

## **Policy 6-011: Functions and Procedures of the Senate Consolidated Hearing Committee**

### **I. Purpose and Scope**

This Policy describes the functions of the Senate Consolidated Hearing Committee, and establishes the procedures for complaints and hearings in cases brought before the Committee.

**[User note:** The contents of this Policy formerly appeared in Policy 6-002 Rev. 29 (III-Section 10—standing committees of the Academic Senate). The contents were moved to this new Policy in 2014 as part of project which included enacting Revision 30 of Policy 6-002, new Policy 6-010 (regarding the Senate Academic Freedom and Faculty Rights Committee), and this new Policy 6-011.]

### **II. Definitions**

- A. "SCHC" or "Committee"-- is the Senate Consolidated Hearing Committee, a standing committee of the Academic Senate which is established by and has pool membership as governed by [Policy 6-002](#), and as used here in context the term may refer either to a specific SCHC panel or the pool of SCHC members from which a panel is drawn. **[User note:** this committee was formerly known as the Consolidated Hearing Committee for Faculty Disputes--CHC, and earlier certain of its functions were conducted by the predecessor Faculty Hearing Committee—FHC.]
- B. "Senate Committee on Academic Freedom and Faculty Rights" ("SCAFFR")-- is the standing committee of the Academic Senate established by [Policy 6-002](#), and with functions and procedures described in Policy 6-010 (some of which functions overlap with functions of the SCHC). **[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).

- C. "Office of Equal Opportunity and Affirmative Action" ("OEO/AA"), is the University office described in [Policy 1-012](#).
- D. "Research Integrity Officer," and "Research Misconduct Investigation Committee"—are described in [Policy 7-001](#): Policy for Research Misconduct.
- E. "Committee on Student Affairs" ("COSA") is described in Policy [6-401](#)-III-D, Students of the University.

### III. Policy

#### A. Charge

1. The Senate Consolidated Hearing Committee ("SCHC") is the hearing body for grievances and complaints brought against faculty members (as defined in [Policy 6-316](#), Section 1, Code of Faculty Rights and Responsibilities--General Provisions) at the University of Utah or by faculty members asserting rights including appeals from retention, promotion and tenure decisions. The SCHC may also choose not to hold hearings and to dismiss complaints brought before it under certain circumstances. The SCHC may also seek the expertise and assistance of other committees or individuals it deems appropriate to facilitate the hearing process. The SCHC functions as a panel of five faculty members constituted anew for each case. Each panel is drawn from a larger pool elected by the Academic Senate. (See Part III-H below).
2. In particular, the SCHC is the hearing body for the following University proceedings:
  - a. Any authorized and timely appeal for review following the cognizant senior vice president's ("Sr. VP's") recommendation to the president at the conclusion of a formal retention/promotion/tenure review. ([Policy 6-303](#))
  - b. Formal hearings of complaints of discrimination against a faculty member or an academic unit based upon race, color, religion, national origin, sex

(including claims of sexual harassment), age, sexual orientation, gender identity/expression, or protected veteran if the discrimination complaint is raised in the context of another faculty proceeding. (Otherwise, complaints of discrimination brought against faculty, students, and staff members are heard through the OEO/AA process. ([Policy 1-012](#));

- c. Proceedings to sanction a faculty member for violations of the Code of Faculty Rights and Responsibilities, ("Faculty Code" [Policy 6-316](#)) or to review an imposed administrative reprimand. (Policy 6-316, Section 6, Administrative Reprimand);
- d. Hearings of matters involving complaints by members of the university community (including faculty members and students) when abridgement of academic freedom is alleged;
- e. Proceedings for terminations or reductions in status of faculty members for medical reasons;
- f. Appeals of a faculty member's dismissal or reduction in status in the event of financial exigency or program discontinuance;
- g. Appeals by faculty, students, or staff of any restrictions on speech under University speech policies;
- h. Formal hearings of allegations of Research Misconduct against a faculty member pursuant to [Policy 7-001](#) (sponsored research). Formal hearings of (sponsored) research misconduct against a student, staff member, or other individual not a faculty member are heard by the Research Misconduct Hearing Committee. (Note: allegations of misconduct in non-sponsored research shall be filed as an allegation under the Faculty Code.

