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## Faculty Senate Agenda, March 14, 2016

Utah State University

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## **FACULTY SENATE AGENDA**

March 14, 2016

3:00 – 4:30 p.m.

Merrill-Cazier Library, Room 154

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### **Agenda**

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- 3:00 Call to Order**.....Ronda Callister  
Approval of Minutes February 1, 2016
- 3:05 University Business**.....Stan Albrecht, President  
Noelle Cockett, Provost
- 3:20 Information Items**
1. PTR Edits.....Ronda Callister/Doug Jackson Smith
  2. FEC Recommendations on IDEA.....Tom Lachmar
  3. Athletics Council Membership 105.2.1(2).....Ronda Callister/Paul Barr
  4. Open Access Policy 586.1.....Mark McLellan
  5. Sexual Harassment Code Revisions 339/305.....Stacy Sturgeon & Krystin Deschamps
- 3:50 Reports**
1. EPC Items for February.....Larry Smith
  2. Budget and Faculty Welfare Committee.....Diane Calloway-Graham
  3. Faculty Diversity, Development and Equity Committee.....Cinthya Saavedra
- 4:05 Unfinished Business**
1. 405.12.3 CFAC Policy (Second Reading).....Ronda Callister
- 4:10 New Business**
1. 405.6.2(2) and 405.8.2 PAC (First Reading).....Ronda Callister/Jerry Goodspeed
  2. 402.10.1 Reapportionment fix for missed section (First Reading).....Ronda Callister
- 4:30 Adjournment**



**USU FACULTY SENATE  
MINUTES  
February 1, 2016  
Merrill-Cazier Library, Room 154**

**Call to Order**

Ronda Callister called the meeting to order at 3:00 pm. The minutes of January 11, 2016 were adopted.

**University Business – President Stan Albrecht, Noelle Cockett**

President Albrecht was not in attendance at this meeting. Provost Cockett gave a brief overview of the upcoming legislative session. The priorities for funding in this session are the Biological Science building project, compensation, graduate funding and water outreach and research. There have been more bills filed prior to the start of the session this year than ever before, making for a very busy upcoming legislative session. The tuition for summer will be discounted again this year, based on the idea of "Take More Save More". The effort is to get students to take 30 credits over the entire academic year.

**Information Items**

**403.3.1(112) Relatives in classes – Ronda Callister.** This proposal is presented with the intent to send to PRPC for code language drafting. Senators commented that perhaps this addition and wording is redundant and unnecessary. It also implies that faculty members are not trustworthy and it is unenforceable. Questions of legality of the policy were also raised. There are also other relationships that could present the perception of unfair treatment.

No motion was made to move the item forward.

**402.12 FS Committees proposed changes in committee size – Ronda Callister.** This proposal reduces the size of Faculty Senate committees. Discussion among the senate resulted in the recommendation that FDDE retain 12 members and EPC be reduced to 12 members.

A motion to send the proposal to PRPC as amended was made and seconded. The motion passed unanimously.

**Reports**

**EPC Report – Larry Smith.** The Curriculum Subcommittee examined five short form R401 requests. Among them, a request from Psychology to restructure their PhD program to include two separate specializations; Counseling Psychology and School Psychology. Environment and Society presented a proposal to discontinue the BS degree in Geology Teaching and to also rename the MS and PhD degrees in Human Dimensions Ecosystems and Science Management to Environment & Society. ENVIS will no longer participate in the MS Bioregional Planning Program and LAEP will now administer the program completely.

Doug Jackson-Smith moved to accept the EPC report and John Seiter seconded. The motion passed.

**Academic Freedom and Tenure Committee Annual Report – John Stevens.** The committee has created a guidelines document to help grievant's and potential grievant's better understand

the process and the timeline. They also have voted to require the use of a short form to file a faculty grievance, not to make the process more difficult but to help clarify the process. They have also discussed the nature of the Tenure Advisory Committee and determined that, consistent with the faculty code, the role of the T&P Advisory Committee is to mentor the Department Head, not the faculty in the process.

A motion to accept the report was made and seconded. The motion passed.

### **Unfinished Business**

**405.12.1 Annual Review of Faculty (Second Reading) – Ronda Callister.** No discussion.

A motion to accept the code change was made by Charlie Huenemann and seconded by Charles Waugh. The motion passed unanimously.

### **New Business**

**405.12.3 CFAC Policy (First Reading) – Ronda Callister.** This has been returned from PRPC for voting on by the senate. Clarification was made on committee makeup with a membership of 5 and 3 of those members serving on the appeals panel, with binding decisions coming from a majority of the 3 appeals panel members.

Doug Jackson-Smith moved to approve as edited and clarified. The motion was seconded by Britt Fagerheim and passed unanimously.

### **New Business from the Floor**

**Campus Diversity Council – Doug Jackson-Smith.** Doug Jackson-Smith informed the senate of a grant program available to promote campus diversity and make USU a more inclusive place to live, work and receive and education. Please make people in your department aware of this grant. Information can be found on the Diversity Council website.

### **Adjournment**

The meeting adjourned at 3:52 pm.

## OVERVIEW TO PTR/PDP CODE EDITORIAL CLARIFICATION PROPOSAL

February 16, 2016

After several years of discussion and debate, the USU Faculty Senate passed a major overhaul of the section of faculty code that governs the process for post-tenure review. The changes were approved by the President's Executive Committee and Board of Trustees, and are now official policy at USU.

### *Review of Changes Made to PTR*

This change did not change the standard by which post-tenure performance would be evaluated, but did make significant changes to the process by which PTR would be conducted. Highlights of these changes include:

- **TIED TO ANNUAL REVIEWS:** Post-tenure review is now integrated into the annual review process. After receiving tenure, annual reviews of all tenured faculty will be conducted with a 5-year rolling window, and as part of the normal annual evaluation, an assessment of whether the faculty member's performance meets the standard<sup>1</sup> will be made.
- **PEER REVIEW COMMITTEE (PRC) FORMED ONLY WHEN TRIGGERED.** Under the new system, a committee of peers will be constituted to conduct a more in-depth review of a post-tenure faculty member's performance only when the department has determined (in the annual review process) that the faculty is not meeting the PTR standard.
- **PRC MEMBERSHIP DETERMINED BY MUTUAL AGREEMENT.** Formerly the PRC (called a 'quinquennial review committee') was formed by a department head in consultation with the faculty member. The new rules require mutual agreement between the DH and faculty member.
- **PROFESSIONAL DEVELOPMENT PLANS:** The initiation of a PDP is now linked to the PRC's independent assessment that the faculty member is not meeting the PTR standard.

### *Need for Clarifications & Suggested Edits*

When the original PTR proposal was discussed by the President's Executive Council in the early summer of 2015, Larry Smith (the Vice Provost) raised several concerns about the precise steps to be followed under the new code. At that time, the Executive Council approved the code change with the understanding that the Faculty Senate President (Douglas Jackson-Smith) would work with Larry Smith to review areas where the code language could be clarified or improved without substantively changing the nature or intent of the new process. Over the last year, a number of specific wording changes were developed, and these are now being brought to Faculty Senate for consideration.

The changes address two sections of code:

- **Section 406.12.2: "Post Tenure Review of Tenured Faculty"** – 11 proposed word edits that clarify the process, but that do not change the details of the process discussed and approved by the faculty senate last year.
- **Section 406.12.3: "Professional Development Plan"** – 8 more proposed edits. Some of these are merely editorial/language clarifications (#12, 14, 15, 17, 19). The remaining three (#13, 16, and 18) represent policy changes that are viewed by the Faculty Senate leadership team (and Provost's office) as ways to make the PDP process more efficient and effective. Because they represent policy decisions that go beyond the discussions on PTR from recent years, faculty senators are encouraged to read and discuss them carefully.

Details of the proposed changes follow below.

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<sup>1</sup> "The basic standard for appraisal shall be whether the faculty member under review discharges conscientiously and with professional competence the duties appropriately associated with his or her position as specified in the role statement."

## SUMMARY OF PROPOSED EDITORIAL CHANGES TO PTR & PDP CODE

### SECTION 12.2 Post-Tenure Review of Tenured Faculty

- CHANGE 1**                    **Line 42: PROPOSE TO DELETE “or post-tenure decision”.**  
*It is not clear we need this clause – should be sufficient to just say the ‘year after the tenure decision’*
- CHANGE 2**                    **Line 52: PROPOSE TO DELETE “To fulfill this requirement, and”...**  
*It is not obvious to everyone what ‘this requirement’ refers to, the action does not depend on the clause, and it seems nothing would be lost by cutting it.*
- CHANGE 3**                    **Line 58: PROPOSE NEW WORDING FOR WARNING LETTER**  
*Reword the language to be used to in the formal warning letter. The previous text was felt to be too cumbersome and possibly a slight typo would be used as a source of unnecessary future grievances. The replacement text simply says to note in the letter that ‘this letter serves as the formal warning’ without going into as much detail.*
- CHANGE 4**                    **Line 64: REPLACE the word ‘request’ with ‘notify the faculty member’**  
*It is not clear that a ‘request’ is being made at this stage. Rather, the notification should initiate the process of forming a Peer Review Committee. It was also not clear to whom the request should be made (or who should be notified). The proposal is to have the department notify the faculty member.*
- CHANGE 5**                    **Line 64: SET DEADLINE: Require departmental notification to be made by March 1st.**  
*All departmental annual reviews will need to be completed before the due date to notify individual faculty that they are not meeting expectations. March 1st is a reasonable deadline for departments to finish their annual review process. The original code change did not identify the deadline/date by which a department has to notify the faculty member of the results of a negative post-tenure review. This is early enough to allow a PRC to be formed and conduct its work. Currently there is a 2 week deadline to form the PRC, followed by a 3 week period to get the PRC materials, and 4 weeks for the PRC to conduct its review and hold a meeting. (9 weeks total). Below we propose speeding up the process by reducing the allowable for PRC to review submitted materials and specify a new maximum time to allow for the PRC to issue their final written review to the faculty member, department head, etc.*
- CHANGE 6**                    **Line 65: ADD WORD “will” to make it clear that this will happen.**

**CHANGE 7****Line 68: ADD THE WORDS “independent of the annual review process”**

*There was significant concern that people might read this paragraph as an ‘option’ to the process described in the preceding paragraph. It was never the intent of the FS to use the ‘optional’ PRC meeting as an alternative to (or response to) a formal departmentally-initiated PRC review. Adding this new phrase will make it less likely that future administrators or faculty will try to link these two processes. We might also clarify in a procedures document that our intent was not to encourage faculty to request a PRC after a warning letter to preempt the departmental formal decision the following year. Also – this voluntarily-created PRC would not have the power to initiate a PDP (because they would not have the depth of information that they might be provided in the event of a formally-triggered PRC review.*

**CHANGE 8****Line 68: DELETE THE WORD “optionally”**

*Again – this seemed to be a reference to an optional/alternative to the normal process described previous paragraph (not our intent). Deleting the word does not seem to alter the intended original meaning of the sentence.*

**CHANGE 9****Line 103: REDUCE MAXIMUM TIME UNTIL PRC ACTUALLY HOLDS A MEETING from 4 to 2 weeks**

*Since members of the PRC will have advanced notice that this material is coming, we believe that the committee should meet within 2 weeks of receiving the materials. This enables the process to more easily get resolved in the spring semester (depending on how fast other steps move).*

**CHANGE 10****Line 110: ADD PHRASE: “Within two weeks of meeting, and...” to start of sentence**

*It seems helpful to establish a deadline to ensure that the process move in a timely and efficient manner (in order to get the process possibly done from start to finish before faculty go off contract May 15<sup>th</sup>). Two weeks seems like a reasonable amount of time after the PRC meeting for them to draft their written findings. This was not specified in the code we passed in spring 2015.*

**CHANGE 11****Line 119: REPLACE PHRASE “no further action shall be required” WITH “no professional development plan shall be initiated”.**

*The phrase ‘no further action’ is vague and sweeping, and may not be meaningful in the event of a positive PRC review. What we know is that no PDP should be initiated if the PRC does not concur with the department about the faculty member’s post-tenure performance.*

## SECTION 12.3 Professional Development Plan

The changes above (section 12.2; changes #1-#11) are designed to clarify in code things that were either discussed and are consistent with the intent of changes made in the original PTR code reform passed by the faculty senate in 2015.

