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## Faculty Senate Executive Committee Agenda, November 19, 2012

Utah State University

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## **FACULTY SENATE EXECUTIVE COMMITTEE**

November 19, 2012  
3:00 - 4:30 p.m.  
Champ Hall

### **Agenda**

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- 3:00 Call to Order**.....Renee Galliher  
Approval of Minutes October 15, 2012
- 3:05 Announcements**.....Renee Galliher  
• Next Brown Bag Lunch w/President December 13th noon Champ Hall
- 3:10 University Business**.....Stan Albrecht, President  
Raymond Coward, Provost
- 3:30 Information Item**  
1. ASUSU Report - Christian Thrapp  
2. Retention and Student Success Report - John Mortensen
- 3:50 New Business**  
1. EPC Items.....Larry Smith  
2. 406 Code Changes.....Vince Wickwar  
3. Code change suggestion from faculty member 405.8.2.....Renee Galliher  
4. PRPC Code Changes 402.12 and 407.....Terry Peak  
5. Commissioner's 66% Initiative.....Ray Coward  
6. Short Discussion and Prioritization of Faculty Forum Issues.....Renee Galliher
- 5:00 Adjournment**



**FACULTY SENATE EXECUTIVE COMMITTEE MINUTES**  
**OCTOBER 15, 2012 3:00 P.M.**  
**Champ Hall Conference Room**

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**Present:** Renee Galliher (Chair), Dale Barnard, Alan Blackstock, David Cassidy, Richard Clement, Karen Beard for Todd Crowl (excused), Jennifer Duncan, Curtis Dyreson, Nancy Hills, Lyle Holmgren, Terry Peak for Doug Jackson-Smith (excused), Yanghee Kim, Vincent Wickwar, President Stan Albrecht (Ex-Officio) (excused), Provost Ray Coward (Ex-Officio), Glenn McEvoy (Past President), Joan Kleinke (Exec. Sec.), Marilyn Atkinson (Assistant) **Guests:** Arthur Caplan, Amber Summers-Graham, Ed Reeve, Rob Rusnack, Marie Walsh.

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Renee Galliher called the meeting to order at 3:00 p.m.

**Approval of Minutes**

Glenn McEvoy made a motion to approve the minutes of September 17, 2012. The motion was seconded by Yanghee Kim and the motion passed unanimously.

**Announcements**

- Brown Bag Lunch with the President & Provost, October 17, 12:00 noon in Champ Hall.
- The Faculty Forum Planning Meeting will take place immediately following this FSEC meeting.
- Faculty Forum is November 5, 2012, Taggart Student Center Auditorium 3:00 to 4:30 pm.

**University Business - President Albrecht and Provost Coward.**

Provost Coward discussed the change in the missionary policy for the LDS Church and the immediate impact it may have on enrollments at the university. The policy change now allows LDS males to serve missions at age 18 and females to serve at age 19. The largest enrollment impact is expected to be seen with female enrollment from this group. We could see a significant drop in the student body Spring Semester. This could have a major financial impact on the University for the next three years. Losing 1000 students would create a \$3.5 million reduction in tuition revenue in addition to the loss of housing and bookstore revenues. The LDS Church is polling students through the young adult wards to try to get an idea of how many will not be returning to school in the spring.

**Information Items**

**Honors Program Annual Report – Amber Summers-Graham for Michelle Larson.** Amber highlighted a few points in the report. There were four Goldwater winners from USU this year, two scholarship recipients and two honorable mention awards. There were 35 graduates over the last academic year. 150 Freshman are admitted to the program every Fall, with total participation averaging about 500. One area of concern is completion of the program. A task force has been formed to evaluate course offerings and the rigor of the program. The task-force recommendations will be sent to the President by the end of this semester. A search for a new program director will likely take place sometime in the next year.

A motion to place the Honors Annual report on the consent agenda was made by Glenn McEvoy and seconded by Dale Barnard. The motion passed unanimously.

**Faculty Evaluation Committee Annual Report – Arthur Caplan for Karen Mock.** Glenn McEvoy asked why the FEC Report did not focus in detail about what the committee accomplished last year but mainly focused on plans for the coming year. The executive committee provided clarification regarding the expected content of annual reports. Yanghee Kim served on the FEC committee last year and reported that the committee met twice last year and of the 16 members only 7 attended the first meeting. There was discussion to clarify the activities of the committee during the 2011-2012 academic year. Suggestions were made about the kinds of follow-up studies that might be done on the newly implemented IDEA system. Glenn McEvoy asked that an invitation to attend the next meeting be extended to the Faculty Senate President in order to provide some guidance to the committee. Arthur indicated that this would be very welcome.

A motion to place the report on the consent agenda was made by Glenn McEvoy and seconded by Dale Barnard. The motion passed unanimously.

**Athletic Council Report – Marie Walsh and Rob Rusnack for Ken White.** The Athletic Council meets at least 6 times per year and reviews the academic progress of student athletes. The composite GPA of the universities 375 athletes is 3.19. The Graduation Rate for the 05-06 cohort is at 65%. Of the 375 student athletes 185 are Academic All Conference and 197 students have had a GPA greater than 3.2 for 2 semesters.

The Athletic Department has had several facilities updates including an upgrade to the surface of Merlin Olson Field, scoreboards in the Spectrum and a new 20,000 square foot practice facility. Funding for these improvements comes from several different sources, but the entire practice facility is funded through philanthropy.

Total revenue was up about \$1 million, but expenses were up about \$2 million. The largest expenditure this year was the Mountain West Conference payment. A senator asked where the \$275,000 raise for the football coach was funded from. Rob Rusnack indicated that one half of the amount was funded by the Presidents' office and one half was from internal funding. The student fee increase resulted in \$3 million in revenue.

A motion to place the report on the consent agenda was made by Glenn McEvoy and seconded by Curtis Drysen. The motion passed unanimously.

### **New Business**

**EPC Items – Ed Reeve for Larry Smith.** The Academic Standards and General Education Sub-Committees had no report. The Curriculum Sub-Committee processed 20 R-401 requests and 71 course requests. These were resulting from the recently conducted Graduate School review.

A motion to place the EPC monthly report on the agenda as an action item was made by Yanghee Kim and seconded by Nancy Hills. The motion passed unanimously.

### **Adjournment**

The meeting adjourned at 4:30 p.m.

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Minutes Submitted by: Joan Kleinke, Faculty Senate Executive Secretary, 797-1776

# 2012-2013 Annual Report

# **ASUSU**

Compiled by: Christian Thrapp, President

## Membership

President:	Christian Thrapp
Executive VP:	Ben Wilson
Student Advocate VP:	Christian Orr
Athletics VP:	Karson Kalian
Programming VP:	Chaise Warr
Diversity VP:	Mariana Ochoa
Service VP:	Jeremy Nef
Academic Senate President:	Jordan Carl Hunt
Ag Senator:	Ashley Diamond
Art Senator	Meg Clawson
Business Senator:	Jeff Parker
Engineering Senator:	Riley Bradshaw
Education Senator:	Mike Rees
HASS Senator	Trent Morrison
Natural Resources Senator:	Liz Kirkham
Science Senator:	Bailee Binks
Grad. Senator:	Zach Portman
Administrative Assistant:	Holden Brown
Public Relations Director:	Abigail Kingsford
Activities Director:	Hannah Blackburn
Traditions Director:	Sloan Bailey
Arts & Lectures Director:	Luke Ensign
RCDE President:	Kinsey Friar

## Vision

Providing the best university experience possible.

## Purpose

The Associated students of Utah State university (ASUSU) is an organization that enhances the quality of student life and acts as the liaison with the University staff, faculty, and administration. In order to make this possible, ASUSU is organized into three main bodies; Executive council, Academic Senate and Student Traditions Activities and Arts Board (STAB).

## Meetings

Executive Council	Tuesdays @ 7:00 AM	TSC Senate Chambers
Academic Senate	Mondays @ 5:00 PM	TSC Senate Chambers
STAB	Tuesdays @ 8:00 PM	TSC Senate Chambers

## Initiatives

### Executive Council:

#### Aggie Life and Wellness Center & Aggie Legacy Fields:

- Aggie Life and Wellness Center
  - Students voted to have the Aggie Life and Wellness Center. The Utah Infrastructure and General Government Appropriations Committee (IGG) is reviewing the plans for the Aggie Life and Wellness Center. If the IGG accepts the plans, they will move on to the State Legislature.
- Aggie Legacy Fields
  - The Aggie Legacy Fields were recently completed. This project includes one full size soccer field, two flag football fields, and softball fields. The project also includes an automated lighting system so the fields can be used at night. This project was voted on and passed by the students in February 2012.
- Both of these projects will improve the overall experience/retention of students at Utah State.

#### ASUSU Website

- President's Cabinet has convened a committee to renovate the ASUSU website. They feel this will be beneficial to students looking for more information. The website will be designed to break down the barriers of entry into student involvement for all students. The website is predicted to be completed by Spring semester 2013.

#### Voter Registration Drive

- ASUSU participated in a state wide voter Registration drive. The Government Relations Council (GRC) headed the drive on campus. We had more than 1300 students register to vote in the November elections. They hoped that more students would be excited to vote in local and national elections.

#### Education First Drive

- After completing a successful campaign to get students involved with local legislators, ASUSU is at it again. They are stepping up their efforts to get students to sign education first petitions in order to show the state legislators that students care about their education.