## B. Route to SCHC

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

1. Denial of retention, promotion, or tenure.

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

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

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

3. Complaint alleging violation of Faculty Code.

- a. If an alleged violation of the Faculty Code is not informally resolved by proximate administrators, the aggrieved party may file a formal complaint in the office of the cognizant senior vice president. That office may also attempt informal resolution and then forward the complaint to the SCHC if

no informal resolution has occurred. (See [Policy 6-316](#)-Section 6, Complaints)

b. A faculty member may ask the SCHC to review an administrative reprimand. (See Policy 6-316-Section 6, Administrative Reprimand)

4. Violation of academic freedom or an academic grievance.

Any concern involving an alleged violation of academic freedom or an academic grievance, as defined in Policy 6-010, is brought initially to the Senate Committee on Academic Freedom and Faculty Rights ("SCAFFR"). If the SCAFFR does not resolve the matter informally, the complainant may request a hearing from the SCHC. (See Policy 6-010.)

5. Medical termination or reduction in status.

Proceedings to terminate or to award a contract with substantially reduced status to a faculty member for medical reasons shall be preceded by discussions with a faculty member's department chairperson, dean, and/or cognizant senior vice president looking to a mutually acceptable resolution of the problem, such as an accommodation under the Americans with Disabilities Act. If no such resolution is achieved, the cognizant senior vice president files a written statement with the SCHC alleging a faculty member's inability to perform the essential functions of the job. (See [Policy 6-313](#)-Section 3. "... Termination for Medical Reasons.")

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

The faculty member first appeals such dismissal or reduction in status to the cognizant senior vice president, who makes a recommendation. The faculty member can then appeal the Sr. Vice President's decision to terminate or reduce status, but only for (1) violation of his/her academic freedom or constitutional rights, (2) failure to comply with the policy, with related

institutional policy, or with the plan for personnel reduction approved by the Board of Regents, or (3) illegal discrimination. (See [Policy 6-313](#)-Section 4, "Financial Exigency," and Section 5, "Program Discontinuance").

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

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

8. Research Misconduct.

The SCHC is the formal hearing body for research misconduct but the route to the SCHC differs between sponsored and non-sponsored research.

- a. Any complaint alleging research misconduct in sponsored research is filed first with the Research Integrity Officer (see [Policy 7-001](#)). Either the respondent of the investigation or the Research Integrity Officer may request a formal hearing after receiving the summary of the Research Misconduct Investigation Committee's findings, conclusions and recommendations.
- b. An allegation of research misconduct in non-sponsored research should be filed as a violation of the Faculty Code. Once received, the SCHC, however, may at its discretion refer the complaint to the Research Integrity Officer for investigation pursuant to [Policy 7-001](#).

C. Steps Preceding the Hearing

1. Receipt of Complaint or Appeal

The SCHC process begins upon the receipt by the Office of the Senate of an appeal or complaint in writing setting forth the pertinent issues. The SCHC shall develop an intake form to assure all issues are raised initially. Each appeal or complaint shall append the relevant file or summary report generated through the prerequisite proceedings of other processes, if any.

2. Chairperson Selection

The Office of the Senate shall select a chairperson and the members of the panel within 10 business days of receipt of the appeal and shall forward the materials to each of them. (See Part III-H below).

3. Notification

The Office of the Senate notifies other parties of the appeal or complaint, provides copies to other parties and invites written responses. The responses shall be submitted within ten business days of receipt of the notice. Copies of the responses and of all subsequent documentary submissions shall be provided to all parties by the Office of the Senate.

4. Request for Clarification.

The SCHC panel constituted to consider the matter may request written clarification of ambiguities in submitted complaints, appeals and responses.

5. Respondent's additional claims.

A respondent's written submission may contend that the respondent is entitled to relief for a matter over which the SCHC has jurisdiction. In an RPT appeal, the SCHC shall consider such evidence only as it relates to the RPT appeal and shall recommend a remedy or outcome only relating to the candidate's retention, promotion or tenure. In any other case the SCHC shall consult together and with the parties to determine whether efficiency and fairness will be promoted by permitting the parties to proceed against one another on cross complaints in one proceeding. If the SCHC determines that

efficiency and fairness will be advanced by proceeding on all related claims, it shall so notify the parties and shall proceed to make findings on all relevant issues and to recommend all remedies it deems appropriate.