The material below (Section 12.3, Changes #12-#19) provides new suggestions for improving the PDP process and for clarifying the role of the PRC. The original PTR proposal we passed in 2015 did not change from current practices and the faculty senate has not yet debated or provided guidance on how to improve the PDP process. The three more substantive changes below (marked with asterisks \*\*) reflect input from various people and could provide an attempt to use this moment to clarify and potentially improve the PDP process.

- |                    |   |
|--------------------|---|
| <b>CHANGE 12</b>   | <b>Line 129: ADD SUBSECTION NUMBERS (also affects lines 152 and 160)</b>  |
| <b>CHANGE 13**</b> | <b>Line 136: INSERT NEW TEXT instructing what to do if there is no mutual agreement.</b><br><i>Suggested insertion parallels text and appeals process used for disagreement about formation of PRC. Relies on CFAC.</i>   |
| <b>CHANGE 14</b>   | <b>Line 142: DELETE REFERENCE TO POLICY 405.12.2 here.</b><br><i>The referenced section covers the post tenure review process, not the PDP. The focus of this review should be only on the content of the PDP.</i>  |
| <b>CHANGE 15</b>   | <b>Line 143: DELETE EXTRA WORDS</b><br><i>The words “of the” were accidentally duplicated in final code text passed last year.</i>  |
| <b>CHANGE 16**</b> | <b>Line 144: SET TIME LIMIT FOR PRC REVIEW OF PDP</b><br><i>Insert text to provide a time limit for PRC review of the PDP. 3 weeks seems reasonable timeframe, especially if they are given advance notice.</i>   |
| <b>CHANGE 17</b>   | <b>Line 145: DELETE REDUNDANT TEXT AND COMBINE SENTENCES</b><br><i>Process isn’t changed, just easier to understand.</i>  |
| <b>CHANGE 18**</b> | <b>Line 148: INSERT TEXT TO CLARIFY WHAT HAPPENS TO PRC REPORT</b><br><i>Original code is ambiguous about what is to be done with the PRC feedback/report on a draft PDP. Our sense is that its purpose is to help inform the process of reaching mutual agreement on PDP content between the faculty member and department head/supervisor, so we crafted a brief clause to make this clear.</i> |
| <b>CHANGE 19</b>   | <b>Line 149: SPLIT INTO TWO SENTENCES</b><br><i>Because text was getting long – split this into 2 sentences.</i>  |



## 405.12 REVIEW OF FACULTY

There are is one additional review of faculty performance other than those used for tenure-eligible faculty and for promotion. This annual review shall be used for evaluation of faculty for salary adjustments, for term appointment renewal, and for post-tenure review of tenured faculty.

Tenure (see Section 405.1) is a means to certain ends, specifically: freedom of teaching, research and other academic endeavors, and a sufficient degree of economic security to make the profession attractive to men and women of ability. Academic freedom and economic security for faculty are indispensable to the success of a university in fulfilling its obligation to students and to society. With tenure comes professional responsibility, the obligation conscientiously and competently to devote one's energies and skills to the teaching, research, extension, and service missions of the university. A central dimension of academic freedom is the exercise of professional judgment in such matters. The intent of post-tenure review is to support the principles of academic freedom and tenure through the provision of effective evaluation, useful feedback, appropriate intervention, and timely and affirmative assistance to ensure that every faculty member continues to experience professional development and accomplishment during the various phases of his or her career. Useful feedback should include recognition to those faculty who have demonstrated high or improved performance. It is also the intent of this policy to acknowledge that there will be different expectations in different disciplines and changing expectations at different stages of faculty careers.

### 12.1 Annual Review of Faculty

Each department shall establish procedures by which all faculty shall be reviewed annually. This evaluation shall review the work of each faculty member in a manner and frequency consistent with accreditation standards. In the case of tenured faculty, this evaluation shall encompass a multi-year window of performance that covers a five-year span. Such reviews shall, at a minimum, incorporate an analysis of the fulfillment of the role statement. The basic standard for appraisal shall be whether the faculty member under review discharges conscientiously and with professional competence the duties appropriately associated with his or her position. The department head or supervisor shall meet with the faculty member annually to review this analysis of the fulfillment of the role statement and, subsequently, provide a written report of this review to the faculty member. A copy of this report shall be sent to the academic dean or vice president for extension, and, where appropriate, chancellor or regional campus dean. The annual evaluation and recommendation letter by the department head or supervisor developed for tenure-eligible faculty as part of the promotion and tenure process (405.7.1 (3)) may not serve as a substitute for this annual review letter. For faculty with term appointments, the annual review letter shall also include a recommendation regarding renewal of the term appointment.

### 12.2 Post-Tenure Review of Tenured Faculty

Beginning the year after a faculty member's tenure ~~or post-tenure decision~~, the annual review process (405.12.1) shall also provide formal assessment on the post-tenure performance of tenured faculty. The review will be discipline and role specific, as appropriate to evaluate post-tenure performance. The basic standard for post-tenure review shall be whether the faculty member under review discharges conscientiously and with professional competence the duties appropriately associated with his or her position as specified in the role statement. It is the intent of this policy to

**Comment [DJ1]:** CHANGE 1:

PROPOSE TO DELETE "or post-tenure decision"

Not clear we need this clause – should be sufficient to just say the 'year after the tenure decision'

48 acknowledge that there will be different expectations in different disciplines and changing  
49 expectations at different stages of faculty careers. The criteria for the award of tenure or promotion  
50 to the most senior ranks shall not be employed for the review of the tenured faculty.

51  
52 | ~~To fulfill this requirement, and b~~ Beginning no earlier than 5 years after a faculty member is  
53 promoted or awarded tenure, the department head or supervisor will be required in writing to  
54 indicate as part of the annual review letter whether or not the faculty member is meeting the formal  
55 standard for post-tenure review outlined above. If a department is concerned that a faculty member  
56 is not meeting the post-tenure review standards, the department head or supervisor must indicate  
57 this concern with regards to post-tenure performance initially by providing a formal written warning  
58 to the faculty member. ~~To serve as the formal written warning this purpose, this~~ letter must include  
59 a sentence stating: "Consider this letter a formal warning as per code 405.12.2 The department is  
60 concerned that, if performance does not improve, the department is likely to request the formation  
61 of a Peer Review Committee (PRC) to conduct a review of post tenure performance" as outlined  
62 below. If in the next annual review after issuing a formal written warning the department again  
63 determines that the faculty member is not meeting the post-tenure review standard, the department  
64 head or supervisor must formally notify the faculty member request in writing by March 1<sup>st</sup> that a  
65 Peer Review Committee (PRC) will be formed to provide an independent evaluation of whether the  
66 faculty member has met the post-tenure review standard.

67  
68 | Independent of the annual review process, a tenured faculty member may optionally request the  
69 formation of a PRC to provide feedback on post-tenure performance, but such a request may not be  
70 made more than once every five years nor earlier than five years after being promoted in rank or  
71 granted tenure. The PRC will meet and review materials related to the 5-year performance of the  
72 faculty member. The PRC role in this case is only to provide post-tenure performance feedback in  
73 writing to the faculty member requesting the review.

74  
75 The PRC shall consist of at least three tenured faculty members who hold rank equal to or greater  
76 than the faculty member being reviewed, and shall be formed by mutual agreement of the  
77 department head or supervisor, and the faculty member being reviewed. The PRC must include at  
78 least one member from outside the academic unit of the faculty member being reviewed. If there are  
79 fewer than two faculty members in the academic unit with equal to or higher rank than the  
80 candidate, the committee members may be selected from faculty of related academic units.  
81 Department heads and supervisors of the faculty member being reviewed, and any other faculty  
82 members formally involved in the departmental annual review decision that triggered the review,  
83 shall not serve on the PRC without the faculty members consent, and no committee member may be  
84 a department head or supervisor of any other member of the PRC. An administrator may only be  
85 appointed to the PRC with the approval of the faculty member under consideration.

86  
87 If mutual agreement about membership for the PRC cannot be reached within 2 weeks, the college  
88 faculty appeals committee (CFAC) will be asked to form the PRC. If a CFAC does not exist,  
89 individual department, college, and/or University appeal or hearing procedures should be used to  
90 resolve disagreements.

91  
92 To carry out its review, the PRC shall be provided with a copy of the documentation used by the  
93 department to evaluate the five-year performance of the faculty member in question. The  
94 documentation provided to the PRC shall at a minimum contain: the department head or  
95 supervisor's negative annual evaluation letter of the faculty member (405.12.1) and the warning

**Comment [DJ2]:** CHANGE 2

PROPOSE TO DELETE "To fulfill this requirement, and"...

It is not obvious to everyone what 'this requirement' refers to, the action does not depend on the clause, and it seems nothing would be lost by cutting it.

**Comment [DJ3]:** CHANGE 3: Reworded the language to be used to in the formal warning letter. The previous text was felt to be too cumbersome and possibly a slight typo would be used as a source of unnecessary future grievances. The replacement text simply says to note in the letter that 'this letter serves as the formal warning' without going into as much detail.

**Comment [DJ4]:** CHANGE 4: replace the word 'request' with 'notify the faculty member'

It is not clear that a 'request' is being made at this stage. Rather, the notification should initiate the process of forming a Peer Review Committee.

It was also not clear to whom the request should be made (or who should be notified). The proposal is to have the department notify the faculty member

**Comment [DJ5]:** CHANGE 5: require departmental notification to be made by March 1<sup>st</sup>.

All departmental annual reviews will need to be completed before the due date to notify individual faculty that they are not meeting expectations. March 1st is a reasonable deadline for departments to finish their annual review process. The ...

**Comment [DJ6]:** CHANGE 6: add word 'will' to make it clear that this will happen.

**Comment [DJ7]:** CHANGE 7: Add the words "independent of the annual review process"

There was significant concern that people might read this paragraph as an 'option' to the process described in the preceding paragraph. It was never the intent of the ...

**Comment [DJ8]:** CHANGE 8: delete the word 'optionally'

Again - this seemed to be a reference to an optional/alternative to the previous paragraph. Deleting the word does not seem to alter the intended original meaning of the sentence.

96 letter that led to the forming of the PRC; the previous five annual written evaluations; the faculty  
97 member's current role statement and curriculum vitae; other professional materials deemed  
98 necessary by the faculty member; and any professional development plan in place. The PRC may  
99 also receive a written statement from the department head or supervisor citing the reasons for  
100 determining that the faculty member is not meeting the post-tenure review standard, as well as a  
101 written statement from the faculty member under post-tenure review, outlining his or her response  
102 to the department head or supervisor's negative post-tenure evaluation. These materials should be  
103 provided to the PRC within 3 weeks of the appointment of the committee. Within 4-2 weeks after  
104 receiving these materials, the PRC shall meet to discuss their evaluation of the faculty member's  
105 post-tenure performance. At this meeting, the faculty member should be allowed to make oral  
106 presentations to the committee. For any meeting held between the faculty member, the department  
107 head or supervisor, and/or the PRC for the purposes of post-tenure performance review an  
108 ombudsperson may be requested by the faculty member, the department head or supervisor, and/or  
109 the PRC in accordance with policy 405.6.5.

111 Within two weeks of meeting and Upon completion of its review, the PRC shall submit its written  
112 findings outlining the PRC's decision and rationale for determining whether the faculty member in  
113 question is, or is not, discharging conscientiously and with professional competence the duties  
114 appropriately associated with his or her position, as specified in the role statement. This written  
115 report shall be provided to the faculty member in question, and to the department head or supervisor  
116 who shall forward a copy to the academic dean or vice president for extension, and, where  
117 appropriate, chancellor or regional campus dean. If the PRC determines that the faculty member is  
118 meeting the standard for post-tenure performance, a written summary of the reasons for their  
119 decision shall be provided to the faculty member, department head, and appropriate academic dean,  
120 vice-president for extension, regional campus dean, or chancellor, and no further action shall be  
121 required professional development plan (PDP) shall be initiated. If the PRC agrees with the  
122 recommendation of the department that the faculty member in question is not meeting the standard  
123 for post-tenure performance, a professional development plan shall be initiated as outlined in policy  
124 405.12.3.