### Academic Senate:

#### Fund Allocations

- Classroom Improvement Fund: \$37,500
- Sophomore Scholarship: \$34,000
- Academic Opportunity Fund: \$20,000

## STAB

This year STAB programs have been bigger than ever. We have seen record attendance at almost every event. Along with increased attendance, there has been a very large demand for involvement opportunities by students. The STAB board has worked hard to create more positions and delegate more responsibility. They are reporting much higher involvement rates.

- Activities:
  - Howl:
    - This year the Howl earned more money as they had lower expenses and higher revenues than in the past couple of years.
  - Aggie Event Series
    - These monthly events have been a great opportunity for students to attend something different. We have received positive feedback on the array of activities.
- Arts and Lectures:
  - Event list:
    - Drive-In Movie
    - Spencer West
    - Gary Langer
    - Poetry and a beverage
  - Aggie Cinema Series
    - The Cinema Series was developed for the same purpose as the event series and has had two full showings in the ballroom.
    - Movie on Old Main
- Traditions:
  - Homecoming Week:
    - Mr. USU competition: Winner, Doug Fiefia
    - Chalk dance
    - Street painting
    - Homecoming Dance
    - High Stakes Bingo



## Abstract

This report is prepared on an annual basis for the Faculty Senate at Utah State University in an effort to provide basic student cohort and retention data, and to explain processes, initiatives, and programs central to student retention efforts at Utah State. Following a summary depiction of current and recent available cohort and retention data, this report will annotate previous, on-going, and future initiatives representing a broad collaboration amongst faculty and staff. The report concludes with a statement emphasizing the critical nature of collaboration among faculty, staff, and administrators in efforts to meaningfully engage students in their Utah State University experience.

## Administrative Oversight for Retention and Student Success

John Mortensen serves as Assistant Vice President for Student Services over Enrollment Services and Retention. Donna Crow serves as Executive Director for Student Success. Matt Sanders, faculty member in Communication Studies, chairs the Faculty Engagement in Student Retention Subcommittee. Jason Thomas, Assistant Director of Student-Athlete Services, chairs the Provisional Admission Subcommittee, and Whitney Milligan, Director of Residence Life, chairs the Student Engagement Subcommittee. The Retention Leadership Team has been charged with the mission of comprehensively approaching the processes of student transition, integration, and persistence through programs, initiatives, and research. In addition, the following units report to the Assistant Vice President:

- Academic Resource Center
- Admissions
- Career Services
- Financial Aid
- New Student Orientation
- Registration
- Student Support Services
- University Advising

Beyond the scope of these programs, the Retention Leadership Team collaborates extensively with departments, offices, and individuals from across the University to identify and implement programs and initiatives designed to contribute to student success and mitigate student attrition.

## Enrollment and Program Participation Figures

### Cohort Enrollment Numbers (provided by Office of Analysis, Assessment, and Accreditation)

	2008	2009	2010	2011	2012
First-Time, Full-Time, Degree-Seeking Students, Logan Campus (Initial Cohort)	2,549	2,639	2,914	2,937	2,846
First-Time, Full-Time, Degree-Seeking Students, Total USU	2,665	2,796	3,069	3,455 <sup>1</sup>	3,384

### Program Participation Figures (provided by New Student Orientation)

	2008	2009	2010	2011	2012
Number of Students Enrolled in Traditional, Pre-Semester Connections	1,597	1,557	1,694	1,672	1,596
Number of Students Enrolled in All Sections of Connections	1,737	1,710	1,811	1,781	1,690
Number of Students Participating in SOAR	3,021	3,084	3,318	3,334	3,295
Number of Parents Attending Orientation on Campus	1,123	1,345	1,607	1,655	1,581

## Student Retention Performance and Future Goals

### First-to-Second-Year Retention for Initial First-Time, Full-Time, Degree-Seeking Students

Cohort Year	Logan Campus Plus Regional Campuses	Official Retention Rate (one year later)
2006	2,508 <sup>II</sup>	73.4%
2007	2,744	72.8%
2008	2,665	73.2%
2009	2,796	71.2%
2010	3,069	71.7%
2011	3,081	Not yet available <sup>III</sup>

The Retention Leadership Team and the Vice President for Student Services have established the following first-to-second-year retention goals for Utah State University:

### First-to-Second-Year Retention Goals

	2012	2013	2014	2015	2016
Students in 4-Year Programs	73.0%	74.0%	75.0%	75.5%	76.0%
Students in 2-Year Programs	50.0%	52.0%	53.0%	54.0%	55.0%

*The year 2012 represents the first-year retention for 2011 cohort students.*

## Six-Year Graduation Performance and Future Goals

### Six-Year Graduation Performance for Initial First-Time, Full-Time, Degree-Seeking Students

Cohort Year	Logan Campus Plus Regional Campuses	Official Six-Year Graduation Rate
2001	2,459 <sup>IV</sup>	44.2%
2002	2,308	50.1%
2003	2,466	54.8%
2004	2,158	51.4%
2005	1,984	52.8%
2006	2,508	Not yet available <sup>V</sup>

The Official four-year average (2002-2005) was 52.3%. The Retention Leadership Team and the Vice President for Student Services have established the following six-year graduation goals for Utah State University:

### Graduation Goals – Students Who Graduate Within Six Years of Cohort Term

	2012	2013	2014	2015	2016
Students in 4-Year Programs	53.0%	55.0%	56.0%	57.0%	58.0%
Students in 2-Year Programs	32.0%	32.5%	33.0%	34.0%	35.0%

*The year 2012 represents the sixth-year graduation for 2006 cohort students.*

Retention and graduation goals will be met through the following initiatives.

## Ongoing Retention and Graduation Initiatives

### 1. Enrollment Confirmation and Course Requests

A website is available for incoming freshmen to request a cluster of courses, based on their major, interests, previous academic background, and advisor recommendations. The process allows the students to be preregistered into a set of courses prior to participating in SOAR.

### 2. Student Orientation, Advising, and Registration (SOAR)

All incoming freshmen are required to participate in this program. Additional options of SOAR have been created, including an evening session for nontraditional students and veterans, as well as a session for students who earned a New Century Scholarship prior to attendance. Online SOAR has been revised and improved and alternative versions of it are being used by the regional campuses.

### 3. University Connections Course (USU 1010)

Connections is an optional first-year experience course for incoming freshmen. Over 50 percent of the incoming freshman class take this course. University Advising uses the grades reported from this course as an early alert tool in identifying and following up with students who may be struggling academically.

### 4. Weekly E-mail to Students

Students may sign up to have an e-mail sent to them weekly. The e-mail includes important campus dates and deadlines, highlights one of the campus resources available, highlights a campus club or organization, shares a variety of tips from the A-Team, and provides a calendar of events on campus and in the community.

### 5. Retention Committee and Subcommittees

The Retention Committee and its subcommittees meet regularly to plan and discuss initiatives that may have a positive impact on student retention.

- The **Provisional Admission Subcommittee** uses representatives from across campus that are engaged in developing and implementing high-touch programming, to encourage the retention and success of provisionally admitted students. This programming begins with a mandatory and customized SOAR orientation, early alert, timely communication and services from advisors and academic support program offices, mid-term progress reports, and peer advising.
- The **Student Engagement Subcommittee** focuses on programs and issues that help students become more socially engaged in their experience at USU.
- The **Faculty Engagement in Student Retention Subcommittee**, formerly known as the Academic Experience Subcommittee, was reconfigured and given a new charge. A faculty member from each college serves on the subcommittee, as well as a representative from RCDE and Student Services. This subcommittee is focusing on some best practices for which faculty are engaged in student retention efforts and is exploring the implementation of some campus-wide initiatives.

### 6. Registration reminders and assistance

E-mails are sent to currently enrolled students to inform them of priority registration for an upcoming semester. In addition, a follow-up e-mail is sent to students and offers assistance to those who did not take advantage of preregistration.

### 7. Access to Student Progress and Retention Data

A range of reports have now been created and are both available and customizable through the USU Reporting Warehouse. Departments can now access specific report templates and track aggregate and individual student data longitudinally using varied sets of criteria. Access to this information now puts into

the hands of these offices and departments the capability to better monitor the students they serve and determine appropriate courses of action on the basis of this analysis.

#### **8. Leave of Absence**

USU has a significant number of students who take a leave of absence for a variety of reasons. A website was created to assist students in their transition away from and back to USU. The processes that are in place have led to a high return rate of those who have left. Students who leave for church service or military service may be excluded when retention or graduation rates are calculated. Students who return and graduate within six years of their initial start date may be included in the calculation of graduation rates.

#### **9. Readmission of students who left USU on warning, probation, or suspension**

A new readmission process was initiated in 2004. Of the students who were readmitted and enrolled, a high percentage of students have attained good standing and many have graduated, or are on track to graduate.

#### **10. DegreeWorks**

The University has had DegreeWorks for a few years, and it has just recently been implemented for every undergraduate program. DegreeWorks automates a lot of the course planning and what-if scenarios, giving students instant access to this information without the assistance of an advisor.

#### **11. Summer School Calendar, Offerings, and Bell Times**

In Summer 2012, the summer school calendar, offerings, and bell times were modified to better meet student needs. The calendar is more attractive to students and faculty, the offerings are more closely based on student demand, and the bell times are more conducive to assembling a full-time schedule. It is anticipated that summer school will help alleviate some of the current bottlenecks associated with fall and spring semesters.