## 6. Preliminary Review, Referral, and Dismissal of the Complaint

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

### a. Referral

#### i. Mixed Complaints or Appeals.

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



ii. Hearing on all allegations.

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

b. Dismissal.

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

- i. Appeal from RPT decision: The SCHC may not dismiss an appeal from an RPT decision.
- ii. Discrimination: The SCHC may dismiss allegations of discrimination only if it finds, after reviewing the OEO/AA investigation report and other submissions, that there is insufficient evidence to support a claim of discrimination or harassment, or if it finds that the issue is no longer relevant or has become moot. The SCHC shall determine whether to proceed with a discrimination claim based on a review of the complaining party's statement, the reply of the responding party, the written request for the formal hearing and the OEO/AA's initial determination, attachments, and recommendations, and any comments of the parties received in response to the initial OEO/AA' summary.

- iii. Faculty Code Violations: The SCHC may dismiss the complaint only if it determines that the complaint is frivolous or that the complaint fails to allege facts constituting a violation of the Faculty Code.
- iv. Academic Freedom Violations: The SCHC may dismiss a complaint only if it determines that the complaint does not involve a substantial question of academic freedom or a substantial academic grievance, as defined in the rules of the Senate Committee on Academic Freedom and Faculty Rights (Policy 6-010) or that the claimant is not directly or substantially affected by the matters of which he or she complains. The SCHC must consult with SCAFFR before such a complaint is dismissed.
- v. Appeal of Dismissal or Reduction in Status Due to Financial Exigency or Program Discontinuance: The SCHC may dismiss the appeal on the written record only if it finds (after considering any report from SCAFFR) that the appeal does not raise a substantial question of academic freedom, and if it finds (after considering any report, if any, from OEO/AA) that there is insufficient evidence to support a claim of discrimination (if any), and if it finds that the appeal fails to allege sufficient facts to constitute failure to comply with University policy or with the plan approved by the Board of Regents. Because the Procedures for the declaration of financial exigency contained in University Regulations (see Policy 6-313) require the demonstration of the need for such declaration after substantive consultations, notice, and hearing, the decision of the Board to declare financial exigency is not subject to contest by faculty or staff in any grievance or appeal Procedure within the institution or before the Board of Regents.
- vi. Appeal from Restrictions on Speech: The SCHC may dismiss the appeal on the written record only if it finds (after considering any report from SCAFFR) that the appeal does not raise a substantial question of

academic freedom or violation of the Utah or United States Constitution.

- vii. Proceedings for Medical Termination or Reduction in Status: The SCHC may not dismiss a case seeking termination or reduction in status for medical reasons.
  - viii. Sponsored Research Misconduct. The SCHC may not dismiss a request for a formal hearing in a sponsored research misconduct matter following the issuing of a summary report by the Research Misconduct Investigation Committee. (Non-sponsored research misconduct allegations are handled as Faculty Code violations pursuant to Part III -B-8-b above.)
- c. Notice to Parties if Case Dismissed.

If the SCHC decides to dismiss a case for any of the permissible reasons set forth above, it shall promptly, in writing, notify all parties of this decision and the reasons for it as well as the parties' right to appeal the dismissal to the President of the University within 10 business days. Otherwise the SCHC shall promptly notify the parties of proposed date(s) for hearing and of the parties' option to waive a hearing and to request that the SCHC decide the case on the written record. (The Office of the Senate may assist the SCHC in scheduling hearing days and times with the parties.)

7. Waiver of hearing. Any party may ask that the SCHC decide the case on the written record without a hearing. This request for a decision on the written record must be made in writing to the SCHC, with copies provided to other parties. If all parties so request, the SCHC may proceed to consider the written submissions and to decide the case on the written record alone. However, except as provided above in [Part III-6-b-Dismissal], unless all parties agree to waive a hearing, the SCHC shall hold a hearing. Even if all

parties agree to waive a hearing, the SCHC may, in its sole discretion, schedule a hearing of the case in order to question any and all parties and other witnesses.

