rights upon which the president feels it would be well to have an opinion for investigation and study. The report of the committee shall be submitted to the president. [moved from PPM 9-5.5]**

**e.d.** 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. See PPM 9-5.5 § 7.

**d.e.** If a faculty member facing termination for medical reasons or because of financial exigency or program discontinuance, believes that such termination involves a violation of

his/her academic freedom, the faculty member may file a complaint with appropriate officials under PPM § 9-3 10.II.E or F.

**e.f.** The Academic Senate may refer any academic disputes between faculty members or other members of the university staff to the Committee for study and report.

**g. Any faculty member may refer a request for review of a resignation to the Committee for study and report. See PPM 9-5.5 § 6.c.d.**

**g.h.** In addition to its power to investigate and review as referred to above, the AFFR is responsible for overseeing the Code of Faculty Rights and Responsibilities, and with making recommendations to the Academic Senate on general matters of faculty rights and responsibilities and the protection of academic freedom. See PPM 9-3§ 4.A(2). To perform the latter task, the Committee is directed by university regulations to keep fully informed on issues and problems of academic freedom and ~~tenure~~ **faculty rights** in higher education and to inform the Senate on these matters in its annual report.

### 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 PPM 9-3 § 10.II.D. Formal hearings required in matters involving rights and duties of faculty members are conducted by the CHC under PPM 9-3 § 10.

b. If a complaint is filed initially with CHC, it may refer the matter to AFFR for “consideration and report.” See PPM 9-3 § 10.III.F.1.a.ii. 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).

c. No committee member shall be present during the committee’s consideration of any case from a department with which he/she is associated as a faculty member or for any case in which he/she has been involved except for prior involvement as an AFFR member. In addition, committee members shall decline to participate in the consideration of any case in which they have a personal bias or interest which would preclude their making a fair and objective decision.

d. The Office of General Counsel will provide the chairperson and the committee with advice through an attorney who does not represent any of the parties and who may attend any committee meetings for this purpose.

e. Committee meetings will normally be closed to the public to the extent permitted by law. All persons at a closed meeting shall be asked to refrain from public statements about the matter and shall be informed of any legal requirements of confidentiality by the attorney providing legal counsel to the committee.

f. Definitions

- i. "Claimant" means the person(s) submitting a complaint to the committee.
- ii. "Complaint" means a signed, written statement on the AFFR complaint form (available from the Office of the Academic Senate) that asserts a violation of academic freedom or other substantial academic grievance. An oral or informal written inquiry to the committee or a committee member will not be considered a complaint for purposes of these rules.
- iii. "Respondent" means the person(s) against whom a complaint is made.

g. Submission of Complaints

- i. Any member of the university academic community may submit a [complaint](#) to the committee.
- 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 PPM 2-32 and 9-3 § 10.I.B.2.
- iii. When a complaint has been filed with the Office of the Academic Senate and referred to the AFFR chairperson, the committee chairperson may consult with the Senate President or designee (as ex officio member of AFFR) to ascertain whether the dispute is subject to another committee's jurisdiction or iii. procedures.
- iv. The committee normally will not consider a complaint if it determines that the claimant has not been directly or substantially affected by the matters of which he or she complains. Thus the committee generally will decline to consider complaints submitted on behalf of persons who have not joined in the complaint.
- v. In addition to the claimant(s) and the respondent(s), the committee may designate additional parties if the committee concludes that the additional parties have a substantial interest in the complaint that is not already being adequately represented.

#### 4. PROCESSING OF COMPLAINTS

a. The chairperson of the committee shall promptly notify each named respondent of the complaint. In notifying respondents, the chairperson shall include a copy of the complaint and a copy of these procedures. The chairperson also may notify other persons of the complaint if the chairperson believes they may wish to participate in the proceedings as respondents.

b. A complaint may be dismissed by the committee at any time after it is submitted upon a determination by the committee of any of the following:

- i. The complaint involves neither a substantial question of academic freedom nor a substantial academic grievance.
- ii. The matter complained of has been resolved to the satisfaction of the claimant either through informal resolution or a change in circumstances.
- iii. The claimant is not directly or substantially affected by the matters of which he or she

complains and it is not appropriate for the committee to proceed with investigation of the matter on its own initiative.

c. The parties shall be given prompt written notice of the dismissal of a complaint. Dismissal shall not preclude the claimant from resubmitting a complaint on the same or related matters in the future.

## 5. INFORMAL RESOLUTION

a. The committee may request additional information from either the claimant or respondents or both. Preliminary requests and information submitted will be copied to all other parties unless extreme circumstances calling for confidentiality are documented by the committee in its own files.

b. The committee may designate one or more members of the committee to attempt an informal resolution of the matter. The designated committee members may meet separately with the claimant, the respondent or other persons and may receive information in confidence.

c. In attempting to promote informal resolution, the committee and its designees will act impartially, respect the principle of self-determination of the parties, and observe reasonable expectations of confidentiality. (See “Model Standards of Conduct For Mediators” promulgated by the American Arbitration Association, American Bar Association, and the Association for Conflict Resolution.)

## 6. COMMITTEE REPORT

a. If a complaint is neither dismissed nor resolved informally, then the committee will make a written report to the parties, either with or without recommendations.

b. The committee does not make findings of fact that would be binding on any party and does not hold hearings. It may, however, at its sole discretion, invite the parties to meet with the committee to provide further information.

c. The committee’s report may

- i. express the committee’s view(s) on whether a violation of academic freedom or university policies has occurred,
- ii. express the committee’s view(s) on whether an academic grievance (as defined above) violates the rights or inappropriately impedes the duties of a faculty member,
- iii. advise the parties that a grievance should be processed further at the departmental or other appropriate administrative level,
- iv. advise the parties that a hearing by CHC would be needed in order to make factual conclusions on identified issues, or
- v. advise the claimant of the option to appeal to the CHC in order to request a hearing.

d. The committee report may not contain any information provided in confidence by a party during an informal resolution process, unless the party gives permission for its inclusion.

e. In the event that a hearing is to be held by the CHC, the committee's written report will be forwarded to CHC. In addition, documents submitted to the AFFR during an informal resolution process will be forwarded to CHC, subject to the permission of the party who originally submitted the documents.

## 7. REFERRALS 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 PPM 9-3 § 10.III.F.1.a.ii, 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.

b. The AFFR will submit a report to the CHC based only on the materials forwarded to the AFFR by the CHC pursuant to the referral.

c. If the committee believes that factual issues relevant to the academic freedom allegations should be determined by the CHC, the committee may, at its sole discretion, so advise the CHC in its report. The committee may, at its sole discretion, also advise the CHC of two or more alternative views held by the committee depending on the CHC's factual findings.

Approved: Academic Senate, May 1, 2006

Approved: Board of Trustees, May 8, 2006

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