#### **12. Student Tracker**

Student Tracker is a free service available to USU through the National Student Clearinghouse. This service will be beneficial in identifying and students who transfer and/or graduate from other colleges or universities.

#### **13. University Participation in Utah College Completion Academy**

Representatives from USU participated in the first ever Utah College Completion Academy. Participation in this group will be ongoing. Preliminary discussions focused on measures that could be taken to help students be more successful in mathematics.

#### **14. Retention Reports by Subpopulations**

Retention reports are being prepared that will provide comparison data between students who belong to a specific group versus those who do not. Comparison data will look at academic indicators (e.g., ACT math scores, admission index, etc.) and student engagement indicators (e.g., students who live on-campus, students who belong to a fraternity or sorority, students who participate in Connections, etc.). Many of these reports are available and many more will be developed within the next year.

#### **15. Preregistration for Students Enrolled in MATH 0990 and MATH 1010**

In an effort to keep the momentum going for students who struggle with math, a new website was created that will allow students currently enrolled in MATH 0990 or MATH 1010 to request preregistration into the next math class in their sequence leading to completion of the Quantitative Literacy Requirement.

#### **16. D, F, W, I Grade Reports**

A report has been created that identifies courses for which a high percentage of students receive a grade of D+, D, F, W (withdraw), or I (incomplete). The Retention Committee will discuss strategies that may be suggested to academic departments that may help students be more successful in these classes. An example in one course was the implementation of a prerequisite that would ensure students would be at a certain skill level before registering for the course.

## **Future Retention and Graduation Initiatives**

### **1. Retention Scholarships**

Approximately \$30,000 per year is currently devoted to scholarships for student retention. Efforts are in the works to solicit additional resources.

### **2. Advisor Assignments in Banner**

Approximately 35 percent of students currently do not have an advisor assigned in Banner. An initiative is being explored that would automatically assign advisors in Banner. Advisor assignments would include academic advisors, financial aid counselors, and career coaches. The goal is to make these assignments very visible to students so they know who to go to when questions arise.

### **3. Retention Workshops**

A retention workshop will be rolled out to various University constituencies. Based on their feedback, modified workshops will be prepared for other audiences, including students and their parents.

### **4. Improved Early Alert System**

Automated early alert systems from various vendors are being evaluated. The goal is to implement an automated early alert system by Fall 2013.

### **5. Best Practices**

It is proposed that the Retention website become a clearinghouse for listing all retention-related activities. It is intended that the website will serve as a resource for campus units to replicate successful retention efforts.

### **6. Collaboration with Regional Campuses and Distance Education (RCDE)**

Collaboration efforts with RCDE are already underway to determine how to best provide services and meet the needs of RCDE students.

### **7. Student Portal**

A committee is currently in place to review options for a student portal. A student portal will provide a better way for students to navigate the University's system of support offerings and engagement activities.

### **8. Recruitment Efforts to Bring Back Students Who Left Before Completion**

## **A Concluding Note on Faculty and Collaboration**

According to Kinzie and Kuh (2004), "Sharing responsibility for educational quality and student success is woven into the tapestry of educationally effective institutions." A review of the student success and retention-focused accomplishments noted in this report reveals the significance of effective and efficient collaboration among faculty, staff, and administration in developing effectual initiatives and engendering positive outcomes for students and the institution. While each of the aforementioned initiatives certainly demand the contributions of multiple constituents, it is important to note the central role played by faculty members not only in these initiatives taken individually, but perhaps most critically, in the comprehensive effort to provide for student success and retain students at this institution. The proximity between faculty members and students on a daily basis in teaching, research, and advising capacities allows for members of the faculty to have unparalleled influence on the lives of students, an influence that Richard Light (2001) claims many faculty members often underestimate. Faculty members' efforts, both in their individual work with students on a daily basis, and their participation in centrally-sponsored programs and initiatives such as those outlined in this report, are fundamentally critical to the Utah State University's student retention endeavors and accomplishments, and should be emphatically noted as the basis for the accomplishments listed in this report, and the foundation for the successes to be achieved in the future.

## References

Kinzie, J., & Kuh, G.D. (2004). Going DEEP: Learning from Campuses that Share Responsibility for Student Success. *About Campus*, 9(5), 2-8.

Light, R. (2001). *Making the Most of College: Students Speak Their Minds*. Cambridge, Massachusetts: Harvard University Press, 104.

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<sup>i</sup> 2011 and 2012 Numbers include students from USU Eastern.

<sup>ii</sup> Each initial cohort figure represents the number of first-time, full-time, degree-seeking, Logan and regional campus students in an entering fall semester cohort prior to adjustments for all allowed reporting exclusions used in calculating the University's retention rate. For more information on these adjustments, see <http://aaa.usu.edu/factsfigures/RetentionGraduation.htm>.

<sup>iii</sup> All adjusted cohort totals and corresponding first- to second- year retention figures are prepared each spring by Analysis, Assessment, and Accreditation for the previous academic year's cohort of entering students. Correspondingly, the retention rate for the official 2011 entering cohort will be available from AAA in spring 2013.

<sup>iv</sup> Each initial cohort figure represents the number of first-time, full-time, degree-seeking, Logan and regional campus students in an entering fall semester cohort prior to adjustments for all allowed reporting exclusions used in calculating the University's retention rate. For more information on these adjustments, see <http://aaa.usu.edu/factsfigures/RetentionGraduation.htm>.

<sup>v</sup> All adjusted cohort totals and corresponding six-year graduation figures are prepared each spring by Analysis, Assessment, and Accreditation. Correspondingly, the six-year graduation rate for the official 2006 entering cohort will be available from AAA in spring 2013.

## **Report from the Educational Policies Committee November 1, 2012**

The Educational Policies Committee met on November 1, 2012. The agenda and minutes of the meeting are posted on the Educational Policies Committee web page<sup>1</sup> and are available for review by the members of the Faculty Senate and other interested parties.

During the November 1 meeting of the Educational Policies Committee, the following discussions were held and key actions were taken.

1. Approval of the report from the Curriculum Subcommittee meeting of November 1, 2012 which included the following notable actions:
  - The Curriculum Subcommittee approved 158 requests for course actions.
  - A motion to approve a request from the Department of Applied Economics to discontinue the Plan C in the MS Degree in Applied Economics **and** to create a Master of Applied Economics was passed.
  - A motion to approve a request from the School of Applied Sciences, Technology, and Education to discontinue the Plan C in M.S. degree in Agricultural Systems Technology (AST) **and** to create a Master of Education in Career and Technical Education (CTE) was passed.
  - A motion to approve a request from the Department of Economics and Finance to discontinue the Plan C option in the Master of Science and Master of Arts degrees in Economics was passed.
  - A motion to approve a request from the School of Teacher Education and Leadership to discontinue specializations in Education (EdD and PhD): Management Information Systems, Instructional Technology, Occupational and Adult Education and Special Education was passed.
  - A motion to approve the request from the School of Teacher Education and Leadership to discontinue the MA degrees in Elementary Education and Secondary Education was passed.
  - A motion to approve the request from the Department of Electrical and Computer Education to reduce the number of credits required for the PhD in Electrical Engineering was passed.
  - A motion to approve a request from the Department of Sociology, Social Work and Anthropology to approve a 36 credit Advanced Standing option to the Master of Social Work program was passed.

2. There was no meeting of the Academics Standards Subcommittee in October.
3. Approval of the report from the General Education Subcommittee meeting of October 16, 2012. Of note:

- The following General Education courses and syllabi were approved:

CS 3450 (CI) APPROVED  
HIST 3560 (CI/DHA) PENDING CI/APPROVED DHA  
LAEP 3700 (CI) APPROVED  
USU 1330 (BCA, David Wall)  
USU 1360 (BPS, Mark Noirot)

1. <http://www.usu.edu/fsenate/epc/archives/index.html>



# **Suggested Revisions to Section 406 of the Code Report from the Special Task Force**

November 12, 2012

## **Charge to the Task Force to Recommend Code Changes to Sections 406 and 407 of the USU Policy Manual (January 2012)**

Last year, in 2011, to facilitate the integration of the College of Eastern Utah into the Utah State University system, a thorough review and update was completed on Sections 401 through 405 of the USU Policy Manual (commonly called “the faculty code”). In the course of that review, it became clear that Sections 406 and 407 — those parts dealing with program discontinuance, financial crisis, and financial exigency; and academic due process involving sanctions and hearing procedures — were also in need of an update. As a starting point, several years ago a committee chaired by former President of the Faculty Senate, John Kras, raised a number of pertinent questions about these sections that have not yet been addressed. More recently, the Academic Freedom and Tenure (AFT) committee, based on its experiences, has suggested some changes. This task force was created to make this review and to suggest updates.

The charge to this task force is to make this review, suggest updates, and follow through, as need be, on their revision for final adoption by the Faculty Senate. The time frame is this spring semester, with a possibility that some questions about the suggested updates will occur this coming fall semester.