8. Scheduling of Hearing. If the SCHC determines that a hearing is necessary or required, the SCHC shall notify the parties of the date set for the hearing. The hearing date shall be within a reasonable time but not fewer than 15 calendar days nor more than 40 calendar days from the date the letter of notification of the complaint was sent to the parties unless the matter has been referred to another entity for an investigation and report. Although the SCHC, through the Office of the Senate, may endeavor to find a hearing date that will be convenient for all the parties involved, the SCHC has the final authority for determining the date of the hearing. If either the complainant or the respondent fails to attend the hearing without prior notification and good cause, the SCHC may proceed with the hearing and take testimony and evidence and reach a decision on the basis of that testimony and evidence.
9. Postponement. The SCHC may postpone a hearing if (1) the issue is pending before another university official, committee, or internal or external forum and decision by such other official, committee, or other forum will render the complaint moot or will provide guidance to the committee in resolving the issues before it, or (2) there are strong reasons to conclude that present consideration of the complaint is premature. The SCHC may not consider a complaint during the RPT process until the cognizant senior vice president has issued a recommendation.
10. Notification of time and specific requirements. The SCHC shall notify the parties not fewer than 5 business days prior to the hearing of the identity of the panel members, the particular time requirements and Procedures that will be in effect and the standard(s) of review applicable in the hearing (See below Part III-D-3 SCHC Standard of Review).

11. Bias or conflict of interest. Members of the SCHC panel shall recuse themselves for bias or conflict of interest. If there is a dispute regarding the participation of any SCHC member, the remaining panel members shall hear that dispute and make a final decision about the participation of that member in the hearing.
  - a. In order to provide an objective and fair hearing, each panel shall take precautions against real or apparent conflicts of interest on the part of panel members. Panel members shall decline to participate in the hearing of any case in which they have a personal bias or conflict of interest that would preclude their making a fair and objective decision, and shall avoid any individual communication with a party.
  - b. No panel member shall participate in any case from a department with which he/she/is associated as a faculty member or any case in which he/she has been involved in the sequence of review.
  - c. Any party may file a written challenge to any member on these grounds within seven calendar days of the notification of the panel composition.
12. Prehearing. The SCHC may hold a prehearing with the parties in order to resolve challenges for cause, simplify the issues, effect stipulations of fact, and achieve such other prehearing objectives as will make the hearing fair, effective, and expeditious.
13. Sharing of witness lists and documents. At least 5 business days before the commencement of the hearing, the parties and the SCHC shall make available to one another a list of their witnesses, and copies of documents to be offered at the hearing.

#### D. Hearing Procedures

1. Foundational statement.

- a. The Senate Consolidated Hearing Committee conducts its hearings as informal administrative proceedings rather than formal trials. The SCHC may consider any evidence that is relevant and that may have probative value. There are no formal rules of evidence. Hearings, by their very nature, are stressful for the parties. The SCHC endeavors to conduct the proceedings with respect for all the individuals involved and requires that civility be observed by all participants.
  - b. The SCHC chairperson has the authority to conduct the proceedings and to take whatever actions the chairperson deems appropriate in order to effect a fair and civil proceeding in keeping with these policies and with relevant law. The University's Office of General Counsel will provide the Chairperson and the SCHC with advice through an attorney who does not represent any of the parties.
2. Hearing.
- a. The parties have a right to be represented by any person as advisor, including legal counsel, at all stages of the proceedings (including the prehearing stage). Each party shall personally make a narrative opening statement that states his/her position on the issues and facts and describes the relief sought. Thereafter, either the party or his/her advisor (but only one of them) shall conduct the remainder of the presentation including examinations, cross-examinations and summary statements at the conclusion of the hearing. The parties (and not their advisors) must respond to questions presented by the SCHC and the opposing party.
  - b. At the hearing, the parties shall have the right to confront and cross examine witnesses through the presentation of their questions to the SCHC chairperson. The parties shall have the right to present evidence and call witnesses on their own behalf, to testify, or to remain silent, and to be present with their advisors except during sessions that are closed for deliberations and voting.