126 If a PRC is formed at the request of a faculty member, and not because of a formal negative  
127 departmental evaluation, it shall be formed according to procedures outlined above.

### 129 12.3 Professional Development Plan

131 (1) A determination by a Peer Review Committee (PRC) that a faculty member is not discharging  
132 conscientiously and with professional competence the duties appropriately associated with his  
133 or her position as specified in their role statement shall lead to the negotiation of a professional  
134 development plan to help the tenured faculty member more fully meet role expectations. The  
135 plan shall respect academic freedom and professional self-direction, and shall permit  
136 subsequent alteration. The professional development plan shall be mutually agreed to and  
137 signed by the faculty member and the department head or supervisor, and approved by the  
138 academic dean or vice president for extension, and, where appropriate, the chancellor or  
139 regional campus dean. If mutual agreement about content of the PDP cannot be reached within  
140 2 weeks, the college faculty appeals committee (CFAC) or other appropriate department,  
141 college, and/or University appeal or hearing procedures should be used to resolve  
142 disagreements.

**Comment [DJ9]:** CHANGE 9: Delete "4" and replace with "2" - Reduce this time to 2 weeks. Since members of the PRC will have advanced notice that this material is coming, we believe that the committee should meet within 2 weeks of receiving the materials. This enables the process to nearly always get resolved in the spring semester (depending on how fast other steps move).

**Comment [DJ10]:** CHANGE 10: Add "Within two weeks of meeting, and"

It seems helpful to establish a deadline to ensure that the process move in a timely and efficient manner (in order to get the process done from start to finish before faculty go off contract May 15<sup>th</sup>). Two weeks seems like a reasonable amount of time after the PRC meeting for them to draft their written findings. This was not specified in the code we passed in spring 2015.

**Comment [DJ11]:** CHANGE 11: Replace the phrase "no further action shall be required" with "no professional development plan shall be initiated"

The phrase 'no further action' is vague and sweeping, and may not be meaningful in the event of a positive PRC review.

What we know is that no PDP should be initiated if the PRC does not concur with the department about the faculty member's post-tenure performance.

**Comment [DJ12]:** THE CHANGES ABOVE (Sections 12.1 and 12.2 and Changes 1-11) ARE DESIGNED TO CLARIFY IN CODE THINGS THAT WERE EITHER DISCUSSED AND ARE CONSISTENT WITH THE INTENT OF CHANGES MADE IN THE ORIGINAL PTR CODE REFORM PASSED BY THE FACULTY SENATE IN 2015.

THE MATERIAL BELOW (Section 12.3, Changes 12-19)) PROVIDES NEW SUGGESTIONS FOR IMPROVING THE PDP PROCESS AND FOR CLARIFYING THE ROLE OF THE PRC. THE ORIGINAL PTR PROPOSAL DID NOT CHANGE FROM CURRENT PRACTICES AND THE FACULTY SENATE HAS NOT YET DEBATED OR PROVIDED GUIDANCE ON HOW TO IMPROVE THE PDP PROCESS. THE

**Comment [DJ13]:** CHANGE 12: Add subsection numbers

**Comment [DJ14]:** CHANGE 13: Insert text instructing what to do if there is no mutual agreement. Suggested insertion parallels text used for formation of PRC.

At the request of the faculty member, department head or supervisor, the professional development plan may be reviewed by the PRC, who shall conduct an in-depth evaluation, ~~as described in policy 405.12.2,~~ including an analysis of the ~~of the~~ goals or outcomes, or any other features of the professional development plan. The PRC shall complete their review within 3 weeks. Upon completion of its review, the PRC shall submit ~~its~~ written findings outlining the PRC's decision and rationale for determining whether the professional development plan is appropriate. ~~This written report shall be provided~~ to the faculty member in question, and to the department head or supervisor for their use in negotiating a mutually acceptable plan. ~~A who shall forward a copy of their written findings shall also be forwarded~~ to the academic dean or vice president for extension, and, where appropriate, chancellor or regional campus dean.

(2) The professional development plan should include elements which: (i) identify the faculty member's specific strengths and weaknesses (if any), and relate these to the allocation of effort assigned in the role statement; (ii) define specific goals or outcomes needed to remedy the identified deficiencies; (iii) outline the activities that are necessary to achieve the needed outcomes; (iv) set appropriate time lines for implementing and monitoring the activities and achieving the outcomes; (v) indicate appropriate criteria for progress reviews and the evaluation of outcomes; and (vi) identify any institutional commitments in the plan.

(3) The faculty member shall meet with the department head or supervisor, at times indicated as appropriate in the professional development plan, to monitor progress toward accomplishment of the goals or outcomes included in the plan. The department head or supervisor shall, at the conclusion of the professional development plan, evaluate the fulfillment of the goals or outcomes described in the plan, in terms of the criteria established by the plan. The department head or supervisor shall meet with the faculty member to review this analysis and subsequently, the department head or supervisor shall provide a written report of this review to the faculty member. A copy of this written report shall also be forwarded to the PRC members, the academic dean or vice president for extension and, where appropriate, the chancellor or regional campus dean. For meetings held between either the department head or supervisor and faculty member to discuss the report, the faculty member or department head or supervisor may request the presence of an ombudsperson in accordance with policy 405.6.5. At the request of the faculty member, department head, or supervisor, this report may be reviewed by the PRC, who shall conduct an in-depth evaluation as described in 405.12.2, including an analysis of the fulfillment of the goals or outcomes, or any other features included in the professional development plan. Upon completion of its review, the PRC shall submit a written report of its findings to the faculty member, to the chancellor or campus dean, and to the academic dean or vice president for extension.

**Comment [DJ15]:** CHANGE 14: Delete reference to policy 405.12.2 here.

The referenced section covers the post tenure review process, not the PDP. The focus of this review should be only on the content of the PDP.

**Comment [DJ16]:** CHANGE 15: Delete extra words (somehow kept in final text last spring)

**Comment [DJ17]:** CHANGE 16: Insert text to provide a time limit for PRC review of the PDP. 3 weeks seems reasonable.

**Comment [DJ18]:** CHANGE 17: delete redundant text and combine sentences.

**Comment [DJ19]:** CHANGE 18: insert text to clarify what is to be done with the PRC report on the draft PDP. Our sense is that its purpose is to help inform the process of reaching mutual agreement on PDP content between the faculty member and department head/supervisor.

**Comment [DJ20]:** CHANGE 19: Because previous sentence was getting long, split this off to a separate sentence.

**Faculty Evaluation Committee Recommendations for IDEA Evaluation Instrument  
Presented to the Faculty Senate Executive Committee, February 16, 2016**

Last spring (2015), the FEC circulated a survey among teaching faculty and department heads concerning the merits and shortcomings of the IDEA evaluation instrument. Last semester (fall 2015), the FEC examined the results of the survey. The FEC also met with Michael Torrens to discuss the IDEA instrument and possible recommendations for improving its use. Based on the results of the IDEA survey and the meeting with Michael Torrens, the FEC came up with the following list of recommendations.

- 1) The IDEA evaluations appear to be most effectively implemented at the department level. Consequently, the committee recommends that department heads be more intimately involved and pro-active in implementing them.
- 2) The evaluations should continue to be conducted using the current on-line method. However, departments should consider customizing response time windows individually, switching off the e-mail reminders, and/or creating class assignments in Canvas for students to complete the evaluations.
- 3) Individual departments that offer technical courses should consider developing and adopting a customized evaluation instrument that is more appropriate for evaluating their faculty.
- 4) The IDEA evaluations should not be conducted for courses with too few students enrolled in them. Not only are the data not statistically meaningful, but it is difficult to preserve anonymity in such classes. The recommended threshold number of students in a class is five.
- 5) Department heads should be reminded to weigh the IDEA student evaluations between 30% and 50% when evaluating the quality of teaching by individual faculty members.
- 6) Untenured faculty should be encouraged to use the long form if they wish to receive information that may be useful in improving their teaching.
- 7) Finally, the members of the FEC are of the opinion that the IDEA evaluations are more valuable in assessing departments and/or programs as a whole rather than individual faculty members. If there are consistent comments for improving multiple courses taught by various faculty members, then it is recommended that the department head or program manager implement measures for making such improvements.

USU Policy Manual General  
105.2.1(2)

(2) Athletics Council.

The Athletics Council advises the President with respect to the athletics program. The duties of the council are to: (1) help maintain an athletics program compatible with the best academic interests of the University; (2) assure compliance with the rules of the appropriate conferences, the National Collegiate Athletic Association (NCAA), and the University athletic code; (3) review and recommend to the President and the Board of Trustees all intercollegiate athletics budgets; and (4) recommend policies and procedures for all aspects of the intercollegiate program.

(a) Membership of the council. The Athletics Council is composed of: (1) the President, as a nonvoting member; (2) the Executive Vice President and Provost; (3) the Executive Senior Vice Provost; (4) the Vice President for Business and Finance; (5) the Executive Director Budget and Planning; (6) the Vice President for Student Services; (7) the Vice President and Director of Athletics, Deputy Director of Athletics, and two Associate Directors, selected so that both the men's and women's athletic programs are represented; (8) the head of the Department of Health, Physical Education and Recreation; (9) a representative of the Alumni Council; (10) the USUSA President; (11) the USUSA Athletic Vice President; (12) four students, two men and two women, nominated by USU Athletics and ratified by the USUSA Executive Council; (13) six faculty members, three men and three women, to be appointed by the faculty senate for terms of three years, renewable once, the terms to be staggered so that two retire each year; (14) the NCAA Faculty Athletics Representative; and (15) when appropriate, the NCAA Faculty Athletics Representative-elect.

(b) Chair of the council. The Athletics Council is chaired by one of the six elected faculty members of the council or by the NCAA Faculty Athletics Representative. The chair is elected or reelected annually by a simple majority of the entire council. The vice chair is also chosen from the six elected faculty members or the NCAA Faculty Athletics Representative and is elected or reelected annually by a simple majority of the entire council. In decisions of the council, the chair exercises a vote only in the event of a tie.



(c) NCAA **Faculty Athletics Representative**. The NCAA **Faculty Athletics Representative** is a tenured or tenure-eligible faculty member and serves a four-year term, renewable; renewals are by the same process as initial appointment. He or she is nominated by a committee composed of the President, the six **appointed** faculty members, and the **six** student members of the council, and is ratified by the Faculty Senate. Unless the office is vacated prematurely, the NCAA **Faculty Athletics Representative** is ratified one year in advance of taking office. If the office is vacated prematurely, the nomination process begins again.

Policy Manual General

**Number 586**

**Subject: Open Access to Scholarly Articles**

**Applies To: University Employees**

**Date of Origin: May 30, 2012**

**586.1 POLICY**

In harmony with the institutional mission of serving the public through learning, discovery, and engagement, Utah State University is committed to the widest dissemination of employees' scholarly articles, including utilizing new technologies to facilitate the open sharing of their scholarly articles.

Additionally, the University recognizes that United States copyright law, in conformance with its constitutional foundation, grants special and exclusive, but limited rights to authors as an incentive to create and distribute their works. These rights are limited to insure that they do not impose an undue obstacle to education and the free exchange of ideas.

**586.2 REFERENCES**

Copyright Law of the U.S.: Title 17 of the United States Code

Policy #327- Intellectual Property, Copyright and Scholarly Works

**586.3 DEFINITIONS**

**Institutional Repository (IR)** - is an online resource for collecting, preserving, and disseminating the intellectual output of an institution. It also provides online journal and conference hosting as well as access to personal web pages.

**Open Access** -The open dissemination of scholarly articles, without price barriers, through the Internet, as a means to reach an author's widest possible audience.

**Scholarly Articles** – Articles that describe the fruits of a scholar's research that he/she gives to the world for the sake of inquiry and knowledge without the expectation of payment.

**586.4 PROVISIONS**

**4.1 Rights and Waivers**

All employees during their employment with the University grant to the University a nonexclusive license to exercise any and all rights under copyright relating to each of



their scholarly articles, in any medium, provided that the articles are not sold for profit, and to authorize others to do the same. These articles will also be deposited in the University's Open Access Institutional Repository to ensure the widest possible dissemination. The nonexclusive license will be waived at the sole discretion of the author, **except in cases where a funder mandate requires article deposit**, and will be administered on behalf of the Provost's Office by the Library.

