

Policy 6-010: Academic Freedom, Academic Grievances, Functions and Procedures of the Senate Committee on Academic Freedom and Faculty Rights.

Revision 1. Effective date: July 1, 2024

I. Purpose and Scope

This Policy describes the functions of and procedures of the Senate Committee on Academic Freedom and Faculty Rights, and in conjunction with that description, affirms the University's commitment to principles of academic freedom for members of the University community, and related rights of faculty members, including rights of review of academic grievances.

[User note: The contents of this Policy formerly appeared in Policy 6-002- the Academic Senate. The contents were moved to this new Policy effective May 2014 as part of the comprehensive Revision 30 of Policy 6-002. That project also included moving out of 6-002 and into a new Policy 6-011 certain contents regarding functions and procedures of the Senate Consolidated Hearing Committee.]

II. Definitions

A. SCAFFR" or "Committee" means the Senate Committee on Academic Freedom and Faculty Rights, a standing committee of the Academic Senate, which is established by and has membership and officer(s) as governed by Policy 6-002-III-D-1 (Standing Committees of the Academic Senate).

[User note: this committee was formerly known as the Academic Freedom and Faculty Rights Committee--AFFRC (2006-2014), and earlier as the Academic Freedom and Tenure Committee--AFTC (pre-2006).

B. Senate Consolidated Hearing Committee ("SCHC") is the standing committee of the Academic Senate established by Policy 6-002, and with procedures set forth in Policy 6-011, for processing complaints and holding hearings in various

disputes, some of which overlap with functions of the SCAFFR. (SCHC formerly named CHC)

- C. "Claimant" means the person(s) submitting a complaint to the SCAFFR.
- D. "Complaint" means a signed, written statement submitted to the SCAFFR on the [SCAFFR 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.
- E. "Respondent" means the person(s) against whom a complaint is made.

III. Policy

A. General Principles of 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 in all categories (as described in Policy 6-300 The University Faculty -- Categories and Ranks), whether with or without tenure or continuing appointment, administrative officers, academic staff and other non-faculty academic personnel (as described in Policy 6-309), 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.

- B. Academic Grievances [reserved. User note: See Policy 6-308]
- C. Senate Committee on Academic Freedom and Faculty Rights

1. Committee Formation

- a. The Senate Committee on Academic Freedom and Faculty Rights ("SCAFFR" or "Committee") is a standing committee of the Academic Senate, governed by the provisions of Policy 6-002 regarding such a standing committee, including selection of its voting and ex officio membership and officers, duties to report to and receive charges from the Senate, and other general matters, with the following additional specific provisions.
- b. If a co-chairperson or vice-chairperson has not otherwise been selected pursuant to the procedures of Policy 6-002, the members of the Committee may select a vice chairperson to preside in the absence of the chairperson.
- c. It shall be the duty of the 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 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.
- d. If a party is a student, or if there are substantial issues that involve students, then, in consultation with the ASUU President or designee, the 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 Rule 1-012A.

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 faculty rights in higher education; to survey problems of academic freedom and 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. The Committee 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 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. [*User note: this specific role of the Committee was in 2007 moved from Policy 6-307*]
- 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 Regulations. See Policy 6-308 (Grievances).
- 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 the faculty member's academic

freedom, the faculty member may file a complaint with appropriate officials under Policy 6-011 (Senate Consolidated Hearing Committee, as the hearing body for such complaints by faculty members).

- f. The Academic Senate may refer any academic disputes between faculty members or other members of the University community to the Committee for study and report.
- g. Any faculty member may refer a request for review of a resignation of a faculty member to the Committee for study and report. See Policy 6-307.
- h. In addition to its power to investigate and review as referred to above, the Committee is responsible for overseeing the application and updating of Policy 6-316 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 (and as part of that responsibility will review for Senate consideration all legislative matters concerning faculty rights and responsibilities.) To perform the latter task, the Committee is hereby directed to keep fully informed on issues and problems of academic freedom and faculty rights in higher education and to inform the Senate on these matters in its annual report.

3. General Procedures

- a. The Committee may receive a complaint directly from a member of the academic community and attempt to resolve the matter informally. If the Committee is unable to resolve the matter to the satisfaction of the claimant, then the Committee should explain further options for appeal to the claimant, including the possibility of filing a complaint with the Senate Consolidated Hearing Committee (SCHC). Formal hearings required in matters involving rights and duties of faculty members are conducted by the SCHC under Policy 6-011.

- b. If a complaint is filed initially with SCHC, it may refer the matter to SCAFFR for "consideration and report." (See Policy 6-011.) SCAFFR 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 SCHC.
- c. No Committee member shall be present during the Committee's consideration of any case from a department with which the committee member is associated as a faculty member or for any case in which the committee member has been involved except for prior involvement as a Committee member. In addition, Committee members shall decline to participate in the consideration of any case in which they have may be unable to make 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 [*User note: Definitions have been moved to Section II of this Policy, in Revision 0.*]
- g. Submission of Complaints
 - i. Any member of the University academic community may submit a complaint to the Committee.