## **Task Force Members**

Vincent Wickwar	Former President, Faculty Senate; Science; Co-Chair
Ray Coward	Provost & Executive Vice President; Co-Chair
Ed Heath	Former President, Faculty Senate; Ed. & Human Services
Glenn McEvoy	Past President, Faculty Senate; Business
Scott Budge	AFT Committee; Engineering
John Elsweiler	PRPC; Library
Rhonda Miller	BFW Committee; Agriculture
Larry Smith	Executive Senior Vice Provost, Committee Staff
Kim Doyle	Committee Staff

## **Task Force Meetings (15 meetings, each two to four hours long)**

February 3, 2012  
February 15, 2012  
February 29, 2012  
March 23, 2012  
March 28, 2012  
April 4, 2012

April 13, 2012  
April 25, 2012  
May 30, 2012  
July 9, 2012  
July 17, 2012  
August 2, 2012  
September 4, 2012  
September 26, 2012  
October 23, 2012

## **What the Task Force Did**

By the second meeting, it became clear that the 406 section of the code, having to do with suspension of enrollment, program discontinuance, financial crisis, and financial exigency were a mess. For instance, the most severe problem, financial exigency, was discussed before the less severe financial crisis. The description and response to each problem were discussed in very different ways, making it unclear what the intentions were. The steps involved in declaring and handling a financial crisis were so involved that a financial crisis would never be invoked. For instance, when the first severe budget cuts from the legislature occurred in 2008/2009, there was about a three-month period in which to act, whereas the steps under financial crisis would have taken more than a year.

In a series of 15 meetings in the spring, summer, and fall of 2012 (listed above), the committee essentially reorganized and rewrote Section 406 and developed flow charts to outline the steps for a financial crisis and for a financial exigency. The changes were so many and so significant that you are being given the old (current) Section 406 and the new (proposed) Section 406. They are attached. An indication of the most substantial changes is given in the next section.

The effort put into Section 406 was extensive enough that the Task Force did not work on Section 407. That will have to be examined by another Task Force.

## **Significant Changes to Section 406**

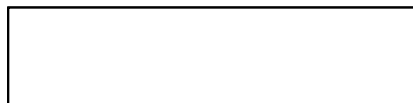
- Sections of 406 describing major actions by the university to address financial situations of varying scale and severity have been reordered. The new order in the revised 406 is: suspension of enrollment, program discontinuance, financial crisis, then lastly, financial exigency.
- Definitions of terms scattered throughout section 406 have now been compiled into one new section near the beginning of 406 (406.2).
- Sections addressing financial crisis (406.5) and financial exigency (406.6) have been substantially revised to add clarity and transparency to these complex and important processes. A new committee, the Financial Crisis Advisory Committee

(FCAC), has been added in the process for addressing a financial crisis.

- Two flow charts have been created and included to make clear steps in the procedures for financial crisis and financial exigency.
- Redundancy of language has been eliminated throughout section 406. For example, the current section on reinstatement (406.5) has been revised and placed first now in program discontinuance (406.4.3) and reference made to it thereafter in financial crisis and financial exigency.
- Clarity of language has been made throughout. For example, “university president” has been used instead of simply “president” to eliminate confusion with the president of the faculty senate. Words such as “discontinuance”, “reduction”, and “termination” have been used in proper contexts to mitigate confusion and differences in interpretation.
- Spelling out the abbreviations for committees has been included to add clarity to the language.
- The involvement of the Board of Trustees or Board of Regents in processes in 406 has been verified and revised to reflect actual policy and practice.
- Timelines for processes have been revised to allow the institution to address financial crisis or financial exigency effectively.

## **What next?**

You are being given the proposed revised version of 406 to review and to decide what to do next. (1) One possibility would be to send it to the Professional Responsibilities and Procedures Committee (PRPC) to review. However, the changes are so extensive that it would be hard for PRPC to review them with their usual diligence without going through many of the same deliberations that the task force already did. That could take at least a year, which would interfere with PRPC doing its normal and essential business. (2) Another possibility would be to send it to PRPC to give its members a chance to read it and then to give their support to sending it to the Faculty Senate with the suggestion that the Senate as a whole be asked to review it in one or two special sessions. In parallel to sending it to PRPC, it would be sent as a courtesy to the Budget and Faculty Welfare Committee (BFW) and the Academic Freedom and Tenure Committee (AFT) to give their members a chance to see it and prepare for the Senate review. In addition to members of the Senate, all members of PRPC, BFW, and AFT would be invited to participate in the review. Such a careful Senate review has been done before when other extensive code changes were suggested. This happened for the code changes to include the College of Eastern Utah (CEU) within the USU family. The review was thorough and was accomplished in a timely manner.



## **POLICY MANUAL**

### **FACULTY**

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#### **Number 406**

**Subject: ~~Suspension of Enrollment~~, Program Discontinuance, Financial Crisis and Financial Exigency**

**Effective Date: July 1, 1997**

**Revision: July 1, 1999, March 6, 2009, August 21, 2009**

**Date of Last Revision: July 8, 2011**

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#### **406.1 INTRODUCTION**

This section of the policy manual specifies the procedures for ~~suspending enrollment~~, discontinuing a program for academic reasons; ~~suspending enrollment~~, determining whether ~~the university faces a major~~ financial crisis ~~not definable as financial exigency~~; responding to a major financial crisis; determining whether ~~at a particular moment~~ the university faces ~~a state of~~ financial ~~exigency~~; responding to financial ~~exigency~~; and reducing the status of, or ~~terminating~~ faculty members due to program discontinuance, major financial crisis, or ~~bona fide~~ financial exigency. ~~Reduction in status of tenured faculty members shall only occur for reasons of program discontinuance, financial crisis, or bona fide financial exigency.~~ In all of the decision making processes described in this section, all parties will act in a ~~timely~~ manner that is respectful of both the principle of shared governance and the need for the institution to take strategic and timely actions to fulfill its mission. The timetable for processes described in this section will be set by the university president.

#### **406.2 DEFINITIONS**

##### **2.1 Academic Program.**

An academic program has an identifiable teaching, research, or other academic mission and may operate within one or more academic units. An academic program must fulfill one or more of these criteria: (a) offer or administer a degree, certificate, or some other credential; (b) have an identifiable curriculum or be formally described in current university catalogs or other publications; or (c) be designated a “program” by specific faculty decision and have an identified group of one or more faculty.

## **2.2 Suspension of Enrollment.**

Suspension of enrollment is an action short of program discontinuance that, if not reversed, will lead to discontinuance, and which refers to the suspension of enrollment in a major subject, a minor subject where there is no corresponding major, a certificate program, or a program awarding a credential certifying completion. Suspension of enrollment does not lead to reduction in status or termination of faculty in the program.

## **2.3 Program Discontinuance.**

Program discontinuance for academic reasons ~~under this policy~~ means the cessation of a program, center, institute, school, department, academic college, or regional campus ~~or site~~ based upon educational and academic considerations. For the purposes of Policy 406.2, educational and academic considerations do not include cyclical or temporary variations in enrollment and/or budgets; but must reflect long-range judgments that the basic teaching, research, and extension mission of the university will be strengthened by the discontinuance. Program discontinuance does not preclude the reallocation of resources to other academic programs with higher priority based upon educational and academic considerations. Program discontinuance may entail the reduction in status or termination of faculty.

## **2.4 Major Financial Crisis.**

To constitute a major financial crisis, a situation facing the university shall ~~(a) be significantly and demonstrably~~ substantially more than a minor, temporary, and/or cyclical fluctuation in operating funds; and ~~(b)~~ involve substantial risk to the survival of departments, colleges, or other major academic components of the university. A substantial risk to survival is considered one where a substantial reduction occurs in: (1, a) the ability to fulfill the mission of the academic unit, (2, b) the number of students served by the academic unit, or (3, c) the number and quality of course offerings. A major financial crisis may entail the reduction in status or termination of faculty.

## **2.5 Financial Exigency.**

Financial exigency is an existing or imminent ~~very~~ severe financial crisis that: (a) threatens the mission of the institution as a whole, ~~that~~ (b) requires programmatic reductions or closings that may entail reductions in status or termination of faculty to enable the institution to accomplish its mission, and ~~that~~ (c) that cannot be alleviated by less drastic means.

## **2.6 Reduction in Status.**

Reduction in status is a decrease in the length of the contract period and/or the percentage of time that a faculty member is employed by the university.

## **~~2.7 Serious Distortion of an Academic Program.~~**

~~A serious distortion of an academic program shall be deemed to occur when the faculty remaining in the program would not be qualified to meet generally accepted program standards (Section 406.4.1(3)).~~

## **406.3 SUSPENSION OF ENROLLMENT**

### **3.1 Procedure**

#### **(1) Initiation.**

~~After full consultation with the department faculty and approval by the academic dean or vice president for extension and agriculture, and, where appropriate, the chancellor or regional campus dean, a department head that decides to suspend enrollment, must notify the Educational Policies Committee (EPC) as soon as the decision has been made.~~

#### **(2) Review.**

~~The Educational Policies Committee (EPC) will review the proposed suspension of enrollment for its effect on other academic programs of the university. The committee will hold hearings at which all constituencies affected, including students, faculty, and representatives from other departments affected by the proposed action, ~~once notified,~~ have the opportunity to testify. At the conclusion of its deliberations, the Educational Policies Committee (EPC) will recommend approval or disapproval of suspension of enrollment to the Faculty Senate. The Faculty Senate shall make a recommendation to the ~~university president~~ provost who shall consult the university president. This process shall be concluded within 90 days following notification of the Educational Policies Committee (EPC). Suspension is granted by the university president subject to the legal obligation, if any, of the university to permit students already enrolled in the program to complete their course of study.~~