For procedures see <http://digitalcommons.usu.edu/oadc/1/>.

## **586.5 RESPONSIBILITY**

### **5.1 Employees**

Responsible for compliance with all applicable laws and policies.

### **5.2 Merrill-Cazier Library Scholarly Communications Office**

Responsible for the coordination of the IR to provide open access to scholarly works, research, reports, publications, and courses produced by Utah State University faculty, staff, students, and others.

Responsible for distributing waivers of Utah State University's nonexclusive license to scholarly articles at the sole discretion of the author, on an article by article basis.

Email: [ScholarlyCommunications@USU.edu](mailto:ScholarlyCommunications@USU.edu).



## POLICY MANUAL

### GENERAL

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**INTERIM** Number 339

Subject: Sexual Harassment

Covered Employees: University Employees

Date of Origin: ~~January 24, 1997~~ March 15, 2016

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#### 339.1 POLICY

~~Utah State University is committed to providing an environment free from gender based discrimination and harassment. In accordance with the Equal Employment Opportunity Commission's regulations and amended guidelines of November 1980, the Utah State~~ University has an established policy to address sexual harassment in the workplace and classroom-academic setting. ~~Sexual harassment is a violation of Section 703 of Title VII of the Civil Rights Act of 1964, which holds employers responsible for seeing that this type of behavior does not occur. Title IX prohibits sexual harassment in an educational institution. This policy is in accordance with applicable federal, state and local laws, orders and policies, which include but are not limited to: Titles VI and VII of the Civil Rights of 1964; Title IX of the Higher Education Amendments of 1972; Campus Sexual Violence Elimination Act (SaVE) – reauthorization of Violence Against Women Act of 2013; Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act; and others as applicable.~~

Sexual harassment of any employee, student, or recipient of the services of this University is ~~absolutely forbidden~~ prohibited. Anyone who feels that he/she is the victim of sexual harassment or any supervisor or manager who is made aware of an alleged incident of sexual harassment must take immediate action to resolve the matter. Any individual may contact the University's Affirmative Action/Equal Opportunity (AA/EO) Office for ~~available options and resources~~ advice, ~~counseling~~, or clarification, leading to an informal resolution of the matter. ~~Sexual misconduct complaints may not be resolved using informal methods of compromise or settlement.~~ If an informal resolution is not accomplished or is not possible, further action, including the filing of a complaint and undertaking a formal inquiry/investigation, may be taken to facilitate a resolution pursuant to this policy.

~~For questions regarding workplace harassment, please review the University's Employee Rights Policy (324).~~

#### 339.2 DEFINITIONS

[2.1 \[URL Link to Definitions found on the AA/EO Sexual Misconduct web page – a copy of Definitions is provided\]](#)

### **339.3 SEXUAL HARASSMENT**

No member of the Utah State University community shall engage in sexual harassment. For the purposes of this policy ~~Sexual harassment is defined under the EEOC Guidelines to Title VII as unwelcome sexual advances, requests for sexual favors or and other verbal, written or physical conduct of a sexual nature, when:~~

- ~~• Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or status as a student in a course, program or activity; a student's academic success;~~
- ~~• Submission to or rejection of such conduct by an individual is used as the basis for employment or academic decisions affecting an such individuals; or~~
- ~~• Such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance, or of creating an intimidating, hostile or offensive environment for working or learning. environment.~~

#### **3.1 Examples of Sexual Harassment**

Sexual harassment encompasses any sexual attention that is unwanted. Examples of the verbal, non-verbal and physical conduct prohibited by the section above include, but are not limited to:

- Unwelcome comments about a person's clothing or body;
- Coercion for a date or a romantic or intimate relationship;
- Unwelcome touching, kissing, hugging or massaging;
- A course of unwanted attention that is repeated or obsessive;
- Giving letters, personal gifts, and/or materials of a sexual nature;
- Use of unwanted force in connection with sexual activity or attempted sexual activity;
- Subtle pressure for sexual activity;
- Unwelcome remarks about a person's gender or sexual orientation based on gender stereotypes;
- Dating Violence;
- Domestic Violence;
- Stalking;
- Sexual Assault;
- Videotaping or photographing of activity of a sexual or private nature without the consent of the person(s) being videotaped or photographed;
- Displaying sexually suggestive visuals;
- Use of e-mail, the Internet or other forms of digital media to facilitate any of the conduct listed above;

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~~Sexual harassment is defined under the EEOC Guidelines to Title VII as unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature, when:~~

- ~~• submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or a student's academic success;~~
- ~~• submission to or rejection of such conduct by an individual is used as the basis for employment or academic decisions affecting such individuals; or~~
- ~~• such conduct unreasonably interferes with an individual's work or academic performance or creates an intimidating, hostile or offensive working or learning environment.~~

### ~~339.3~~ **PROCEDURES**

#### ~~34.1~~ **Awareness and Prevention**

~~Utah State University is committed to the prevention of sexual harassment. In order to promote appropriate social interaction between men and women in the workplace and in the classroom, efforts will be made to sensitize employees and students to the nature of sexual harassment, including the range of behaviors associated with it, and the University's policy and procedures regarding it. Toward this goal, this policy is available to all faculty, staff and students. In addition, the AA/EO Office shall conduct on-going training in the prevention of sexual harassment for employees and will provide additional training, with specialized focus or to specific groups upon request. Incoming first year students are offered prevention and awareness training through student services.~~

~~Toward this goal, this policy is available to all faculty, staff and students. In addition, the AA/EO Office shall conduct on-going training in the prevention of sexual harassment and will provide additional training, with specialized focus or to specific groups upon request.~~

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#### ~~34.2~~ **Filing a Complaint**

The University has established a complaint procedure to handle all types of discrimination complaints, including sexual harassment (refer to USU Policy 305). The University has designated the AA/EO Director/Title IX Coordinator as the official responsible for receiving and investigating complaints of sexual harassment.

#### ~~34.3~~ **Investigation of Reported Incidents**

The AA/EO Office will investigate all reported incidents. The University intends that the ~~following~~ principles of Utah State University Policy 305 will govern all sexual harassment investigations. For faculty the procedures described in USU Policy 407.9 will govern.

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~~(1) Interviews may be conducted with the parties involved, supervisors, and any other employees or involved parties who may provide helpful information.~~

~~(2) Interviews and all other investigatory activities will be conducted with the utmost discretion and respect for the privacy of all parties. The AA/EO Office will attempt to maintain confidentiality throughout the investigation (refer to 305).~~

(3) For faculty the procedures described in 407.9 will govern.

#### **34.4 Retaliation**

Retaliation against an individual who has made a complaint or has in any way participated in an inquiry/investigation is prohibited. An individual who has been named as an alleged offender may not retaliate in any way against either the complainant or witnesses involved in investigations. Retaliation is strictly forbidden by the Equal Employment Opportunity Commission Sexual Harassment guidelines under Title VII.

#### **34.5 Disciplinary Actions**

In cases where the preponderance of evidence indicates that ~~there is reasonable cause to believe that~~ a violation of this policy occurred, the appropriate Administrator will follow the procedures set forth in the following. If the investigation shows that an employee has engaged in prohibited or unlawful harassment or retaliation, appropriate action will be taken (311, 407).

1) For faculty, the Provost, applicable dean and/or vice president will follow the procedures set for imposing sanctions (refer to USU Policy 407)

2) For employees, the applicable vice president and/or supervisor/manager will follow the procedures set for corrective action (refer to USU Policy 311)

3) For students, the Vice President for Student Affairs Services and/or his/her designee will impose sanctions, if warranted by following the procedures set forth in the Student Code of Conduct. Policies and Procedures to impose sanctions, if warranted.

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#### **34.6 Consensual Relationships**

Amorous relationships between a faculty member and a student shall be governed by Utah State University Policy 407.1. Amorous relationships between a supervisor and an employee; or between a faculty member and a student (407.1) are discouraged due to the imbalance of power that exists. The party with lesser authority or power may fear reprisal or retaliation if he/she rejects the amorous or sexual requests. Should a complaint of sexual harassment be filed, the party with the greater authority may not be able to use perceived mutual consent as the sole defense if the relationship is considered "unwelcome" by the party filing the complaint.

#### **339.4-5 REPORTING RESPONSIBILITY**

##### **45.1 Affirmative Action/Equal Opportunity Office**

Responsible for receiving and investigating all complaints of sexual harassment, providing reporting options and support services to employees and students, as well as advice and counseling to employees, and protecting confidentiality to the extent possible.

##### **45.2 University Administrators**

~~It is the obligation of all University administrators to guarantee the rights and dignity of employees.~~ If they become aware of situations within their area which violate this policy, they should contact ~~consult~~ the AA/EO Office immediately.

### **45.3 Employees**

Responsible for reporting to the AA/EO Director/Title IX Coordinator incidents of behaviors that may constitute ~~responding to perceived~~ sexual harassment according to the guidelines in this policy. For additional assistance, employees should contact the AA/EO Office.

### **5.4 Students**

Encouraged to report instances that may constitute sexual harassment according to the guidelines in this policy to the Title IX Coordinator, Confidential reporting resources, law enforcement. Students may utilize any or all of the processes and/or services of any or all for reporting sexual harassment. For additional assistance, students should contact the AA/EO Office.



# POLICY MANUAL

## GENERAL

**INTERIM** Number 305

**Subject: Discrimination Complaints**

**Date of Origin: ~~January 24, 1997~~ March 15, 2016**

### 305.1 POLICY

Utah State University is committed to providing a safe and secure environment free from harassment and other forms of discrimination based on race, color, religion, sex, gender identity or expression, sexual orientation, national origin, age (40 and older), disability, or status as a protected veteran, ~~veteran's status~~. Consistent with its prohibition against sex discrimination, Utah State University prohibits and is committed to addressing and preventing sexual violence. ~~USU also prohibits discrimination on the basis of sexual orientation in employment and academic related practices and decisions.~~ This policy is in accordance with applicable federal, state, and local laws, orders and policies, which include, but are not limited to: Titles VI and VII of the Civil Rights Act of 1964; Title IX of the Educational Amendments of 1972; Sections 503 and 504 of the Rehabilitation Act of 1973; the Americans with Disabilities Act; Vietnam Era Veterans' Readjustment Assistance Act of 1974; Executive Order 11246 (as amended); the State of Utah Anti-Discrimination Act; and others as applicable.

Utah State University employees and students cannot, because of race, color, religion, sex, gender identity or expression, sexual orientation, national origin, age, disability, status as a protected veteran, ~~veteran's status~~, refuse to hire; discharge; promote; demote; terminate; discriminate in compensation; or discriminate regarding terms, privileges, or conditions of employment, against any person otherwise qualified. Employees and students also cannot discriminate in the classroom, residential halls, or in on/off-campus, USU/University-sponsored events and activities.

### 305.2 PROCEDURES

#### 2.1 Filing a Complaint

(1) Any USU/Utah State University employee, job applicant, or student who feels he or she may have been the victim of discrimination in employment and/or academic-related practices and decisions, unfair employment practice, or sexual harassment may file a complaint with the Affirmative Action/Equal Opportunity (AA/EO) Office within 180 calendar days of the last alleged occurrence. Utah State University/SU employees,

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students, and third parties may report sexual misconduct to the AA/EO Director and Title IX Coordinator, a Deputy Title IX Coordinator, or ~~USU~~Utah State University faculty or staff. In order to ensure that ~~USU~~Utah State University can do everything possible to provide assistance to students and stop sexual harassment, University employees are required to report information they receive about allegations of sexual misconduct to the Title IX Coordinator.

(1)

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(a) Alleged incidences of harassment or discrimination occurring outside the complaint timeline also should be brought to the attention of the AA/EO Office for review.

(b) Complaints may be filed with the Utah Anti-Discrimination (UADD) in Salt Lake City, or the Equal Employment Opportunity Commission (EEOC) with regional offices in Phoenix, Arizona. Statutory time limitations will be provided by these organizations.

