

## POLICY #6.28

### SUBJECT: Faculty Professional Responsibility and Due Process [TEMPORARY]

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#### I. PURPOSE

The purpose of this Policy is to describe the professional responsibilities of faculty members toward students and colleagues, and to provide a mechanism for discipline of faculty members when responsibilities are breached.

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#### II. REFERENCES

- A. AAUP *Redbook*
- B. Southern Utah University [Policy 5.0 Threat Management and Safety Intervention](#)
- C. Southern Utah University [Policy 6.0 Definition of Faculty](#)
- D. Southern Utah University [Policy 6.1 Faculty Evaluation, Promotion, and Tenure](#)
- E. Southern Utah University [Policy 6.22 Faculty Due Process](#)
- F. Utah Code [§ 53B-2-106.1 Tenure – Reporting](#)
- G. Utah System of Higher Education [Policy R481 Academic Freedom, Professional Responsibility, Tenure, Termination, and Post-Tenure Review](#)

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#### III. DEFINITIONS

N/A

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#### IV. POLICY

- A. This code of professional responsibility provides that persons having a formal association with the institution shall not violate the academic freedom or constitutional rights of others, or the rules, regulations, policies or procedures of Southern Utah University (SUU) or the State Board of Higher Education. Failure to meet professional responsibilities shall constitute serious misconduct and result in appropriate disciplinary action as set forth below.
- B. Faculty Responsibilities to Students

1. Ensure that the content and rigor of each course is generally consistent with benchmark academic standards, as determined by the respective department and/or accrediting body.
2. Faculty members will meet scheduled classes, including final examinations, and be well prepared to meet their teaching responsibilities as described in Section IV.A. above.
3. Faculty members will maintain regular office hours during which they are available for consultation with students and will otherwise make themselves accessible to students whenever reasonably possible.
4. Evaluation of student performance will occur promptly, conscientiously, and without prejudice or favoritism. Evaluation criteria will be stated in the course syllabus. The criteria for evaluating student performance shall relate to the legitimate academic purposes of the course.
5. Faculty members will avoid the misuse of class time and will not present their own views on topics unrelated to the subject matter of the course. If faculty members find it pedagogically useful to advocate a position on controversial matters, such will be reasonably articulated and professional sensitivity will be exercised.
6. Faculty members will provide a respectful atmosphere and not reward agreement or penalize disagreement with their views on controversial topics.
7. Faculty members will not use their positions, authority, or relationships with students to obtain uncompensated labor for their own private or pecuniary gain. They shall not ask students to perform services unrelated to legitimate requirements of a course.
8. Faculty members will not plagiarize the work of any student. When faculty members and students work together, appropriate credit and attribution will be given to the students. Faculty members shall not limit or curtail the right of students to publish or otherwise communicate the results of their independent scholarly activities.
9. Faculty members will maintain confidentiality in regard to student records and other professional interactions in accordance with SUU policy as well as federal, state, and/or local laws.
10. SUU faculty members will not participate in conduct or relationships with students, which could place the faculty member in a conflict of interest or in a position to be accused of prohibited discrimination or harassment.

#### C. Faculty Responsibilities to Colleagues

1. Faculty members will be informed and knowledgeable about developments in their field of academic expertise.
2. Members of the faculty will not permit the appearance that they are authors of work done by others.
3. Faculty members will not exploit their position for personal or pecuniary gain when acting as supervisor of the professional work of other persons.
4. Faculty members will exhibit "reasonable care" in meeting their commitments to their associates while engaged in joint research or other professional effort with other persons.
5. Faculty members will report the results and conclusions of their research or professional activities with professional integrity.

D. Faculty Responsibilities to the Institution

1. Faculty members will recognize that their position and role at the institution will identify them with the institution and places them in a position to positively or negatively affect the institution's reputation.
2. Faculty members will exercise their academic freedom consistent with the provisions of institutional policy, recognizing that its attributes impact faculty colleagues, the students, and the institution.
3. Members of the faculty will exhibit on-going commitment to the institution in the areas of teaching standards, scholarly/creative contributions, community service, and collegiality.
4. Faculty members must refrain from conduct that constitutes:
  - a. Professional incompetence;
  - b. Serious misconduct or unethical behavior;
  - c. Legal misconduct substantially related to performance of duties;
  - d. Serious violations of board or institution rules;
  - e. The conviction of a crime affecting the fitness of the tenured faculty member to engage in teaching, research, service, outreach, administration, or other assigned duties;
  - f. Falsified credentials or plagiarism; or
  - g. Inability or unwillingness to meet institutional expectations, including failure to address deficiencies outlined in a remediation plan following post-tenure review.