#### **(3) Time limitation.**

~~At any time up to three years after a suspension of enrollment has been granted, it may be reversed by approval of the provost ~~following the~~ after receiving the recommendation of the academic dean or vice president for extension and agriculture, and, where appropriate, the chancellor or regional campus dean. If suspension has not been reversed within this three-year period, program discontinuance must be initiated.~~

## **406.4 PROGRAM DISCONTINUANCE FOR ACADEMIC REASONS**

### **4.1 Decision-Making Process**

#### **(1) Initiation.**

Consideration of the possible discontinuance of an academic program may be initiated at any time by the faculty or a duly appointed faculty committee of that program; the faculty or an appropriate committee of the center, institute, school, department, college, or other academic unit of that program; ~~the~~ Graduate Council; the appropriate department head, academic dean or vice president for extension and agriculture, and, where appropriate, the chancellor or regional campus dean-or by the provost or president of the university. **Steps toward the discontinuance of a program do not require a prior suspension of enrollment in that program.** If a program discontinuance ~~may~~ results in the **reduction in status or termination** of faculty, the person or group initiating the consideration of discontinuance shall prepare, and submit to the provost, a memorandum ~~which that:~~ (a) clearly identifies the program; (b) states explicit criteria by which faculty are identified with the program, (c) states the reasons, with respect to the university's mission and goals, for recommending discontinuance; (d) assesses the probable consequences for faculty, related programs, and the university in general; and (e) suggests a timetable for accomplishing discontinuance. **Program discontinuance is never to be declared with the aim of singling out a specific faculty member.**

#### (2) Distribution.

The provost shall distribute copies of the memorandum, embodying an initial or an amended proposal for program discontinuance, to: (a) the faculty members most directly involved in the academic program proposed for discontinuance; (b) the appropriate department head, academic dean or vice president for extension and agriculture, and, where appropriate, the chancellor or regional campus dean; (c) relevant members of departments and colleges; (d) members of relevant college committees or councils; (e) ~~the Educational Policies Committee (EPC)~~ ~~(f)~~ the members of Budget and Faculty Welfare Committee (BFW); and (~~g~~ ~~f~~) the relevant student college senators.

#### (3) Consultation.

The groups above shall forward comments and recommendations to the appropriate academic dean or vice president for extension and agriculture, and, where appropriate, the chancellor or regional campus dean. He or she shall forward the comments and a recommendation to the provost, and, where appropriate, to the Graduate Council. **The Graduate Council may review this material and make a recommendation to the provost. After receiving and considering the recommendations and comments, the provost shall submit the proposal, the comments, and a recommendation to the Educational Policies Committee (EPC). The Educational Policies Committee's (EPC) recommendation shall be subject to review and debate by the Faculty Senate [Policy 402.12.6(1)]. All comments, recommendations, and supporting material shall be available to the Faculty Senate for its perusal.**

#### (4) Final recommendation.

The Faculty Senate's recommendations shall be forwarded to the university president for consideration. The university president shall submit a final recommendation in writing to the

Board of Trustees and the Board of Regents ~~and shall attach the written comments and recommendations of the Faculty Senate.~~

(5) Notice of program discontinuance.

After the Board of Regents has approved a proposal by the university to discontinue a program, the appropriate academic dean, vice president for extension and agriculture, and, where appropriate, the chancellor or regional campus dean ~~of the program, center, institute, school, department, academic college, or regional campus, or site~~ shall give written notice of the discontinuance to all persons in the ~~program, center, institute, school, department, academic college, or regional campus~~ academic unit. A minimum of one full year, beginning July 1, shall pass from the time a final decision is made to close an academic program to the actual program discontinuance.

#### **4.2 Faculty Reduction in Status or Termination due to Program Discontinuance**

(1) Notice of reduction in status or termination.

In addition to the general notice ~~of program discontinuance~~ in Policy 406.4.1(5), if the program discontinuance results in reduction in status or termination ~~of faculty, then~~ the university president shall give tenured and tenure-track faculty members in the discontinued ~~program, center, institute, school, department, academic college, or regional campus, or site~~ academic program formal notice of reduction in status or termination as follows: (a) if the appointee is untenured and in the first year of service, notice shall be given at least three months prior to reduction in status or termination; (b) if the appointee is untenured and in the second year of service, notice shall be given at least six months prior to reduction in status or termination; (c) if the appointee is tenured or is untenured but in the third or subsequent years of service, notice shall be given at least 12 months prior to reduction in status or termination; ~~(d) the length of notice for faculty with term appointments (Policy 401.4) shall be parallel to that for the untenured faculty described above, with the exception of those term appointees with research or federal research ranks; termination of these faculty is coincident with and contingent upon the termination date of their extramural funding; if their funding extends beyond that of a discontinued program, they may be reassigned to another program;~~ and (e) appointees with specialized functions as defined in Policy 401.5 shall be parallel to that for the tenured and tenure-eligible faculty described above.

~~(2) Relocation~~

~~During a grace period of three years, and with the assistance of the appropriate administrators (e.g., academic dean or vice president for extension and agriculture, and, where appropriate, the chancellor or regional campus dean, and the provost) and the consent of the receiving department, every reasonable and good faith effort will be made to enable affected faculty members to obtain suitable positions for which they are qualified elsewhere in the university for which they are qualified. Tenured faculty members terminated through program discontinuance shall, for a period of three years following the date of their final salary~~



~~payment, receive preferential consideration among candidates with comparable qualifications for any vacant and funded university position for which they apply and are qualified.~~

~~(3) Faculty employment after program reinstatement.~~

~~If a terminated program or position is reinstated, tenured faculty members terminated through program discontinuance shall have the right of immediate reinstatement for a period of three years following the final salary payment.~~

#### **4.3 Reinstatement**

**(1) Tenured Faculty.**

Tenured faculty members terminated through program discontinuance shall, for a period of three years following the date of their final salary payment, receive **preferential** consideration among candidates with comparable qualifications for any vacant and funded university position ~~for which they apply and are qualified~~. Upon request of the affected faculty member, ~~during a grace period of three years, with the assistance of the appropriate administrators (e.g., academic dean or vice president for extension and agriculture, and, where appropriate, the chancellor or regional campus dean, and the provost) and with the consent of the receiving department unit, every~~ a reasonable ~~and good faith~~ effort will be made to enable affected faculty members to obtain suitable positions ~~for which they are qualified~~ elsewhere in the university for which they are qualified. The receiving department or academic unit must consent to the appointment before it is made.

~~In cases of termination of tenured faculty members, the position concerned may not be filled by replacement within a period of three years from the effective date of the termination unless the tenured faculty member has been offered a return to employment in that position and has not accepted the offer within 30 calendar days after the offer was extended.~~

**(2) Non-Tenured Faculty.**

In cases of termination of non-tenured faculty members, the position concerned may not be filled by replacement within a period of one year from the effective date of the termination unless the person terminated has been offered a return to employment in that position and the person terminated has not accepted the offer within 30 calendar days.

**(3) Termination of Offer of Reinstatement.**

If an offer of reinstatement is not accepted within the timelines stated above, the university and the Board of Regents have no further obligation to the person terminated. ~~After the expiration of the applicable reinstatement period as provided herein, the institution and the Board of Regents have no further obligation to the affected faculty.~~

#### (4) Faculty Status and Benefits after Reinstatement.

A faculty member who has been terminated and who accepts reinstatement in the same position will resume the rank and tenure status held at the time of termination, be credited with any sick leave accrued prior to the date of the termination, be paid a salary commensurate with the rank and length of previous service, ~~and will be credited with any annual leave which that the faculty member had accrued prior to the date of termination and for which the faculty member has not received payment.~~

### **406.5 MAJOR FINANCIAL CRISIS**

#### **5.1 Procedures**

##### (1) Initiation.

If the president of the university identifies a possible major financial crisis, he or she shall inform and consult with the Budget and Faculty Welfare Committee (BFW), the Faculty Senate, the Professional Employees Association (PEA), and the Classified Employees Association (CEA) concerning the causes and the possible consequences of this financial crisis. The university president shall also identify possible solutions and the time frame by which decisions must be made by those entitled to participate in the consultative process [Flow Chart 406.X Boxes 1 and 2].

##### (2) Declaration

Having informed and consulted with the above bodies, the university president will seek the approval of the Board of Trustees to declare a major financial crisis [Flow Chart 406.X Box 3].

The university president, with the approval of the Board of Trustees, may declare the existence of a major financial crisis and set the time frame for developing a plan [Flow Chart 406.X Box 4].

##### (3) Guiding principles and “targets”

The university president will then develop a set of over-arching principles to guide the university’s response to the major financial crisis and establish “target” cuts for each academic and administrative unit. The university president will share these principles and “targets” with the university community [Flow Chart 406.X Box 5]. When establishing target reductions for each academic and administrative unit, the university president shall seek to minimize the negative consequences to the core missions of the university.

#### (4) Financial Crisis Advisory ~~Reduction~~ Committee

~~Concurrently~~ The university president will activate the Financial Crisis ~~Reduction~~ Advisory Committee (FCAC), which will consist of two Faculty Senate presidents appointed by the current Faculty Senate President; two faculty members appointed by the Budget and Faculty Welfare Committee (BFW) upon consultation with the current Faculty Senate President; four administrators appointed by the university president; a Professional Employees Association (PEA) employee; and a Classified Employees Association (CEA) employee. ~~The university president will appoint the four administrators.~~ The respective presidents of the Professional Employees Association (PEA) and Classified Employees Association (CEA) will appoint representatives from their organizations [Flow Chart 406.X Box 6].