(2) The complaint is discussed by the ~~complainant~~ Complainant (employee, student, job applicant) and the AA/EO Director or a Deputy Title IX Coordinator. If the information given by the ~~complainant~~ Complainant is sufficient to establish that a potential violation of the law has occurred, the AA/EO Director will explain what options are available to address the alleged violation. The ~~complainant~~ Complainant will then fill out, sign, and date a written complaint form outlining the issues, facts, and circumstances surrounding the alleged discrimination/harassment.

(a) A complaint is an allegation of discrimination/harassment. The purpose of investigating is to determine if discrimination/harassment has occurred. The AA/EO staff is committed to objectivity, reasoned thoughtfulness, and common sense in collecting and analyzing all available facts pertinent to each investigation. It is understood that no two sets of facts or situations are the same, and each investigation is conducted in an atmosphere of open-mindedness and is equitable fairness to all parties.

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(b) If information is brought to the AA/EO Office and the person alleging discrimination/harassment chooses not to file a complaint, the AA/EO Office may file a complaint if there is sufficient reason to believe that discrimination/harassment has occurred.

(3) An inquiry/investigation is conducted and completed by the AA/EO ~~Director~~ Director (or Deputy Title IX Coordinator at the Director's request). ~~The Complainant and the Respondent may challenge the appointed investigator on the basis of bias or conflict of interest.~~ If a Complainant or Respondent believes that any individual(s) involved in the process has a potential or actual conflict of interest, he or she may make a request to the AA/EO Director that the individual(s) not participate. A Complainant or Respondent must submit a written request to the AA/EO Office within two days after notification of the investigation. Any request should include a description of the conflict. If the AA/EO Office determines that a conflict of interest exists, Utah State University will take steps to address the conflict in order to ensure an impartial process.

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~~(3)~~(4) The investigator will work in good faith to complete the investigation in a prompt and equitable manner. In most cases, the investigation will be completed within 35-60 calendar days of filing the complaint; however, the AA/EO Director/Title IX Coordinator may adjust deadlines upon good cause. The purpose of the inquiry/investigation is to gather the facts, and ~~substantiate or refute the complaint to determine by a preponderance of the evidence whether there is reasonable cause to believe a violation of this policy and/or related University harassment policies and/or codes occurred.~~ The inquiry/investigation may include some or all of the following: collecting documents related to the case, interviewing persons having knowledge of the incident(s), or documenting the findings. Both the complainant and the responding party will be provided an opportunity to submit information and identify and direct the investigator to witnesses and evidence.

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(a) Due to the damage that could result to the career and reputation of any person falsely accused of discrimination/harassment, all inquiries/investigations and hearings surrounding such matters will be designed, to the maximum extent possible, to protect the privacy of and minimize suspicion toward the ~~accused~~responding partyRespondent, as well as the ~~complaining party~~Complainant.

(b) Retaliation against an individual who has made a complaint or has in any way participated in an inquiry/investigation is prohibited.

(c) ~~At the conclusion of the investigation, the investigator will prepare a Draft Investigation Report, report that summarizes the investigator's factual findings and sets forth the investigator's conclusion(s). The findings shall indicate -as to whether by a preponderance of the evidence there is reasonable cause to believe that a violation of to the responding party~~Respondent violated USU Utah State University's anti-discrimination and/or harassment policies occurred.

(5)

~~Both the complaining party and the responding party are provided an opportunity to review the draft report and the underlying investigative documents (which may redacted to protect witnesses privacy). The Complainant and the Respondent will have ten working days to provide to the AA/EO Director and/or Title IX Coordinator their written responses to the investigative report. At the end of that ten day period, the AA/EO Director and/or Title IX Coordinator shall file the report and any written responses received from the parties with the appropriate Administrator. an opportunity to review the Draft Investigation Report; meet with the Investigator; submit additional comments and information to the Investigator; identify any additional witnesses or evidence for the Investigator to pursue; and submit any further questions that they believe should be directed by the Investigator to the other party or to any witness. The Investigator will designate a reasonable time for this review and response by the parties, not to exceed five (5) calendar days. In the absence of good cause, information discoverable through the exercise of due diligence that is not provided to the Investigator during the designated review and response period will not be considered in the determination of responsibility for a violation of the Policy, and will not be considered by the Review Panel.~~

~~If the complaining party or responding party disagree with the summary of the complaint, the event at issue or the factual findings made by the investigator, the party may submit a written explanation of the party's challenge to the summary and/or factual findings.~~

(7) Once the ~~I~~nvestigation ~~R~~eport is finalized, the ~~n~~investigation report is AA/EO Office will notify both the ~~complaining party~~Complainant and the ~~responding party~~Respondent and provide them with an opportunity to receive a copy of the final Investigation Report. -

~~(d) The I~~nvestigation ~~R~~eport is also sent to the ~~appropriate supervisor~~responding partyRespondent's supervisor ~~appropriate Administrator. (typically a dean or vice president).~~ For faculty, in cases of a substantiated charge of discrimination/harassment, the dean or vice president must follow the procedures set for imposing sanctions (~~see~~refer to USU policy 407). For employees, the applicable vice president and/or supervisor/manager will follow the procedures set forth imposing corrective action (refer

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to USU Policy 311). For students, the ~~I~~Investigation ~~R~~report is sent to the Vice President for Student ServicesAffairs and/or his/her designee, who will impose sanctions, if warranted, following the procedures set forth in the Student Code of Conduct. ~~Policies and Procedures to impose sanctions, if warranted.~~

## **2.2 Appealing a Decision**

(1) If ~~Both/either~~ the ~~complainant~~ Complainant and ~~or respondent~~ Respondent is not satisfied with the outcome of the inquiry/investigation, he/she has the right to file a written appeal, outlining the specific issues, facts, or circumstances being appealed, to the Affirmative Action ~~Office Appeals Committee (AAAC)~~ within 10 calendar days of the announcement of the outcome of the AA/EO inquiry/investigation. The AA/EO Director or Title IX Coordinator will forward the written appeal and the finding to the President. The President will select a review panel from the Affirmative Action Advisory Council (AAAC). ~~This committee is selected by the President from the Affirmative Action Advisory Council.~~

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(2) The AAAC ~~will~~ may conduct a closed hearing limited to ~~complainant~~ Complainant, ~~respondent~~ Respondent, witnesses, and appropriate USUtah State University staff personnel (e.g., ~~i.e.~~ staff from the AA/EO Office, the Office of Human Resources and the University ~~Assistant Attorney General~~ Counsel) to examine the specific issues being appealed. In most cases, tThe AAAC will present a written report of its findings, conclusions, and recommendations to the President of the University within 45 calendar days of filing the appeal.

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~~(2)~~(3) The President will review the recommendations of the AAAC and may accept or modify them. The decision of the President is final.

## 2.3 Use of Informal Methods

Nothing in this procedure should preclude using informal methods of compromise or settlement of disputes which are mutually agreeable to the interested parties. However, sexual misconduct complaints may not be resolved using informal method of compromise or settlement.

## 305.3 RESPONSIBILITY

### 3.1 Affirmative Action/Equal Opportunity Office and Director

Responsible to provide advice and assistance in implementing this policy and for responding to complaints in the time frame outlined in this policy. All complaints will be investigated by the AA/EO Director.

### 3.2 Affirmative Action Appeals Committee

Responsible to respond to any written discrimination/harassment complaint appeal in a timely manner and to examine the issues being appealed. Within 45 days of a written appeal, the AAAC will provide the President of the University with a written report of its findings and any recommendation.

### 3.3 Employees

Responsible to support the University's affirmative action/equal opportunity philosophy by treating each employee as an individual and by developing and maintaining a climate of mutual respect.

**Preponderance of Evidence:** Means that it is more likely than not that a policy violation occurred and it is the standard of evidence used in investigations of discrimination and harassment at Utah State University.

**Complainant:** A person making allegations of discrimination or harassment.

**Respondent:** A person alleged to have committed discrimination or harassment

**Appropriate Administrator:** The administrator at the dean/vice presidential level with direct line responsibility over the college, department, office, agency or other operational unit of the university in which the claimed discrimination or harassment occurred.

**Sexual Harassment:** No member of the Utah State University community shall engage in sexual harassment. For the purposes of this policy sexual harassment is defined as unwelcome sexual advances, requests for sexual favors or other verbal, written or physical conduct of a sexual nature, when:

- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or status as a student in a course, program or activity;
- Submission to or rejection of such conduct by an individual is used as the basis for employment or academic decisions affecting an individual; or
- Such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance, or of creating an intimidating, hostile or offensive environment for working or learning.

Sexual harassment encompasses any sexual attention that is unwanted. Examples of the verbal, non-verbal and physical conduct prohibited by the section above include, but are not limited to:

- Unwelcome comments about a person's clothing or body;
- Coercion for a date or a romantic or intimate relationship;
- Unwelcome touching, kissing, hugging or massaging;
- A course of unwanted attention that is repeated or obsessive;
- Giving letters, personal gifts, and/or materials of a sexual nature;
- Use of unwanted force in connection with sexual activity or attempted sexual activity;
- Subtle pressure for sexual activity;
- Unwelcome remarks about a person's gender or sexual orientation based on gender stereotypes;
- Videotaping or photographing of activity of a sexual or private nature without the consent of the person(s) being videotaped or photographed;
- Displaying sexually suggestive visuals;
- Use of e-mail, the Internet or other forms of digital media to facilitate any of the conduct listed above;

**Consent:** Consent must be informed, freely given and mutual among all participants involved. If coercion, intimidation, threats, and/or physical force is used, there is no consent. A person cannot give consent if he or she lacks the ability to understand the decision because of disability, is sleeping and/or unconscious, consumption of alcohol or drugs or if he or she is unwillingly restrained. The use of alcohol

or drugs does not justify or excuse sexual harassment/misconduct and never makes someone at fault for experiencing sexual harassment/misconduct. Consent must be ongoing, throughout each instance of sexual activity, and for each form of sexual contact. Consent to one form of sexual contact does not constitute consent to all forms of sexual contact. For example, an individual may agree to kiss but choose not to engage in touching of the intimate parts or sexual intercourse. Consent may be withdrawn at any time. An individual who seeks to withdraw consent must communicate through clear words or actions a decision to cease the sexual activity. Once consent is withdrawn, the sexual activity must cease immediately. In the state of Utah, a 16 or 17 year-old cannot consent to sexual activity if the other person is ten (10) or more years older than the minor.

The University offers the following guidance on assessing consent and incapacitation:

- Consent consists of an outward demonstration indicating that an individual has freely chosen to engage in sexual activity. Consent is demonstrated through mutually understandable words and/or actions that clearly indicate a willingness to engage freely in sexual activity. Relying on non-verbal communication can lead to misunderstandings. Consent may not be inferred from silence, passivity, lack of resistance or lack of active response alone. In the absence of an outward demonstration, consent does not exist. If at any time it is reasonably apparent that either party is hesitant, confused or uncertain, both parties should stop and obtain mutual verbal consent before continuing sexual activity.
- A current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent. Even in the context of a relationship, there must be mutually understandable communication that clearly indicates willingness to engage in sexual activity each time such activity occurs.
- Consent does not exist if it results from the use or threat of physical force, intimidation, or coercion, or any other factor that would eliminate an individual's ability to exercise their own free will to choose whether or not to have sexual contact.
- A person who is incapacitated is not able to make informed decisions or be aware of their consequences and therefore is incapable of giving consent. Incapacitation is the inability, temporarily or permanently, to give consent because the individual is mentally and/or physically helpless due to drug or alcohol consumption, either voluntarily or involuntarily, or the individual is unconscious, asleep or otherwise unaware that the sexual activity is occurring. In addition, individuals are incapacitated if they demonstrate that they are unaware of where they are, how they got there, or why or how they became engaged in a sexual interaction. Some indicators of incapacitation may include, but are not limited to, lack of control over physical movements, lack of awareness of circumstances or surroundings, or the inability to communicate for any reason. An individual may experience a blackout state in which they appear to be giving consent, but do not actually have conscious awareness or the ability to consent. It is especially important, therefore, that anyone engaging in sexual activity be aware of the other person's level of intoxication or impairment. Being intoxicated or impaired by drugs or alcohol is never an excuse for sexual misconduct and does not excuse one from the responsibility to obtain consent. It is not an excuse that the party initiating sexual contact was intoxicated and therefore did not realize the incapacity of the other.
- Inducing incapacitation for sexual purposes includes the use of drugs, alcohol or other means

with the intent to affect or having an actual effect on the ability of an individual to consent or refuse to consent to sexual contact. A person who is incapacitated is not able to make informed decisions or be aware of his/her consequences and therefore is incapable of giving consent. Incapacitation is the inability, temporarily or permanently, to give consent because the individual is mentally and/or physically helpless due to drug or alcohol consumption, either voluntarily or involuntarily, or the individual is unconscious, asleep or otherwise unaware that the sexual activity is occurring. In addition, individuals are incapacitated if they demonstrate that they are unaware of where they are, how they got there or why or how they became engaged in a sexual interaction. Some indicators of incapacitation may include, but are not limited to, lack of control over physical movements, lack of awareness of circumstances or surroundings, or the inability to communicate for any reason. An individual may experience a blackout state in which they appear to be giving consent, but do not actually have conscious awareness or the ability to consent. It is especially important, therefore, that anyone engaging in sexual activity be aware of the other person's level of intoxication or impairment. Being intoxicated or impaired by drugs or alcohol is never an excuse for sexual misconduct and does not excuse one from the responsibility to obtain consent

In evaluating consent cases of alleged incapacitation, the University considers information around two questions: (1) *Did the person initiating sexual activity know that the other party was incapacitated?* and if not, (2) *Should a sober, reasonable person in the same situation have known that the other party was incapacitated?* If the answer to either of these questions is YES, consent was absent and the conduct is likely a violation of policy.