- c. Parties may request that observers attend, and the SCHC may grant such request as it deems appropriate. At the request of any party or the SCHC, a representative of a responsible educational association shall be permitted to attend the proceedings as an observer.
- d. Hearings normally will be closed to the public to the extent permitted by law. However, if a majority of the SCHC panel and all of the parties agree, a hearing may be open to the public. All persons at a closed hearing shall be asked to refrain from public statements about the matter and shall be informed of any legal requirements of confidentiality by the legal counsel for the University.
- e. Upon request by any party, and subject to applicable law, the SCHC may request the production of relevant University records and may request that witnesses appear and testify at the hearing. University employees shall comply with such requests to the extent not prohibited by law.
- f. The OEO/AA, SCAFFR, the Research Integrity Officer, or any other neutral investigative or consultative body shall provide, upon request, a written report to the SCHC and the parties prior to the hearing and a representative from the pertinent office shall be available at the hearing to answer questions and testify.
- g. Hearings (except for deliberations) shall be audio recorded (or video recorded.) Any party can obtain a copy without charge.
- h. Witnesses may be called by either party or by the SCHC. The SCHC may (in its discretion) consider telephonic (or equivalent form of) testimony. Written or recorded submissions from witnesses instead of oral testimony shall be allowed only under exceptional circumstances given the inability of the opposing party and the SCHC to cross-examine the witness.
- i. Ordinarily, any documentary evidence should be produced for SCHC and all the parties prior to the hearing. For good cause, the SCHC may

nevertheless consider documents produced at the hearing itself. Any document produced at the hearing shall be provided to the all parties as well as the SCHC.

- j. The SCHC may grant adjournments to enable either party to investigate evidence to which a valid claim of surprise is made, or for other good cause, but shall avoid unnecessary delay in the proceedings.

### 3. SCHC Standard of Review and Actions.

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

Appellant must provide clear and convincing evidence that the recommendation was arbitrary, capricious, unreasonable, discriminatory, a result of malice, or a violation of academic freedom; and/or show by a preponderance of evidence that there were procedural defects that denied the appellant basic fairness and due process. Presumption is that the recommendation was made in the best interest of the University. The appellant may prove that the vice president's recommendation was invalid because it relied on a prior



recommendation in the same review process that was procedurally defective, arbitrary, capricious, unreasonable, discriminatory, a result of malice, or a violation of academic freedom. If the SCHC finds such procedural defects or arbitrary and capricious action, it shall recommend a remedy for the appellant.

- ii. Complaint filed alleging discrimination or sexual harassment in a Mixed Case.

The SCHC holds a hearing regarding all the issues raised in the complaint and makes findings of facts pertaining to the allegations of discrimination or sexual harassment (and follows the pertinent standard of review for other allegations in the complaint). It may recommend remedial, corrective, and disciplinary action if it finds by a preponderance of the evidence that discrimination or harassment has been committed.

- iii. Complaint alleging violation of the Faculty Code.

The complainant must prove by clear and convincing evidence (in the record as a whole) that the respondent violated the Code. If the complainant so proves, the SCHC recommends sanctions.

- iv. Complaint alleging violation of academic freedom or an academic grievance.

The claimant must prove by a preponderance of the evidence that the alleged actions occurred and that they violated academic freedom or a substantial faculty right, as defined in [Policy 6-010](#).

- v. Medical termination or reduction of status.

The University must prove the allegation of inability to perform the essential functions of the job with or without a reasonable accommodation by clear and convincing evidence.

- vi. Terminations and reductions in status from financial exigency or program discontinuance.

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

- vii. Appeals of restrictions on speech under University Speech policies.

The appellant must prove by a preponderance of the evidence that the restriction on speech violates the Utah or United States Constitution or academic freedom.

- viii. Complaints alleging misconduct in sponsored research.

The SCHC must find, by a preponderance of the evidence, that the respondent(s) engaged in research misconduct as defined in [Policy 7-001](#).

- c. SCHC deliberations and voting shall take place in closed sessions. Upon request of any member of the SCHC, votes shall be taken by secret written ballot. A three-fifths majority of members present at the hearing, including the chairperson, shall be required for any decision.
- d. The SCHC shall prepare a report stating its determinations and recommendations with reference to the applicable standard of review. It shall state its rationale for its determinations and recommendations. The report shall be provided to the parties, the President of the University and the cognizant academic administrator within 21 days of the hearing.