Following the over-arching principles established by the university president, ~~the academic colleges,~~ and administrative units will prepare plans to meet these “targets” [Flow Chart 406.X Box 7].

The Financial Crisis Advisory Committee (FCAC) will hold hearings with each dean or vice president and selected colleagues to review the plans submitted for their units. The intent of these hearings is to make sure the plans follow the over-arching principles and consider possible impacts on other academic or administrative units. If needed, the Financial Crisis Advisory Committee (FCAC) will ask the academic college or administrative unit to revise its plans and to return for another session [Flow Chart 406.X Boxes 8 and 9].

After meeting with all the academic and administrative units, the Financial Crisis Advisory Committee (FCAC) will formulate recommendations and present them to the university president [Flow Chart 406.x Box 10].

#### (5) University president’s plan

Considering these recommendations, the university president will formulate his or her own plan. The university president will then present this plan to the Faculty Senate, the Professional Employees Association (PEA), the Classified Employees Association (CEA), and the USU Executive Committee, and may revise the plan taking into account recommendations from those organizations. [Boxes 11 and 12]

#### (6) Board of Trustees

The university president will then present the final plan to the Board of Trustees for its ~~recommendations and~~ approval [Flow Chart 406.X Box 13].

#### (7) University community

With the approval of the Board of Trustees, the university president will announce the plan to the university community [Flow Chart 406.X Box 14].

## 5.2 Reduction in Status or Termination of Faculty due to a Major Financial Crisis

(1) ~~Plan for faculty reduction.~~ Plans to reduce in status or terminate faculty due to a major financial crisis.

As the process described in Policy 406.5.1 is taking place, the academic dean or vice president for extension and agriculture, and, where appropriate, the chancellor or regional campus dean, and the provost, shall, in consultation with the departments, department heads, and appropriate college committees, devise an orderly sequence of steps ~~which~~ that shall constitute ~~the college's faculty reduction~~ an academic unit's plan to reduce the status of, or terminate faculty. Included in such a plan will be explicit criteria by which individual faculty will be identified within the various programs under consideration for reduction or discontinuance. Program reductions or discontinuance are never to be declared with the aim of singling out a specific faculty member.

Insofar as feasible, the plan will emphasize the creation of various incentives such as voluntary retirement, early retirement, phased retirement, resignation, reduction in status, salary reduction, severance pay, or similar actions that will result in immediate or eventual cost savings for the university, and that are voluntarily entered into by individual faculty members rather than imposed by university authority.

When non-voluntary faculty reductions are necessary, unless explicitly stated and compelling academic reasons exist to the contrary, consideration will be given first to not filling existing faculty vacancies and not filling vacancies from resignations, retirements, or deaths. Consideration should next be given to the termination of instructional positions occupied by teaching assistants and faculty members with special appointments (adjunct, visiting, and temporary). Next, consideration should be given to the termination of faculty with term appointments. Finally, consideration should be given to the termination of tenure-eligible or tenured faculty members. Ideally, within an academic program, the appointment of a faculty member with tenure will not be terminated in favor of retaining a faculty member without tenure, unless program elimination has occurred. The integrity of the tenure system will be respected unless ~~overwhelming~~ compelling evidence for strategic reductions is in the best interest of the university precludes this basic tenet.

Reduction in status or termination of tenured, tenure-eligible, or term appointment faculty members shall follow the procedures below.

(2) Review procedure.

Proposed faculty reduction plans shall be reviewed by faculty in affected ~~department and college faculties~~ academic units in light of ~~the~~ that unit's future strength, balance, quality of teaching, research, extension, and mission ~~of the department and college, tempered by concern for individual circumstances.~~ Faculty response to such reduction plans shall be forwarded in a timely manner to the appropriate department heads, academic dean or vice president for extension and agriculture, and, where appropriate, the chancellor or regional campus dean, and the provost.

The academic dean or vice president for extension and agriculture, and, where appropriate, the chancellor or regional campus dean, shall notify, in writing, any faculty member who is the subject of a recommendation for reduction in status or termination. A faculty member who is so identified may respond in writing ~~at any point in~~ to the review with his or her comments becoming part of the record to be forwarded to the next level of review. Academic deans or the vice president for extension and agriculture, and where appropriate, the chancellor and regional campus deans, shall consider such a response ~~in consultation~~, and shall add ~~his/her~~ their separate recommendations and forward the complete file to the provost. ~~or the appropriate vice president.~~

The provost ~~or any appropriate vice provost~~ shall review the recommendations of the academic dean or vice president for extension and agriculture, and, where appropriate, the chancellor or regional campus dean and any timely faculty response, as well as any appeals filed as in Policy 406.5.2(5).

(3) Appeal of recommendation for reduction in status or termination to the provost.

If a faculty member chooses to formally appeal to the provost, the faculty member must submit, within 5 days of his or her receipt from the academic dean or vice president for extension and agriculture, and, where appropriate, the chancellor or regional campus dean, a notice of a recommendation for reduction in status or termination, a written notice of intent to appeal with the provost. A faculty member who has submitted notice of intent to appeal must file a formal written appeal with the provost within 10 days of receipt of the notice of proposed reduction in status or termination. This written appeal must contain new relevant information not already considered in the review procedure (Policy 406.5.2(2)). The provost must respond in writing to the formal written appeal within 10 days.

(4) Notice of reduction in status or termination.

The provost shall forward the complete file with a recommendation to the university president. The provost shall also notify any affected faculty members in writing of his or her recommendation to the university president. Written notice from the university president or from the university president's designee will be given to a faculty member whose status is reduced or is terminated due to program elimination because of financial crisis as follows: (a) if the appointee is untenured and in the first year of service, notice shall be given at least three months prior to reduction in status or termination (b) if the appointee is untenured and in the second year of service, notice shall be given at least six months prior to reduction in status or termination; (c) if the appointee is tenured or is untenured but in the third or subsequent year of service, notice shall be given at least 12 months prior to reduction in status or termination; (d) the length of notice for faculty with term appointments (Policy 401.4) shall be parallel to that for the untenured faculty described above, with the exception of those term appointees with research or federal research ranks; termination of these faculty is coincident with and contingent upon the termination date of their extramural funding; if their funding extends beyond that of a discontinued program, they may be reassigned to another program. If the

president deems that circumstances warrant shorter times of notification of faculty reduction in status or termination, he or she may do so.

The notice must include the following: (a) the effective date of termination; (b) a statement of the reasons for the declaration of financial crisis; (c) the basis, the procedures, and the criteria used for termination; (d) opportunities for appeal, including access to appropriate documentation, and the appealable issues as set forth in Policy 406.5.2(5) below; and (e) the reinstatement rights.

#### (5) Appeal and hearing for termination.

A faculty member may appeal a termination only for: (a) violation of his or her academic freedom, legal, statutory, or constitutional rights; (b) failure to comply with this policy, ~~the Board of Regents policy~~, or with the plan for personnel reduction approved by the Board of ~~Regents~~ Trustees, or (c) arbitrary or capricious action. Within 10 days of receiving a notice from the university president for reduction in status or termination, a faculty member who intends to appeal must notify, in writing, the university president and the Academic Freedom and Tenure Committee (AFT) of the intent to appeal. The formal appeal, with supporting documentation, must be filed with the Academic Freedom and Tenure Committee (AFT) within 30 days of receipt of notice from the university president. A hearing will then be conducted in a timely manner by the Academic Freedom and Tenure Committee (AFT), in accordance with procedures in Policy 407. Because of the need to address the financial crisis, the appeal process shall follow the steps in 407.6 except that it must be completed before the termination date of the faculty member. ~~this appeal process will be used in lieu of grievance proceedings in 407 except for the timeline contained in that policy~~

#### ~~(6) Relocation:~~

~~During the grace period of three years, and with the assistance of the appropriate administrators (e.g., academic dean or vice president for extension and agriculture, or where appropriate, the chancellor or regional campus dean, and the provost) and with the consent of the receiving unit, every reasonable and good faith effort will be made to enable the affected faculty members who wish to do so to obtain suitable positions elsewhere in the university if qualified.~~

### 5.3 Reinstatement

Reinstatement of tenured and non-tenure track faculty members terminated as a result of financial crisis shall follow procedures in Section 406.4.3.

## 406.6 FINANCIAL EXIGENCY

The university president may, in accordance with the procedures below and with the approval of the Board of Trustees, and **with** the advice of the Faculty Senate, the Professional

Employees Association (PEA), and the Classified Employees Association (CEA), recommend to the Board of Regents that a state of financial exigency be declared. ~~Alternatively, a state of financial exigency may also be initiated declared unilaterally by the Board of Regents. In either case, a state of financial exigency exists only after it has been declared by the Board of Regents.~~

~~The procedures for responding to a financial exigency are organized into three stages. Stage 1 includes procedures for declaring a financial exigency. Stage 2 involves planning for program elimination or reduction. Stage 3 includes plans for implementing reductions and/or program eliminations.~~

## **6.1 Stage 1. Procedures for Declaring Financial Exigency (Flow chart 406.Y)**

### **(1) Initiation ~~and consultation.~~**

~~When If~~ the president of the university identifies a possible financial exigency, he or she shall inform the Budget and Faculty Welfare Committee (BFW), the Faculty Senate, the Professional Employees Association (PEA), and the Classified Employees Association (CEA) ~~and the USU Executive Committee~~ of the causes and ~~the~~ possible consequences of the declaration. The university president shall also identify ~~the measures considered by the university up to that point for dealing with the crisis, including a possible declaration of financial exigency, possible strategies that may be alternative to program reduction or program elimination, reasons why the university's financial circumstances may necessitate academic program reduction or elimination,~~ possible solutions and the time frame by which decisions must be made by ~~those entitled to participate in the consultative process, i.e., the~~ Budget and Faculty Welfare Committee (BFW), the Faculty Senate, the Professional Employees Association (PEA), the Classified Employees Association (CEA) and the USU Executive Committee [Flow chart 406.Y Boxes 1 and 2].