Incapacitation is a state beyond drunkenness or intoxication. A person is not necessarily incapacitated merely as a result of drinking or using drugs. The impact of alcohol and other drugs varies from person to person.

One is not expected to be a medical expert in assessing incapacitation. One must look for the common and obvious warning signs (see above) that show that a person may be incapacitated or approaching incapacitation. One should be cautious before engaging in sexual activity when either party has been drinking alcohol or using other drugs. The introduction of alcohol or other drugs may create ambiguity for either party as to whether consent has been sought or given. If one has doubt about either party's level of intoxication, the safe thing to do is to forego all sexual activity.

**Sexual Assault (Intercourse):** Any form of vaginal, anal, or oral penetration, however slight, by a penis, object, tongue, or finger without a person's consent; and oral copulation (mouth to genital contact or genital to mouth contact) without a person's consent.

**Sexual Assault (Contact):** Any intentional sexual touching, without a person's consent (intentional sexual touching may include contact, under or over the clothing, with the breasts, buttocks or groin touching another with any of these body parts; making another person touch any of these body parts



under or over clothing; and/or the emission of ejaculate on the clothing or body of another person without that person's consent.

**Dating Violence:** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant; and where the existence of such a relationship shall be determined based on a consideration of the following factors: a) the length of the relationship, b) the type of relationship and c) the frequency of interaction between the persons involved in the relationship.

**Domestic Violence:** Violence committed by a) a current or former spouse or intimate partner of the complainant, b) a person with whom the complainant shares a child in common, c) a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, d) a person similarly situated to a spouse of the complainant under the domestic or family violence laws of the jurisdiction receiving grant monies or e) any other person against an adult or youth complainant who is protected from that person's acts under the domestic or family violence laws of the jurisdiction receiving grant monies.

**Stalking:** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others or to suffer substantial emotional distress. Stalking includes repeatedly following, harassing, threatening, or intimidating another by telephone, mail, electronic communication, social media or any other action, device or method that purposely or knowingly causes substantial emotional distress or reasonable fear of bodily injury or death.

**Retaliation:** An action taken by an accused individual or an action taken by a third party against any person because that person has opposed any practices forbidden under this policy or because that person has filed a complaint, assisted or participated in any manner in an investigation or proceeding under discrimination/harassment policies. This includes action taken against a bystander who intervened to stop or attempt to stop discrimination and/or harassment. Retaliation includes intimidating, threatening, coercing or in any way discriminating against an individual because of the individual's complaint or participation. An action is generally deemed retaliatory if it would deter a reasonable person in the same circumstances from opposing practices prohibited by the University. USU will take immediate and responsive action to any report of retaliation and may pursue disciplinary action as appropriate.

### **Confidentiality**

Information about incidents of sexual harassment/misconduct may need to be shared with relevant administrators if the University needs to take action for reasons of community safety. In all cases, the wishes of the person initiating the conversation are given full consideration.

- Strictly Confidential Reporting (these conversations are confidential and do not trigger a university action and/or investigation; except in rare, extreme circumstances, nothing will be shared without your permission). You may report to the following campus resources in a strictly confidential setting – for students: Counseling & Psychological Services (CAPS); 435-797-1012; Sexual Assault and Anti-Violence Information Center (SAAVI); 435-797-1510 or 435-797-7273 – for employees: Employee Assistance Program (Ability Assist; 1-800-964-3577 or [www.guidanceresources.com](http://www.guidanceresources.com)) or CAPSA (435-753-2500)

- Mostly Confidential Reporting (these conversations are kept as confidential as possible, but information about incidents of sexual misconduct must be shared with the AA/EO Director/Title IX Coordinator and in some cases with relevant administrators and law enforcement so that action can be taken if necessary for reasons of safety. In planning any response, the wishes of the complainant are given full consideration. Reporting to campus authorities is not the same as reporting to the police; the university process is an administrative procedure, not a criminal/legal procedure.
- Confidential According to State Law (these conversations and the information shared will be treated as confidentially as possible (according to state law). Police reports with personally identifiable information removed may be available to the public upon request. Reporting to law enforcement is not the same as reporting to campus authorities; reporting to law enforcement is a criminal/legal procedure, not an administrative one.

### **Informal Remedies**

Examples of informal remedies may include: shielding a student or employee from ongoing contact with an individual; issuing an administrative no-contact order; assigning an individual to a different lab or other classroom setting; reorganizing office space/assignment; asking an administrative authority to speak to the individual to express serious concern about a behavior; reminding the individual of policies and definitions relating to sexual harassment/misconduct; offering counseling targeted to addressing sexual aggression; and reorganizing housing assignments so that students can feel safer. Informal remedies do not preclude formal discipline. Sexual misconduct complaints may not be resolved using informal methods of compromise or settlement.

### **Formal Complaint**

Bringing a formal complaint will lead to an investigation. Filing a complaint is often the best way to seek protection from future harm. The student bringing the complaint retains considerable control, although not total, as the process unfolds. Investigations are prompt, objective and thorough. If you file a complaint or are the person the allegations have been made against, you will have an opportunity to participate fully in the investigative process. The timing, components and outcome of any particular investigation will depend upon the facts of the case.

### **Interim Measure(s)**

The University may implement interim measures as may be appropriate for the individual(s) involved. Even when an individual does not specifically request that protective action be taken, the University may choose to impose interim measures at its discretion to ensure the safety of any individual or to ensure that an investigation can move forward. Interim measures may include but are not limited to:

- Access to counseling and support resources;
- Access to academic accommodations (including classroom changes, extensions, rescheduling of exams and withdrawals);
- Change in campus housing;
- Change in work schedule (including being placed on administrative leave);
- Implementation of a “no contact order” or trespass letter; and
- Restrictions on team or organization participation or activity

To request interim measure, contact the Title IX Coordinator (435-797-1266)

## **Report from the Educational Policies Committee February 12, 2016**

The Educational Policies Committee met on February 4, 2016. The agenda and minutes of the meeting are posted on the Educational Policies Committee web page.

During the February 4, 2016 meeting of the Educational Policies Committee, the following actions were taken.

1. Approval of the report from the Curriculum Subcommittee meeting of February 4, 2016 which included the following notable actions:
  - The Curriculum Subcommittee approved 31 requests for course actions.
  - A request from the Department of Management in the Jon M. Huntsman School of Business to transfer the minor in business from the dean's office to the Management Department was approved.
2. There was a January meeting of the Academics Standards Subcommittee. The report from that meeting will be made to EPC at its March meeting.
3. Approval of the report from the General Education Subcommittee meeting of January 19, 2016.  
Of note:

The following courses or syllabi were approved:

ARTH 3340 – African Art (CI)  
ARTH 3710 – Art, Culture & Crisis in Postwar Britain (CI)  
ARTH 3910 – Introduction to Film Theory (CI)

## **Budget and Faculty Welfare Committee Fall 2015 Summary Report**

Diane Calloway-Graham, Chair (16) Sociology, Social Work, & Anthropology  
Michael Pate (17) Agriculture/Applied Sciences  
Alan Stephens (16) Business  
Leslie Timmons (16) CCA  
Dale Wagner (18) Education & Human Services  
Koushik Chakraborty (18) Engineering  
Chris Monz (17) Natural Resources  
Stephen Bialkowski (16) Natural Resources  
Carol Kochan (17) Business  
Joanne Roueche (16) Extension  
Rich Etchberger (16) Regional Campuses  
Mike Kava (17) USU Eastern

This report covers the activities of the BFW committee for the Fall 2015.  
Meetings: October 7, 2015 (in-person); November 3, 2015 (e-mail communication)  
Diane Calloway-Graham was asked to serve as chair starting Fall 2015. Recently Joanne Roueche informed the committee that her will be retirement is set for January 15, 2016 and Dr. Ken White will be appointing a replacement.

### **Facts and Discussions:**

The duties of the Budget and Faculty Welfare Committee are to (1) participate in the budget preparation process, (2) periodically evaluate and report to the Senate on matters relating to faculty salaries, insurance programs, retirement benefits, sabbatical leaves, consulting policies, and other faculty benefits; (3) review the financial and budgetary implications of proposals for changes in academic degrees and programs, and report to the Senate prior to Senate action relating to such proposals; and (4) report to the Senate significant fiscal and budgetary trends which may affect the academic programs of the University. ([Policy 402.12.4](#) )

### **Main Items discussed at the BFW meeting for Fall 2015 include:**

- Review of Financial Issues Documents (financial crisis and financial exigency) – Vincent Wickwar and Rhonda Callister attended in order to facilitate an understanding of the most recent documents surrounding policy and procedures for financial crisis and financial exigency. Discussion centered on how to react to budget cuts quickly and the consultation pieces of the policy as represented in the flow chart created.
- Review of the Health & Safety Policy – Mark McLellan attended our meeting and shared with us the policy for resetting our thinking about how we ensure safety and improve safety on campus among students, faculty, and employees. He explained that the context for resetting our thinking about how to ensure safety was regarding an accident at ULCA in 2008. We discussed the structure and responsibilities, which now contain a broader umbrella for improving safety on campus among students, faculty, and employees.
- Ronda Callister, Faculty Senate President discussed the reducing of faculty senate committee sizes. She wanted us to be aware that service work obligations

have increased and there are twice as many assignments as faculty senators available to fulfill them. The current term for faculty senators is 3 years.

- Follow-up review of Health & Safety Policy – Jeff presented USU's draft safety policy to the Faculty Senate Executive Committee for discussion on Monday, November 2, 2015. He received feedback that the policy is still more lab centric than they would like it. Jeff requested that the BFW committee give more feedback as the policy has had several changes since our meeting October 7, 2015 when we initially reviewed it and gave feedback. We elicited feedback via e-mail regarding how to make the policy more inclusive.

The BFW Meeting held February 27, 2015 included the following topics for discussion.

- Discussion of the code revision produced by the PRPC for changes in Section 405 of the code regarding Post Tenure Review. Two issues were addressed: (1) whether the code revision written by PRPC follows the direction given to PRPC, and (2) an evaluation of the code revision in contrast to the current code or the current code with modifications. The consensus to those attending the meeting is that the proposed code change is not in the best interests of the faculty. There was a memo sent to the FSEC on March 16, 2015 summarizing the two issues considered by the BFW.

The BFW held three meetings in Fall 2014 on September, 26, 2014; October 24, 2014; and December 3, 2014.