- e. Any of the parties may respond to the report within 5 business days of its receipt. The responses shall be sent to the President with copies to the SCHC, the other parties, and the cognizant academic administrator(s).

E. Final Decision by President.

1. The President shall consider the Committee's findings and recommendations. The President may solicit whatever counsel and advice the president deems appropriate to assist in arriving at a final determination. The president may not consider evidence outside the record unless the nature of that information is fairly communicated to the parties and a reasonable opportunity to respond is given to the parties. The president shall take one of the following actions:
  - a. Accept the findings and recommendations of the SCHC;
  - b. Return the report to the SCHC, requesting that it clarify specific matters, materials, and issues, and forward to the President a second report of its recommendations relating to the specific matters referred by the President for further explanation; or
  - c. Reject all or parts of the Committee's findings and recommendations, stating reasons for doing so and for imposing a greater or lesser sanction than recommended by the SCHC.
2. Written notification of the President's decision and the basis for that decision, if it differs from the SCHC 's recommendation, shall be communicated to all parties, the department chairperson, the academic dean, the cognizant senior vice president, and the chairperson of the SCHC panel.
3. The decision of the President is final.

F. Records of Complaints and Reporting by SCHC.

1. Copies of the recordings of hearings as well as the complete file of the hearings shall be kept in the Office of the Senate.
2. A faculty member has the right upon request to examine University records maintained or retrievable under his/her name or identifying numbers relating to proceedings before the SCHC to the extent not prohibited by University Regulations or law.
3. Access to records of hearings shall be governed by applicable law.
4. Each SCHC 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 SCHC 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.

#### G. Remedies and Sanctions

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

- a. Remedies. The SCHC may recommend remedies to ameliorate any improper denial of academic freedom or other substantial right considered by the SCHC. Remedies may include, but are not limited to, restitution, a request for a written apology, correction of records, or prospective relief designed to eliminate the problem in the future.
- b. Sanctions. Sanctions may include (but are not limited to) the following: written reprimand, imposition of a fine only as an

alternative to suspension without pay, restitution, restrictions on the respondent's participation in research or other projects, reassignment of duties, mandatory training, additional supervision, probation, suspension or barring the respondent from the exercise of some or all of his/her duties, with or without partial pay, for a definite period of time, or dismissal from employment at the University.

#### H. SCHC Membership Composition and Selection

1. Members of the SCHC standing committee pool available to serve on SCHC panels are elected by the Academic Senate as described in [Policy 6-002-III-D-1-e](#).
2. SCHC pool members available (and trained) to serve as panel chairpersons are appointed and confirmed as described in [Policy 6-002-III-D-1-e](#).
3. The Office of the Senate will select from the SCHC pool a set of panel members for each hearing with the goal of constituting an impartial panel. A neutral process such as assigning SCHC members on a rotating or random basis will be used. The resulting panel should have diverse academic expertise and experience. Chairpersons and, when needed, members with the appropriate expertise in sponsored research (as described below) shall also be selected from their separate pool through a similar neutral process. Being designated as a chairperson does not preclude serving as a regular member on another SCHC panel.
  - a. For each case/ hearing, the SCHC will normally consist of a panel of 4 faculty members and one faculty chairperson. No more than one of the five members may be faculty with administrative appointments. At the discretion of the chairperson, an alternate member may be added through the neutral selection process in order to replace a member who becomes unable to serve.