Time considerations will be critical when ~~the university must judge whether or not~~ a financial exigency exists. To the extent that such a judgment must be made in a brief time frame for a given situation, the time periods for the consultative process provided for in this policy [Flow Chart 406.Y Box 2] shall be specified by written notice from the university president giving those ~~for whom the consultative processes were provided~~ in the consultative process the ~~fullest~~ longest possible amount of time ~~under the circumstances~~. In that regard, the university president shall use his or her best efforts to secure the ~~fullest~~ longest period of time possible for consideration of these matters and the responses hereto.

### **(2) ~~Consultation~~ Receipt and consideration of recommendations.**

Within the time period established by the university president and before making a recommendation to the Board of Regents, the university president shall receive and consider the comments and advice presented ~~on the matter~~ by the Budget and Faculty Welfare Committee (BFW), the Faculty Senate, the Professional Employees Association (PEA), the Classified Employees Association (CEA), ~~and the USU Executive Committee.~~ The Faculty

Senate shall receive and consider the comments and advice of the Budget and Faculty Welfare Committee (BFW) as well as timely presented views by any other faculty or administrative body, or individual faculty members, and shall make its recommendation to the university president concerning a declaration of financial exigency [Flow chart 406.Y Box 3].

(3) Declaration.

The university president shall submit **his or her** final recommendation on the declaration of financial exigency in writing to the Board of Trustees prior to submitting it to the Board of Regents [Flow chart 406.Y Boxes 4 and 5]. The university president shall attach the written comments and recommendations of the Faculty Senate, the Professional Employees Association (PEA), ~~and~~ the Classified Employees Association (CEA) and the USU Executive Committee. The university president shall also send a copy of **his or her** final recommendations to the Faculty Senate, the Professional Employees Association (PEA), ~~and~~ the Classified Employees Association (CEA) and the USU Executive Committee.

Upon consideration of the university president's recommendation, the Board of Regents shall make a final decision regarding ~~declare~~ the declaration of financial exigency [Flow chart 406.Y Box 6].

**6.3 2 Financial Exigency: Stage 2. Planning for Program Reduction or Elimination** (Flow chart 406.Y)

(1) ~~Iterative process~~ Plan Development.

After a declaration of financial exigency by the Board of Regents, ~~an iterative~~ process of university program elimination or reduction ~~planning may~~ shall begin. The intent of this process is to ensure the ~~continuing~~ integrity of ~~academic programs and~~ the overall mission of the university (see Policy 103).

~~(2) Administrative and support services.~~

The university president will ask the provost and the appropriate vice presidents to develop reduction and/or elimination plans in ~~both academic and administrative~~ the areas of the university ~~wide support services and administrative programs~~ [Flow chart 406.Y Box 7]. The development of plans for academic program reduction or elimination ~~plans~~ must involve consultation among departmental and college faculties to identify areas under consideration for academic program reduction or elimination. The following criteria and information sources shall be considered by those making judgments about which programs should be reduced or eliminated because of financial exigency: (a) legal mandate; (b) the general academic quality of the program with regard to scholarship, teaching, and service; (c) the extent of importance that the program has for the mission of the university; (d) the mission and goals of the university; (e) ~~Graduate Council review~~; (f) ~~findings~~ reports by national accreditation bodies; (f) reports by appropriate national ranking sources; (g) ~~such~~ other systematically-derived information, based on long-term considerations of program quality, as may be available; (h) the capacity of the program to generate external funding; (i)



faculty/student student/faculty ratios; (j) student credit hours generated/faculty FTE; (k) cost effectiveness when compared to similar programs at other universities; and (l) relationship to the Board of Regents Master Plan for Higher Education in the State of Utah. The above list is not ranked and is not inclusive-all encompassing.

~~The first step in the planning process shall be for every academic and administrative unit of the university to assess its programs operations with regard to legal mandate, essentiality to the mission/role of the university, and quality. During subsequent steps, support services shall be reduced to the extent feasible while preventing significant impairment of the university's ability to fulfill its mission/role~~

Such Plans will be reviewed by the Budget and Faculty Welfare Committee (BFW), ~~the Council of Deans, the Faculty Senate,~~ relevant committees of the Professional Employees Association (PEA) and the Classified Employees Association (CEA), and the USU Executive Committee, ~~and will be integrated with academic elimination or reduction plans (see Section 406.6.3 (3))~~ in light of the overall academic mission of the university. If a plan calls for the reduction or elimination of a specific academic unit, associated administrative units ~~university-wide support services~~ must be re-evaluated and reduced as appropriate. Any reduction, or elimination of an academic unit ~~program, center, institute, school, department, college, or regional campus, or site,~~ shall be reviewed by the Budget and Faculty Welfare Committee (BFW); the Educational Policies Committee (EPC); ~~the Graduate Council, where appropriate;~~ the faculty members ~~and/or faculty committee~~ most directly involved in the program; the appropriate department head or supervisor, academic dean or vice president for extension and agriculture, and, where appropriate, the chancellor or regional campus dean; relevant college committees or councils; relevant committees of the Professional Employees Association (PEA) and the Classified Employees Association (CEA); ~~and relevant student advisory committees.~~

~~The views of these bodies shall be forwarded to the Faculty Senate for its consideration within the time periods prescribed by the university president. The conclusions of the above bodies and the Faculty Senate and all of the groups, committees, and individuals listed above shall be forwarded to the provost who shall consider them and forward them, along with his or her own recommendation, to the university president. When the university president's recommendations are submitted to the Board of Trustees and the Board of Regents, they shall be accompanied by the Faculty Senate's recommendations. After the Board of Trustees and the Board of Regents has have approved the plan by the university to eliminate a program, the appropriate academic or regional campus dean, vice president, or chancellor responsible for the academic unit of the program, center, institute, school, department, college, or regional campus, or site shall give written notice of the elimination to all persons, including students, in the program, center, institute, school, department, college, or regional campus, or site.~~[Flow chart 406.Y Box 8].

The university president will take into consideration recommendations for revisions to the proposed plan for the reduction and/or elimination ~~plans in~~ of academic ~~the areas of~~ ~~university-wide support services~~ and administrative units ~~programs~~ received from the, ~~the Council of Deans,~~ Budget and Faculty Welfare Committee (BFW), the Faculty Senate, ~~the~~

relevant committees of the Professional Employees Association (PEA) and the Classified Employees Association (CEA), and the USU Executive Committee [Flow chart 406.Y, Box 9].

If the university president makes revisions to the reduction and elimination plans based on recommendations by the Faculty Senate, the Budget and Faculty Welfare Committee (BFW), relevant committees of the Professional Employees Association (PEA) and the Classified Employees Association (CEA), and the USU Executive Committee, then the revised plan will be reviewed by the affected committees or associations. The university president will then consider recommendations from this review. ~~Revised plans will be reviewed by appropriate committees or associations and an opportunity for additional recommendations for revisions provided~~ [Flow chart 406.Y, Box 10].

Once plans for the reduction and/or elimination of programs in academic and administrative units ~~program~~ have been finalized, the university president will recommend the final plan to the Board of Trustees and then the Board of Regents for approval [Flow chart 406.Y, Box 11]. The Board of Trustees and the Board of Regents, in that order, will consider approval of the recommended plans for reduction and/or elimination in academic and administrative programs the university president submitted [Flow chart 406.Y, Box 12] .

Once plans for program reduction and/or elimination in academic and administrative units areas have been approved by the Board of Regents, the university president will deliver written notice to all affected by the plan [Flow chart 406.Y, Box 13].