E. Disciplinary Action for Failure to Meet Professional Responsibilities for Faculty Without Tenure

1. Procedures

- a. Recommendations for disciplinary action will be made in writing, including the justification for the disciplinary action.
- b. Recommendations will be made by the Department Chair to the Dean; or by the Dean, in consultation with the appropriate Department Chair, to the Provost depending on the nature or severity of the conduct giving rise to the recommendation.
- c. The Dean or Provost will review the recommendation to initially determine if it is supported by adequate factual cause.
  - i. If not, it will be returned for additional information, or denied.
  - ii. If so, a notice of the recommendation will be forwarded to the faculty member for review and written response. If supported by cause and severity, the Provost (with Presidential approval) may place the faculty member on administrative leave pending response and resolution.
  - iii. The faculty member may request an in-person meeting with the Dean or Provost as part of their response.
- d. The Dean or Provost will review the faculty member's written response. If a meeting is requested by the faculty member, or if the Dean or Provost elects to have a meeting, one will be scheduled and the faculty member will be notified of time and place.
- e. A copy of the recommendations given to the faculty member and the faculty member's opportunity to respond in writing to the recommendations, provide the requisite due process upon which the Dean or Provost can determine that a breach of professional responsibility has occurred, and to implement disciplinary action as deemed appropriate in the circumstances.

2. Disciplinary actions will usually be considered and implemented as provided below; however, the order is not mandatory and severity of conduct can necessitate a more severe disciplinary action:

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3. Generally, the faculty member will be required to make restitution (payment for property damages, service lost, etc.) or remedy a situation created by the respondent's violation of University policy.

F. Disciplinary Action for Failure to Meet Professional Responsibilities for Faculty With Tenure

1. Procedures leading to any sanction less than dismissal.
  - a. Recommendations for disciplinary action will be made in writing, including the justification for the disciplinary action.
  - b. Recommendations will be made by the Department Chair to the Dean; or by the Dean, in consultation with the appropriate Department Chair, to the Provost depending on the nature or severity of the conduct giving rise to the recommendation.
  - c. The Dean or Provost will review the recommendation to initially determine if it is supported by adequate factual cause.
    - i. If not, it will be returned for additional information, or denied.
    - ii. If so, a notice of the recommendation will be forwarded to the faculty member for review and written response. If supported by cause and severity, the Provost (with Presidential approval) may place the faculty member on administrative leave pending response and resolution.
    - iii. The faculty member may request an in-person meeting with the Dean or Provost as part of their response.
  - d. The Dean or Provost will review the faculty member's written response. If a meeting is requested by the faculty member, or if the Dean or Provost elects to have a meeting, one will be scheduled and the faculty member will be notified of time and place.
  - e. A copy of the recommendations given to the faculty member and the faculty member's opportunity to respond in writing to the recommendations, provide the requisite due process upon which the Dean or Provost can determine that a breach of professional responsibility has occurred, and to implement disciplinary action as deemed appropriate in the circumstances.

f. Disciplinary actions will usually be considered and implemented as provided below; however, the order is not mandatory and severity of conduct can necessitate a more severe disciplinary action:

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- g. Generally, the faculty member will be required to make restitution (payment for property damages, service lost, etc.) or remedy a situation created by the respondent's violation of University policy.

2. Procedures for faculty when dismissal is contemplated.

- a. Interim Action Pending the Initiation of Procedures: The University may impose limitations or restrictions on a Respondent's campus participation or access or may place a Respondent on administrative leave, with or without pay, during the pendency of the procedures outlined in this section. If the Respondent's conduct presents a risk to the safety of others, the decision to implement an interim action will be based on the standards and procedures of SUU [Policy 5.0](#).
- b. Notice: The Respondent will be notified, in writing, of the alleged violations of professional responsibility within five (5) days after the University learns of conduct or omission that would implicate this Policy. For the purposes of determining when the University has knowledge of conduct or omission, only knowledge on the part of an Academic Officer, President, or Vice President will be sufficient to initiate the deadline in this provision. The notice of allegations will include:

- i. A clear and concise description of the facts, information, and evidence that may have been obtained by the University that indicates the Respondent may have violated this Policy;
- ii. An explanation and citation to the particular professional responsibilities that may have been violated by the Respondent's conduct, action, or omission;
- iii. A brief summary of the procedures provided by this Policy;
- iv. A statement requesting the Respondent meet with a representative of the Provost's Office for a pre-hearing meeting to review evidence, schedule a hearing, and answer questions regarding the process;
- v. A statement that includes an explanation that the University may proceed with a hearing and may make a decision that is unfavorable to the Respondent should the Respondent fail to respond to the notice or declines/fails to meet within 10 Days of being sent the notice;
- vi. A statement explaining that Respondent may be accompanied at the pre-hearing meeting and the hearing by an advisor of their choosing; and
- vii. A statement that references the standard of evidence relied upon to determine whether this Policy has been violated, which is the Preponderance of Evidence ("more likely than not").

c. Pre-hearing Meeting

- i. A representative from the Provost's Office will schedule a meeting at least 10 days before a hearing.
- ii. The meeting will permit the Respondent to review evidence that supports the alleged violation of this Policy, which may have been obtained by an investigation.