- b. In cases in which a party is a student or staff member, or if there are substantial issues that involve students or staff members, then 2 individuals from that party's pertinent peer group(s) shall replace 2 of the 5 faculty members on the panel. Those peer members shall be selected from the pool of staff or student members, which has previously been composed pursuant to [Rule 1-012A](#).
        - c. In cases in which there is an allegation of (sponsored) research misconduct, the Office of the Senate shall consult with the Research Integrity Officer regarding the composition of the panel to assure that the committee members shall be faculty members with extensive experience and expertise in (sponsored) research which will enable them to carry out a thorough and authoritative evaluation of the relevant evidence. The Research Integrity Officer has the authority to disqualify a committee member if he/she determines that the committee member has a conflict of interest.
        - d. In all appeals from a denial of Retention, Promotion or Tenure and in any proceeding alleging a violation of the Faculty Code for which the sanction of dismissal of the faculty member is sought, all faculty members on the SCHC panel shall be tenured faculty.
4. Parties to hearings before the SCHC may challenge any member of the SCHC panel for cause. If there is a dispute regarding the participation of any SCHC member, the remaining panel members shall hear that dispute and make a final decision about the participation of that member in the hearing. (Standards for conflict and bias are set forth above, Part III-C-11.)
5. Quorum. All 5 members of the selected panel must be present for the entire hearing and any pre-hearing discussions.
- I. General. If any other University Regulation is inconsistent with the provisions herein, this Policy shall govern.

---

*[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**

A. Rules [Reserved]

B. Procedures [Reserved]

C. Guidelines [Reserved]

D. Forms

[SCHC Intake/ Complaint Form](#)

E. Other Related Resource Materials [Reserved]

#### **V. References**

[Policy 1-012: University Non-Discrimination Policy](#)

[Rule 1-012A: Discrimination Complaint Process Rule](#)

[Policy 1-007](#)-- University Speech Policy

[Policy 6-002](#) –The Academic Senate (Standing Committees)

[Policy 6-010](#)—Academic Freedom, Academic Grievances, and the Senate Academic Freedom and Faculty Rights Committee

[Policy 6-303](#) –Retention, Promotion, and Tenure

[Policy 6-316](#) –Code of Faculty Rights and Responsibilities

[Policy 6-313](#)—Dismissal based on Financial Exigency

[Policy 6-401](#)—Committee on Student Affairs –COSA

[Policy 5-210](#)— Discrimination and Sexual Harassment Complaint

[University Rule 5-210A](#)--OEO/AA Procedures.

[Policy 7-001](#) -- Sponsored Research

[1961 Statement](#) of the American Association of University Professors concerning recruitment and resignations

[1940 "Statement of Principles on Academic Freedom and Tenure"](#) of the American Association of University Professors and the Association of American Colleges

[1967 "Statement on the Academic Freedom of Students"](#) of the American Association of University Professors.

## VI. Contacts

- 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.

These officials are designated by the University President or delegee, with assistance of the Institutional Policy Committee, to have the following roles and authority, as provided in University Rule 1-001:

"A 'Policy Officer' will be assigned by the President for each University Policy, and will typically be someone at the executive level of the University (i.e., the President and his/her Cabinet Officers). The assigned Policy Officer is authorized to allow exceptions to the Policy in appropriate cases.... "



"The Policy Officer will identify an "Owner" for each Policy. The Policy Owner is an expert on the Policy topic who may respond to questions about, and provide interpretation of the Policy; and will typically be someone reporting to an executive level position (as defined above), but may be any other person to whom the President or a Vice President has delegated such authority for a specified area of University operations. The Owner has primary responsibility for maintaining the relevant portions of the Regulations Library... [and] bears the responsibility for determining which reference materials are helpful in understanding the meaning and requirements of particular Policies... ."

University Rule 1-001-III-B & E

## VII. History

Renumbering. The contents of this Policy were prior to 2014 housed within Policy 6-002-III-Section 10—The Academic Senate, which in turn prior to the September 2008 system-wide renumbering of University Policies had been known as PPM 9-3, and earlier known as Faculty Regulations Chapter III.

Revision History:

Current Version Revision 0:

Approved by the Academic Senate: January 6, 2014.

Approved by the Board of Trustees January 14, 2014.

Effective date May 15, 2014

Legislative history of Revision 0. {create a history package and upload and link to it. }

Editorial changes were made to this document on October 28, 2021 to reflect the renumbering of [Policy 5-210](#) to [Policy 1-012](#).

Earlier versions: Because the contents of this Policy were formerly housed within Policy 6-002—III-Section 10, history for this Policy prior to Revision 0 in year 2014, is found in the repository of history documents for Policy 6-002 (formerly PPM 9-3).