- Topics of discussion during the 09-26-14 meeting included the RCDE to RC change and the implication for college and department budgets and faculty compensation; reported mistreatment of the lecturer ranks with respect to ACA; a lively discussion on salary compression; and Post Tenure Review with respect to the Regents code.
- Topics of discussion during the 10-24-14 meeting included consideration of the RCDE to RC change and the implication for college and department budgets and in particular faculty compensation with a focus on creating a consistent salary and role statement model; the problem of salary compression and BFW's dissatisfaction with trusting administrators to do the right thing; and limits on class sizes as the University with the growing population of students and faculty time commitments.
- Topic of discussion during the 12-3-14 meeting focused on extra service compensation where Mark McCellan presented the work that he and his committee did on ESC to bring the policy in line with federal guidelines.

Respectfully submitted,

Diane Calloway-Graham, BFW Chair

**BFW Committee Meeting  
Wednesday, October 7, 2015**

**Attending:** Diane Calloway-Graham, Ronda Callister, Koushik Chakraborty, Rich Etchberger, Carol Kochan, Mark McLellan, Chris Monz, Joanne Roueche, Leslie Timon, Dale Wagner, and Vincent Warwick.

- Introduction of Members
- Topics of Discussion
  - Discussion and review of revised **Financial Issues Documents** (financial crisis and financial exigency).
    - Vince Warwick discussed how the documents addressed budget cuts in reference to the process of reacting to these situations as quickly as possible.
    - There is also a consultation piece that is now addressed in the flow chart.
    - The BFW committee asked clarifying questions for future conversations surrounding financial issues.
  - Presentation and discussion of the revised **Health & Safety Policy**, which is on the faculty agenda for November 2015.
    - Mark McLellan presented this to the BFW committee. Action for the policy is set for the December faculty senate meeting.
    - The context for this policy is related to an accident at ULCA, which reset the thinking about how we ensure safety and improve safety on campus among students, faculty, and employees.
    - We reviewed the structure and responsibilities, which are encased in a larger umbrella.
    - It seems that classified employees are a larger concern to address in the document.
  - Discussion of reducing faculty senate committee sizes led by Faculty Senate President, Ronda Callister.
    - There are many service obligations on campus.
    - There are now twice as many assignments as faculty senators who stay in for a three-year term.
    - This will continue to be an ongoing dialog as ideas and solutions are being determined.

Memo: To FSEC

From: BFW

Date: March 16, 2015

Subject: Post Tenure Review

Members attending: Vicki Allan, Stephen Bialkowski, Rich Etchberger, Carol Kochan, Chris Monz, Ilka Nemere, Michael Pate, Christopher Skousen, Alan Stephens, Dale Wagner

The BFW committee met Friday February 27, 2015 to discuss the code revision produced by PRPC.

This memo is NOT to be considered the final statement of BFW regarding the proposal to change Section 405 of the code. We address two issues below: 1) whether the code revision written by PRPC follows the direction given to PRPC, and 2) an evaluation of the code revision in contrast to the current code or the current code with modifications.

Issue 1: Did PRPC do its job?

- BFW fully endorses the comments of John Stevens Chair of AFT. Professor Stevens states:

“Regarding context, it seems like the AFT, BFW, and FEC committees are being asked to verify that the proposed code changes accurately reflect the package that was sent from the faculty senate to PRPC. If we respond positively (or negatively), it could be incorrectly viewed as approval (or disapproval) of the content with respect to the committee's respective jurisdictions. For example, even if AFT unanimously felt that the proposed code changes would negatively affect academic freedom or the concept of tenure, but also unanimously conceded that the proposed code changes did accurately reflect the package PRPC was given, our response to this specific invitation could be interpreted (out of context) as unanimously positive.”

“Regarding jurisdiction, it really isn't within AFT jurisdiction to double-check that PRPC has done its job. Code says that AFT "will review, for consideration by the Senate, all matters pertaining to faculty rights, academic freedom, and tenure." Any review done by AFT should (and will) focus on those aspects alone. I'm a little concerned that if we do that, though, our response may be disregarded (or worse, misrepresented) since in your email you specifically say that you're not inviting



feedback on the content of the proposal, just how the draft "reflects the will of the senate."

- BFW for its part notes that our charge, in part, "is periodically evaluate and report to the Senate on matters relating to faculty salaries, insurance programs, retirement benefits, sabbatical leaves, consulting policies, and other faculty benefits." Of particular note is the evaluation of other faculty benefits of which any diminution of faculty rights under the code are of particular concern. Thus as Professor Stevens notes: "it really isn't within BFW's jurisdiction to double-check that PRPC has done its job."
- With respect to the PRPC code revision we note that two issues should be addressed.
  - That for all meetings between a faculty member and a committee, an ombudsperson must be present.
  - If we are going to persist with the fiction that the "department" not the Department Head does the evaluations with respect to PTR then the "department" must meet as a body once per year to ensure PTR standards are understood and applied.
  - BFW agrees with AFT on items b and c of their response dated March 6, 2015

#### Issue 2: Evaluation of the code revision.

- The "will of the senate" is supposedly presented in the code revision, however as Professor Stevens notes: "That January faculty senate meeting was unnecessarily rushed and uncivil. Senators were interrupting, talking over others, and misusing rules of order (such as repeated inappropriate applications of "calling the question" to prematurely end discussion)."
  - The central issue with the January meeting was the one-sided nature of the presentation that dealt only with the proposal coming out of FSEC committee. That is, all the senate did was modify the proposal coming out of the FSEC and then pass it along "as the will of the senate". At that point PRPC's hands were tied. However, there was no effort to examine the existing code and make the same sort of revisions. It simply sat by itself as the unwanted step child, ignored and with no defense.
  - As has been provided to FSEC multiple times, it is possible to tweak the existing code, with little effort, which will eliminate the problems of administrative interference and keep a faculty right with the faculty. This solution has been largely ignored by FSEC.
- The proposal continues to transfer a faculty right to an administrator, i.e., the department head.

- The proposal makes special effort to remove the term Department Head and replace it with Department. While in theory it is the department that makes evaluation decisions, this is largely a fictional structure and it is, in fact, the DH that makes all evaluative decisions.

As one member of BFW observed, “in all reviews, evaluations and salary discussions, FACULTY have been taken out of the process and we are enabling one more cut to faculty input.”

- Given that DHs, who are hired by and subject to the deans of the colleges, it may be expected that DHs would be in favor of the code change. However, there is evidence that DHs are not in favor of such a change.
- The proposal continues to be punitive rather than collaborative and includes no incentives. Thus the proposal has a serious incentive misalignment problem.
- The proposal is unnecessarily complex.
  - The single benefit that has been identified for this proposal is that it will reduce faculty workload. That is, faculty will not have to meet every 5 years to collaboratively work with their colleagues.
    - As our very young charges would say “REALLY!” Are we willing to admit that we are too lazy or incompetent to fulfill our duty to the academic community and that instead we, the faculty, are willing to rely on administrators whose allegiance is to the administrative structure and not necessarily to the faculty.
    - Are we willing to forego the idea that “Faculty status and related matters, such as appointments, reappointments, nonrenewals of appointments, terminations, dismissals, reductions in status, promotions, and the granting of tenure are primarily a faculty responsibility?” (401.8.1(3))
- The consensus of those attending the BFW meeting on February 27 is that the proposed code change is not in the best interests of the faculty.

## Faculty Diversity, Development and Equity Committee Annual Report Spring 2015

### Charge:

The duties of the Faculty Diversity, Development, and Equity Committee are to: (1) collect data and identify and promote best practices for faculty development, mentoring, and work environment to facilitate the success of diverse faculty at all career levels; (2) provide feedback and advocate processes for faculty recruitment, promotion, and retention that promote diversity, fair pay standards and work/life balance for the faculty; (3) report on the status of faculty development, mentoring, diversity, and equity; and (4) make recommendations for implementation of proposals related to faculty diversity, development, and equity.

**Committee Members:** Jim Rogers; Helga Van Miegroet; Britt Fagerheim; Juan Villalba; Justen Smith; Christopher Johnson; Nancy Huntly; Man-Keun Kim; Jennifer Truschka; Anne Hedrich; Zsolt Ugray; Nancy Hills; Cinthya Saavedra-Chair.

### *Brief 2014 Summary*

#### 2014 Number of Female Faculty by Rank/Tenure

College	Availability (2009-2013)	Total Number Female faculty (percent of total)	Number of Non-tenure track female faculty	Number of Tenure track Female faculty (percent of TT faculty)	# Women Assistant Professor	# Women Associate Professor	# Women Full Professor
College Of Agriculture & Applied Sciences	35%	49 (32%)	17	32 (31%)	10	16	6
Caine College of the Arts	58%	20 (29%)	8	12 (23%)	2	8	2
Jon M Huntsman School of Business	32%	16 (21%)	8	8 (14%)	5	2	1
E Eccles Jones Coll of Ed & Hum Svs	68%	102 (61%)	34	68 (57%)	26	22	20
College Of Engineering	19%	16 (17%)	4	12 (15%)	6	6	0
College of Humanities and Social Science	57%	75 (46%)	21	54 (42%)	17	26	11
Quinney College of Natural Resources	36%	17 (32%)	5	12 (25%)	6	4	2
College Of Science	39%	36 (27%)	10	26 (24%)	10	9	7
Cooperative Extension	45%	25 (42%)	0	25 (42%)	9	13	3
Regional Campuses	--	31 (53%)	19	12 (50%)	7	4	1
Library	72%	13 (68%)	0	13 (68%)	5	7	1

## 2014: Non-White Faculty as a Percentage of total Faculty and Availabilities

College	Availability (2009-2013)	Non-White faculty (percent of total)	Tenure track Non-White faculty (percent of TT faculty)	Tenured Non-White faculty (percent of TT faculty)
College Of Agriculture & Applied Sciences	20.14%	7.97%	25.00%	6.67%
Caine College of the Arts	13.59%	6.67%	13.33%	6.25%
Jon M Huntsman School of Business	23.62%	4.41%	8.33%	5.26%
Eccles Jones College of Ed & Hum Svs	18.19%	8.11%	12.00%	8.97%
College Of Engineering	27.85%	28.24%	33.33%	30.36%
College of Humanities and Social Science	20.18%	8.90%	10.00%	7.53%
Quinney College of Natural Resources	17.20%	4.00%	0.00%	6.25%
College Of Science	22.49%	12.90%	16.67%	7.14%
Cooperative Extension	15.23%	1.69%	7.69%	0.00%
Regional Campuses		5.66%	7.69%	0.00%
Library	23.04%	0.00%	0.00%	0.00%

As outlined in previous annual report of FDDE, we report summary statistics on gender and race/ethnicity based on the Fall census data from the previous academic year (AY 2014-2015) obtained from the office of Analysis, Assessment, and Accreditation (AAA).

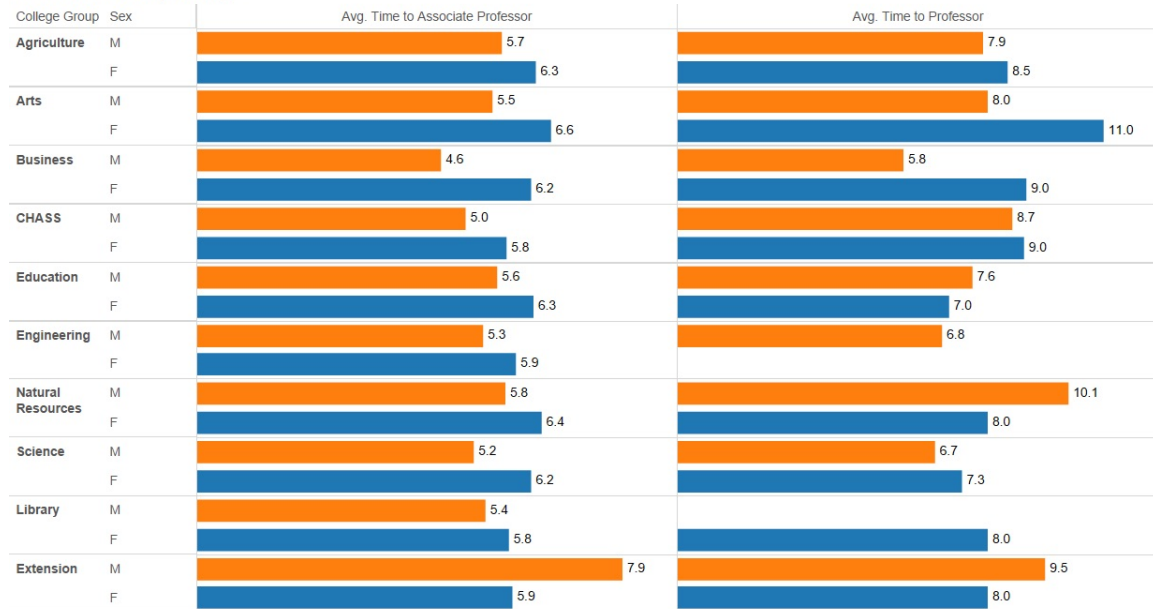
### Findings related to Gender and Race/Ethnicity distribution by College:

- The relative distribution of women across non-tenure track (non-TT) vs tenure-track (TT) positions informs on the ability of women to obtain secured faculty positions with prospects of upward mobility and career advancement.
- In general, women faculty occupy more TT than non-TT positions, with ratios in the range of 1.5:1 to 3:1. Exceptions are Cooperative Extension where all are in TT positions. In addition RC stands out by having a greater proportion of the women faculty in non-TT positions (Table 1).
- Expressing women faculty as a percent of the total faculty in either TT vs. non-TT positions suggests that compared to their male colleagues, women are slightly more likely to occupy non-TT positions.