- iii. The meeting will also provide the Respondent an opportunity to clarify the sequence and procedures to be used during the hearing.

d. Hearing

- i. The Faculty Review Board of the Faculty Senate will serve as the panel that determines whether the alleged violations are supported by a preponderance of the evidence.
- ii. The Faculty Review Board will establish procedures for receiving evidence from a University representative and the Respondent, which will include an opportunity for the Respondent and Panel to ask and answer questions about the evidence that supports the allegations.
- iii. The Respondent will be permitted to present evidence and information that refutes the allegations with the support of an advisor of their choosing. The advisor may not directly represent or advocate for the Respondent but may provide assistance and coaching for the Respondent that does not disrupt the hearing.
- iv. The Faculty Review Board may determine the modality of the hearing which may be facilitated in person or by an online/virtual meeting platform.
- v. The Faculty Review Board is not bound by rules of evidence or procedure.

e. Post-Hearing Written Determination

- i. A clear and concise statement of the allegations giving rise to the hearing;
- ii. The date, time, and location of the hearing;
- iii. A statement explaining the supporting and refuting evidence that was considered and what information was persuasive to the Faculty Review Board in reaching their conclusion;

- iv. A statement explaining that the Faculty Review Board relied on the preponderance of evidence in determining the facts;
- v. A clear and concise statement that identifies whether the Respondent has violated the Policy based on whether the conduct—as determined by the findings of fact—violates the provision that describes or explains a particular professional responsibility;
- vi. A clear and concise statement outlining any Sanctions that will be imposed (if the Faculty Review Board determines the Respondent is in violation of the Policy);
- vii. A statement explaining the justification for the determined Sanctions; and
- viii. A statement explaining the opportunity to have the Faculty Review Board's decision on violation and/or Sanctions reviewed and reconsidered by the Provost.
- ix. If the Faculty Review Board determines that the Respondent is not in violation of the Policy, a written determination reflecting that outcome with the first five (5) components included in this list must be prepared and electronically sent to the Respondent and the Provost.

f. Appeal Review

- i. An adverse decision against the Respondent may be appealed to the Provost within five (5) days of written determination being sent to the Respondent.
- ii. The Respondent may seek an appeal of the Faculty Review Board's determination if:
  - A. There was a denial of or departure from adequate and fair due process that resulted in a material error that impacted the outcome of the hearing;

- B. This Policy was applied in a Clearly Erroneous manner in reaching the decision on violation finding, and/or Sanctions;
  - C. The Sanction imposed was not commensurate for the violation(s) which the Respondent was found to have committed; or
  - D. There is new evidence or information that was not reasonably available at the time of the hearing which is reasonably likely to affect the outcome of the hearing.
- iii. The Respondent must submit their request for appeal to the Provost in writing and identify a basis that warrants appellate review;
- iv. The Provost will have 20 days to evaluate the appeal, and determine if there was Clear Error in the assessment of the evidence or application of the Policy.
- v. The Provost may, upon a finding the determination or Sanctions were arrived at erroneously, may:
  - A. Return the matter to the Faculty Review Board with directions to remedy any error;
  - B. Overrule the Faculty Review Board's determination;
  - C. Modify the Sanctions to improve the commensurateness of them; or
  - D. Confirm the determination in full.
- vi. The Provost will provide an appeal decision to the Respondent and the President.
- vii. The President will review the Provost's decision and the Faculty Review Board's determination. The President may finalize the Provost's decision by confirming or rejecting it.

- viii. Neither the Provost or President's review will include meetings with the Respondent, though they may request supplemental information, to be provided in writing, from the Respondent.
- ix. The President's review and decision is final. Determinations reached using the procedures of this Policy are not eligible for review under SUU [Policy 6.22](#).

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#### **V. RELEVANT FORMS/LINKS**

N/A

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#### **VI. QUESTIONS/RESPONSIBLE OFFICE**

The responsible office for this Policy is the [Provost/Vice President for Academic Affairs](#).

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#### **VII. POLICY ADOPTION AND AMENDMENT DATES**

Date Approved: [March 26, 2004](#)

Amended: [January 13, 2012](#); July 1, 2024 (temporary authorization)