- ii. A complaint to the Committee 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 1-012 and Policy 6-011 (Senate Consolidated Hearing Committee—formal hearings of complaints of discrimination in context of another faculty proceeding).
- iii. When a complaint has been filed with the Office of the Academic Senate and referred to the SCAFFR chairperson, the Committee chairperson may consult with the Senate President or designee (as ex officio member of SCAFFR) to ascertain whether the dispute is subject to another Committee's jurisdiction or 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 complaint matters. 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 complaint matters 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 Regulations has occurred,
 - ii. express the Committee's view(s) on whether an academic grievance (as described 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 SCHC would be needed in order to make factual conclusions on identified issues, or

- v. advise the claimant of the option to appeal to the SCHC 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 SCHC, the Committee's written report will be forwarded to SCHC. In addition, documents submitted to the SCAFFR during an informal resolution process will be forwarded to SCHC, subject to the permission of the party who originally submitted the documents.
7. Referrals from the Senate Consolidated Hearing Committee
- a. If the SCHC under Policy 6-011 (referral to SCAFFR) refers an appeal that alleges a violation of academic freedom to the SCAFFR for consideration and report then the SCAFFR will consider the allegations and make a written report to SCHC 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 SCHC.
 - b. The SCAFFR will submit a report to the SCHC based only on the materials forwarded to the SCAFFR by the SCHC pursuant to the referral.
 - c. If the Committee believes that factual issues relevant to the academic freedom allegations should be determined by the SCHC, the Committee may, at its sole discretion, so advise the SCHC in its report. The Committee may, at its sole discretion, also advise the SCHC of two or more alternative views held by the Committee depending on the SCHC's factual findings.

[Note: *Parts IV-VII of this Regulation (and all other University Regulations) are Regulations Resource Information – the contents of*

which are not approved by the Academic Senate or Board of Trustees, and are to be updated from time to time as determined appropriate by the cognizant Policy Officer and the Institutional Policy Committee, as per Policy 1-001 and Rule 1-001.]

IV. Rules, Procedures, Guidelines, Forms and other Related Resources

Rules [Reserved]

Procedures [Reserved]

Guidelines [Reserved]

Forms

SCAFFR complaint form

Other Related Resource Materials [Reserved]

V. References

Policy 1-012: University Non-Discrimination Policy

Rule 1-012A: Discrimination Complaint Process Rule

Policy 6-002, The Academic Senate

Policy 6-316, Code of Faculty Rights and Responsibilities

Policy 6-400, Student Rights and Responsibilities

Policy 6-011, Senate Consolidated Hearing Committee

Policy 6-307, Resignations of Faculty

Policy 6-308, Grievances

Statements of the American Association of University Professors related to academic freedom: ("The 1940 Statement of Principles on Academic Freedom and Tenure"; "1970 Interpretive Comments"; "1970 Statement on Professors and Political Activity"; "1970 Statement of the Association's Council: Freedom and Responsibility"; "1967 Joint Statement on Rights and Freedoms of Students").

VI. Contacts

The designated contact officials for this Regulation are

- A. Policy Owners (primary contact person for questions and advice): Associate Vice President for Faculty and the Associate Vice President for Health Sciences.
- B. Policy Officers: Sr. Vice President for Academic Affairs and the Sr. Vice President for Health Sciences.

See University Rule 1-001 for information about the roles and authority of policy owners and policy officers.

VII. History

Renumbering. The contents of this Policy 6-010 prior to May 15, 2014 were housed within Policy 6-002---III-Section 11, which in turn prior to the September 2008 system-wide renumbering of University Policies had been known as PPM 9-3 and earlier as Faculty Regulations Chapter III. Also, certain contents of this Policy before being moved to Policy 6-002/ PPM 9-3, had originally been housed in Policy 6-313/ PPM 8-7 as of May 2006.

Revision History:

- A. Current Version Revision 1
 - 1. Effective July 1, 2024
 - 2. Editorial Revisions [*reserved*]
- B. Previous versions:
 - 1. Revision 0. Effective May 15, 2014
 - a. Legislative History of Revision 0

- b. Editorial Changes:
 - i. Editorial changes were made to this document on October 28, 2021 to reflect the renumbering of Policy 5-210 to Policy 1-012.
 - ii. Editorially updated to remove gendered language on April 19, 2022.
- 2. Because the contents of this Policy were formerly housed within Policy 6-002—III-Section 11, and Policy 6-313, earlier history for this Policy is found in the repository of history documents for Policy 6-002, up to Revision 22 year 2013, and in the history documents of Policy 6-313 up to Revision 9 year 2006.