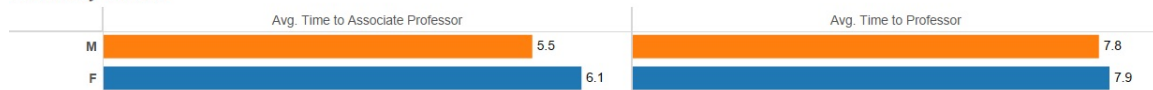
- The relative proportion of women faculty (percent of total) must be evaluated against labor market availability (i.e., PhDs granted within a given period), which can vary greatly among fields. This allows us to identify those colleges that are approaching availability vs. those that still show measurable difference in gender distribution.
- Our figures on race/ethnicity distributions are incomplete because they rely on the faculty self-identification across race/ethnicity categories.
- The absolute low number of non-white faculty [non-resident aliens (NRA) are excluded from this count] in some academic units and the need to protect the privacy of those individuals, does not allow FDDE committee to break out the race/ethnicity distributions beyond white /non-white categories and across non-TT and TT faculty positions (i.e., not by rank) (Table 2).

## 2015 Time to Tenure by College Gender

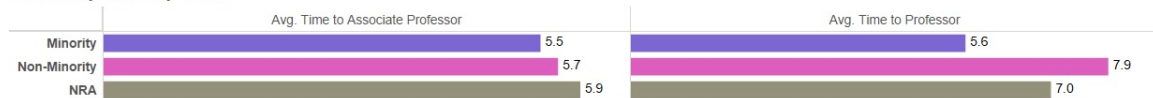
Time to Tenure by College



Overall by Gender



Overall by Minority Status



In addition to simple distributions by gender and race/ethnicity of faculty in each college and across non-tenure track (non-TT) tenure-track (TT) faculty positions, we also report on time in rank and retention of faculty hired since 2008.

It is important to note that for 2014, numbers in the “overall by minority status” reflect the following numbers: White 497 and non-White 48—Among tenured faculty the ratio of White to non-White is 10:1. Therefore average time to associate reflects few numbers of minority faculty and most likely even less at average time to full professor.

## Faculty Retention by Gender & Minority



### Findings related to Retention of Faculty by Gender and Race/Ethnicity

- The data in the Figure above represents relative retention of faculty hired since AY 2007-2008 across all colleges. AAA compiled the data upon request of FDDE. Analysis starts with faculty hires in AY 2007-2008 as the first reliable reporting year for this type of data (Michael Torrens, *Personal Communication July 2015*).
- Data are divided into two gender categories (male/female) and three race/ethnicity categories (minority=non-white; non-minority=white; NRA= non-resident aliens).
- The data representation follow the same structure: the year above each box, indicates the academic year in which faculty were hired (e.g., 2007-2008, 2008-2009 etc.). The green bars and associated number and percentages by consecutive years (at the bottom) signify the last census year in which these faculty appeared. The dark green bar represents those faculty that still are accounted for in the last census (Fall 2014). For example, in academic year 2007-2008 a total of 40 male and 22 female faculty were hired; of those, 27 male faculty and 13 female faculty were still accounted for in last year's census, while 13 male faculty and 9 female faculty hired in 2007-2008 left USU in the

intervening years. One male faculty within less than 2 years of being hired (2007 is the last census in which this individual appears, i.e., left somewhere in the course of AY 2008-2009), with 3 leaving the following year, then another 2 in the year thereafter, etc.

- This graph does not allow us to ascertain the reasons for leaving, but it is clear from the steady loss of faculty that tenure and promotion timing is not the sole reason.
- This data indicates that within 7 years after being hired, around two-thirds of the faculty are still here, while as many as 41% have left USU. There are no marked differences among white and non-white faculty in loss/retention patterns. However, there are retention differences by gender that are consistent across hiring cohorts, with the retention of women always lower than that of male faculty. The retention in 2014 of women hired between 2007 and 2013 is 4-9% lower than that of their male counterparts.
- There are no consistent and discernable differences in retention by race/ethnicity, and with the exception of the hires in AY 2009-2010, this data does not indicate a weaker retention of minority faculty hires compared to white faculty in the respective hiring cohorts.

### **Recommendations:**

We recommend the following:

- That the FDDE committee be able to access pertinent data regarding overall faculty status in order to standardized the process of obtaining data for faculty senate report. We propose that faculty senate make requests to AAA office. As of now the FDDE can request data but it is at the discretion of AAA. For example, we have asked that certain HR data and AAA data to be made available but we are at the discretion of the AAA and their available time to gather data for FDDE committee. Having the process be more standardized and or automated, the FDDE could spend more time gathering research and best practices, that promote a better working environment included but not limited to increasing faculty diversity, retention, and development.
- That the FDDE have more guidance from Faculty Senate regarding the report: The FDDE has the following questions: Is this snapshot acceptable to the FS? Where does the FS envision USU (in a strategic sense)? Who is going to use this data and for what (strategic) purpose?
- In order to be more efficient, and meet quorum, we ask the FDDE membership numbers be reduced. Right now, we have about 6/13 members in attendance.



## **Next Steps**

The FDDE committee will be looking at reasons for the 35-40% attrition of new hires and make recommendations.

### 405.12.3 College Faculty Appeals Committee (CFAC)

The College Faculty Appeals Committee (CFAC) committee shall consist of five tenured faculty members, ~~with as broad of each representing different representation as possible across each representing~~ departments within the college or unit, where possible. Three members of the CFAC will constitute each appeals panel. participate in each appeal. Members of the CFAC serve three year staggered terms. Members may run for subsequent terms. The five members of the CFAC select a chair (and a co-chair, if desired). To fill vacancies After initial formation of in ~~the the~~ CFAC, the chair solicits nominations from across the college or unit and runs the election while striving to keep broad representation across departments.

~~Where~~WHEN mutual agreement on committee membership of the Peer Review Committee or other committees cannot be reached on the PRC (405.12.2) ~~makeup is required and department head and faculty member do not agree on committee membership,~~ a College Faculty Appeals Committee (CFAC) shall decide membership. Either the faculty member and/or the department head (or equivalent) can initiate an appeal by written request to the CFAC chair. Each side submits a one page document ~~listing their preferred choices for the committee membership, briefly outlining their~~ concerns and suggestions regarding committee membership. rationale and, if desired, the willingness of each person to serve. Within three weeks of receiving the request for an appeal, a meeting shall be held, a decision made and delivered to both the faculty member and department head. At the meeting each side may present their rationale for their request. Neither the department head nor the faculty member is required to attend, but both shall have the opportunity to voice their request. A simple majority of the three CFAC decides the membership of the committee in question and the decision is binding.

## PROMOTION ADVISORY COMMITTEE (PAC)

### POTENTIAL CODE CHANGES:

#### 405.6.2 (2) Promotion advisory committee (PAC).

Following tenure, a faculty member may request, through a letter to the ~~Department~~Department head ~~or supervisor~~, that a promotion advisory committee be formed for him or herself. Although promotion to ~~full~~ professor is not required, a PAC is required to be held within the first three years following tenure to apprise the faculty member of the opportunities and expectation ~~related in regards~~ to advancement.

The promotion advisory committee will be formed by the ~~department~~department head ~~or supervisor~~ following consultation with and receiving written and/or oral input from the faculty member and in consultation with the academic dean, or vice president for extension, and, where appropriate, the chancellor or regional campus dean, within 30 days of receipt of the written request.

The promotion advisory committee shall be composed of at least five faculty members who have tenure and hold the rank of professor. The department head or supervisor shall appoint a committee chair other than him or herself and at least one member of the promotion advisory committee shall be chosen from outside the academic unit. Department heads and supervisors of the candidate shall not serve on promotion advisory committees, and no committee member may be a department head or supervisor of any other member of the committee.

The candidate may ~~submit a~~ request to replace committee members. If a request is made or a vacancy occurs for any other reason, the department head or supervisor may replace members of the promotion advisory committee following consultation with the faculty member and academic dean or vice president for extension, and, where appropriate, the chancellor or regional campus dean.

#### 405.8.2 Faculty with Tenure

~~The PAC shall meet with the faculty member no later than the spring semester of the third year. Within three years following tenure, the promotion advisory committee shall meet with the faculty member. The meeting shall be held no later than the spring semester of the third year.~~ The purpose of the first PAC meeting ~~of the promotion advisory committee~~ is to provide guidance to the faculty member with regard to his or her performance relative to the criteria and qualifications for promotion to professor.

All promotion advisory committee members shall participate ~~interactively~~ in all committee meetings, either physically or by electronic conferencing. The promotion advisory committee ensures that the faculty member has an appropriate signed role statement and that his or her performance is evaluated relative to the role statement. An ombudsperson must be present in person or by electronic conferencing.

~~The promotion advisory committee is to ensure that the faculty member has an appropriate signed role statement and that his or her performance is evaluated relative to their role statement, in the context of meeting the criteria required for achieving promotion to the rank~~

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~~of professor.~~ The faculty member may request additional meetings with the promotion advisory committee if desired.

When the faculty member wishes to be considered for promotion to professor, the promotion advisory committee shall meet upon request of the faculty member during the Spring semester prior to the academic year when the candidate's dossier would go forward ~~for promotion.~~

Within 30 days after any meeting with the faculty member to discuss promotion (but not the evaluative meeting in 405.8.3), the promotion advisory committee chair shall write a report on the guidance given to the faculty member based on the committee's discussion. All members of the promotion advisory committee and ombudsperson shall read and sign the final draft of the report. The report will then be sent to the candidate and his or her department head or supervisor, academic dean, the vice president for extension, or, where appropriate, the chancellor or regional campus dean.

A faculty member considering promotion to professor is strongly encouraged to consult with his or her department head or supervisor and academic dean to obtain ~~from them~~ additional guidance about the faculty member's readiness for promotion.

The department head or supervisor, academic dean or vice president for extension, and, where appropriate, the chancellor or regional campus dean, provost, or president may propose promotion. Such a proposal shall be referred to the faculty member and promotion advisory committee for consideration and all procedures of 405.8.3 shall be followed.

If the faculty member has asked to be considered for promotion to professor, the department head or supervisor will provide an evaluation of the candidate's progress towards promotion to professor and identify any areas requiring improvement in the candidate's performance, as necessary. Copies of the department head's or supervisor's report will be provided to the faculty member, the promotion advisory committee, the academic dean or vice president of extension, and, where appropriate, the chancellor or regional campus dean, no later than 30 days following the meeting with the promotion advisory committee.

## **402.10 SENATE ELECTIONS**

### **10.1 Apportionment of Elected Faculty Positions**

Annually, the Senate Committee on Committees shall apportion the number of elective Senate positions to the academic colleges, Regional Campuses and Distance Education, USU Eastern, Extension, and the Library in proportion to the number of tenured and tenure-eligible faculty.

| The minimum representation from each of these academic units shall be ~~one~~ two.