### ~~(3) Academic program elimination or reduction:~~

~~The university president, after consultation with the USU Executive Committee, the Council of Deans, the Faculty Senate, and the Budget and Faculty Welfare Committee (BFW), shall direct the provost to develop plans for implementation of academic program elimination or reduction. These plans shall include a timetable for their implementation [Flow chart 406.Y Box 7].~~

~~The development of plans for academic program elimination or reduction plans must involve consultation among departmental and college faculties to identify areas under consideration for academic program eliminations or reductions. The following criteria and information sources shall be considered by those making judgments about which programs should be eliminated or reduced because of financial exigency: (a) legal mandate; (b) the general academic quality of the program with regard to scholarship, teaching, and service; (c) the extent of importance that the program has for the mission of the university; (d) the mission and goals of the university; (e) Graduate Council review; (f) findings reports by national accreditation bodies; (gf) reports by appropriate national ranking sources; (hg) such other systematically derived information, based on long-term considerations of program quality, as may be available; (ih) the capacity of the program to generate external funding; (ji) faculty/student/faculty ratios; (kj) cost effectiveness when compared to similar programs at other universities; and (lj) relationship to the Board of Regents Master Plan for Higher Education in the State of Utah. The above list is not ranked and is not inclusive.~~

#### ~~(4) Review.~~

~~If a plan calls for the elimination or reduction of a specific program, center, institute, school, department, college, or regional campus, or site, that element of the plan shall be reviewed by the Budget and Faculty Welfare Committee (BFW); the Educational Policies Committee (EPC); the Graduate Council, where appropriate; the faculty members and/or faculty committee most directly involved in the program; the appropriate department head or supervisor, academic dean or vice president for extension and agriculture, and, where appropriate, the chancellor or regional campus dean; relevant college committees or councils; relevant committees of the Professional Employees Association (PEA) and the Classified Employees Association (CEA); and relevant student advisory committees. The views of these bodies shall be forwarded to the Faculty Senate for its consideration within the time periods prescribed by the university president. The conclusions of the above bodies and the Faculty Senate shall be forwarded to the provost who shall consider them and forward them, along with his or her own recommendation, to the university president. When the university president's recommendations are submitted to the Board of Trustees and the Board of Regents, they shall be accompanied by the Faculty Senate's recommendations. After the Board of Trustees and the Board of Regents has approved the plan by the university to eliminate a program, the appropriate academic or regional campus dean, vice president, or chancellor of the program, center, institute, school, department, college, or regional campus, or site shall give written notice of the elimination to all persons, including students, in the program, center, institute, school, department, college, or regional campus, or site.~~

### **6.3 Stage 3. Implementation of Plans for Reduction and/or Program Elimination (Flow chart 406.Y).**

#### **(1) Development of Implementation Plans.**

The university president will direct the provost and vice presidents to develop a plan with a timetable for the implementation of the plan to reduce and/or eliminate academic or administrative ~~units~~ programs [Flow chart 406.Y, Box 14].

The development of implementation plans for reduction and/or elimination of academic and administrative programs will include consultation with affected deans, departments, and faculty [Flow chart 406.Y, Box 15].

#### **(2) Review of Implementation Plans.**

The university president will provide an opportunity to review implementation plans for the reduction and/or elimination of academic or administrative ~~units~~ programs by all employees affected by the plan [Flow chart 406.Y, Box 16].

Recommendations from ~~reviews~~ of affected employees who wish to respond will be sent to the Faculty Senate, Professional Employee Association (PEA), and the Classified Employees Association (CEA) [Flow chart 406.Y, Box 17].

The Faculty Senate, Professional Employee Association (PEA), and the Classified Employees Association (CEA) will submit recommendations for revisions to implementation plans to the provost and those, together with all ~~other~~ previous recommendations, will be submitted together with the provost's recommendations to the university president [Flow chart 406.Y, Boxes 18 and 19].

(~~§~~ 3) Timetable.

~~Once financial exigency has been declared,~~ The university president shall submit to the Faculty Senate, Professional Employee Association (PEA), and the Classified Employees Association (CEA) a timetable for relieving the state of financial exigency. ~~Further, he or she~~ and shall periodically report progress in this endeavor to these same bodies and the Trustees and Regents [Flow chart 406.Y, Box 20]. ~~Faculty Senate on a quarterly basis.~~

#### **6.4 Reductions in Status; Terminations**

The procedures described in Policy 406.5.2 shall apply; ~~. except that the appointment of a faculty member with tenure will not be terminated in favor of retaining a faculty member without tenure except in extraordinary circumstances where a serious distortion (see Section 406.2.7) of the specific academic program would otherwise result. The question of serious distortion shall be decided by the Educational Policies Committee (EPC) and the Faculty Senate, with the approval of the university president and the Board of Trustees. The finding of serious distortion shall be based on criteria which include, but are not limited to, essentiality of service and work, field of specialization, and maintenance of necessary programs or services.~~

#### **6.5 Reinstatement**

Reinstatement of tenured and non-tenure track faculty members terminated as a result of financial exigency shall follow procedures in Section 406.4.3.

### **406.75 REINSTATEMENT RIGHTS**

#### **75.1 For Tenured Faculty**

~~Tenured faculty members terminated through program discontinuance shall, for a period of three years following the date of their final salary payment, receive preferential consideration among candidates with comparable qualifications for any vacant and funded university position for which they apply and are qualified. Upon request of the affected faculty member, during a grace period of three years, with the assistance of the appropriate administrators (e.g., academic dean or vice president for extension and agriculture, and, where appropriate, the chancellor or regional campus dean, and the provost) and with the consent of the receiving department unit, every a reasonable and good faith effort will be made to enable affected~~

~~faculty members who wish to do so, to obtain suitable positions for which they are qualified elsewhere in the university for which they are qualified during a grace period of three years.~~

~~In cases of termination of tenured faculty members, the position concerned may not be filled by replacement within a period of three years from the effective date of the termination unless the tenured faculty member has been offered a return to employment in that position and has not accepted the offer within 30 calendar days after the offer was extended.~~

#### **~~75.2 For Non-Tenured Faculty~~**

~~In cases of termination of non-tenured faculty members, the position concerned may not be filled by replacement within a period of one year from the effective date of the termination unless the person terminated has been offered a return to employment in that position and the person terminated has not accepted the offer within 30 calendar days.~~

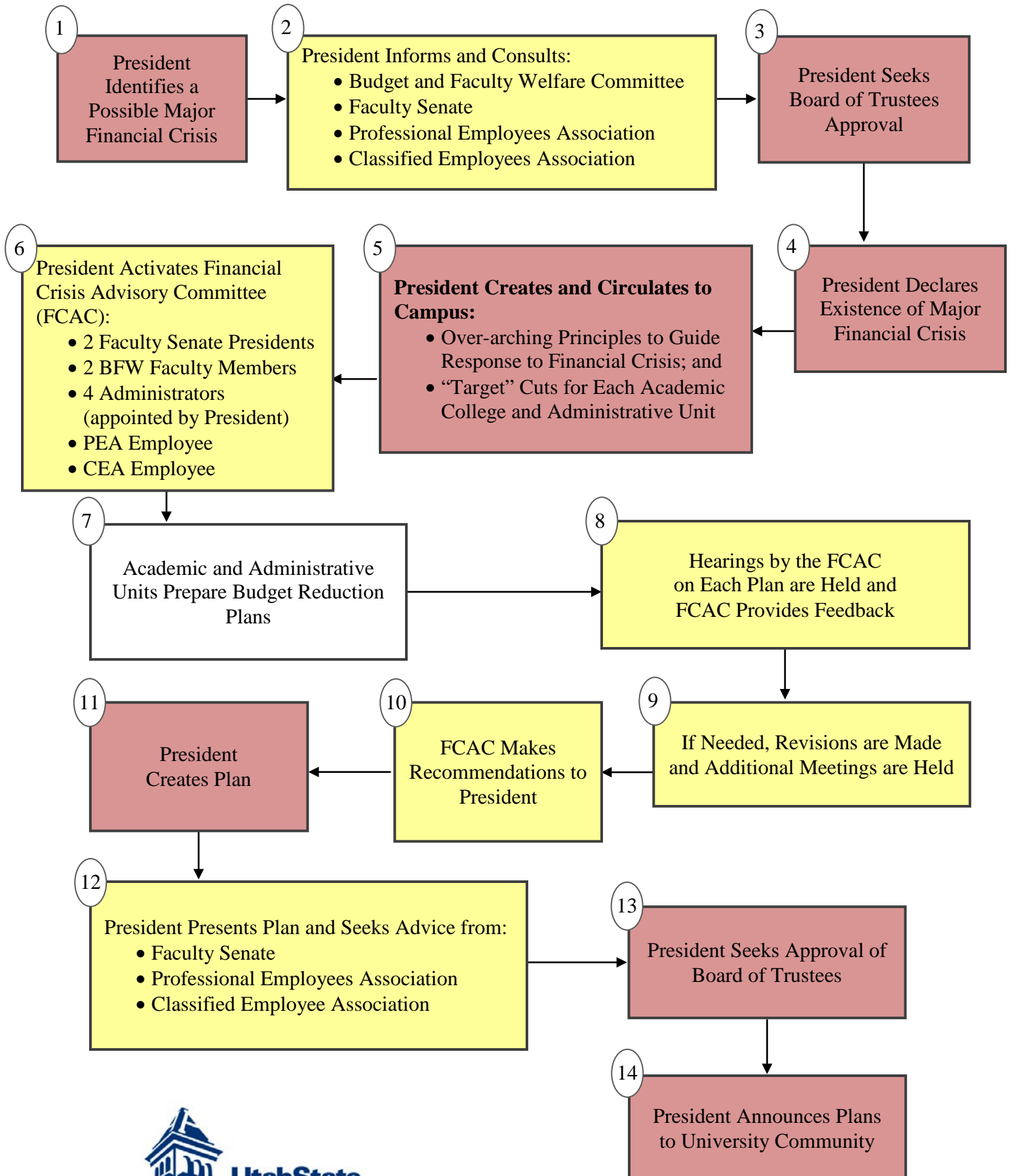
#### **~~75.3 Termination of Offer of Reinstatement~~**

~~If an offer of reinstatement is not accepted within the timelines stated above, the university and the Board of Regents have no further obligation to the person terminated. After the expiration of the applicable reinstatement period as provided herein, the institution and the Board of Regents have no further obligation to the affected faculty.~~

#### **~~75.4 Faculty Status and Benefits after Reinstatement~~**

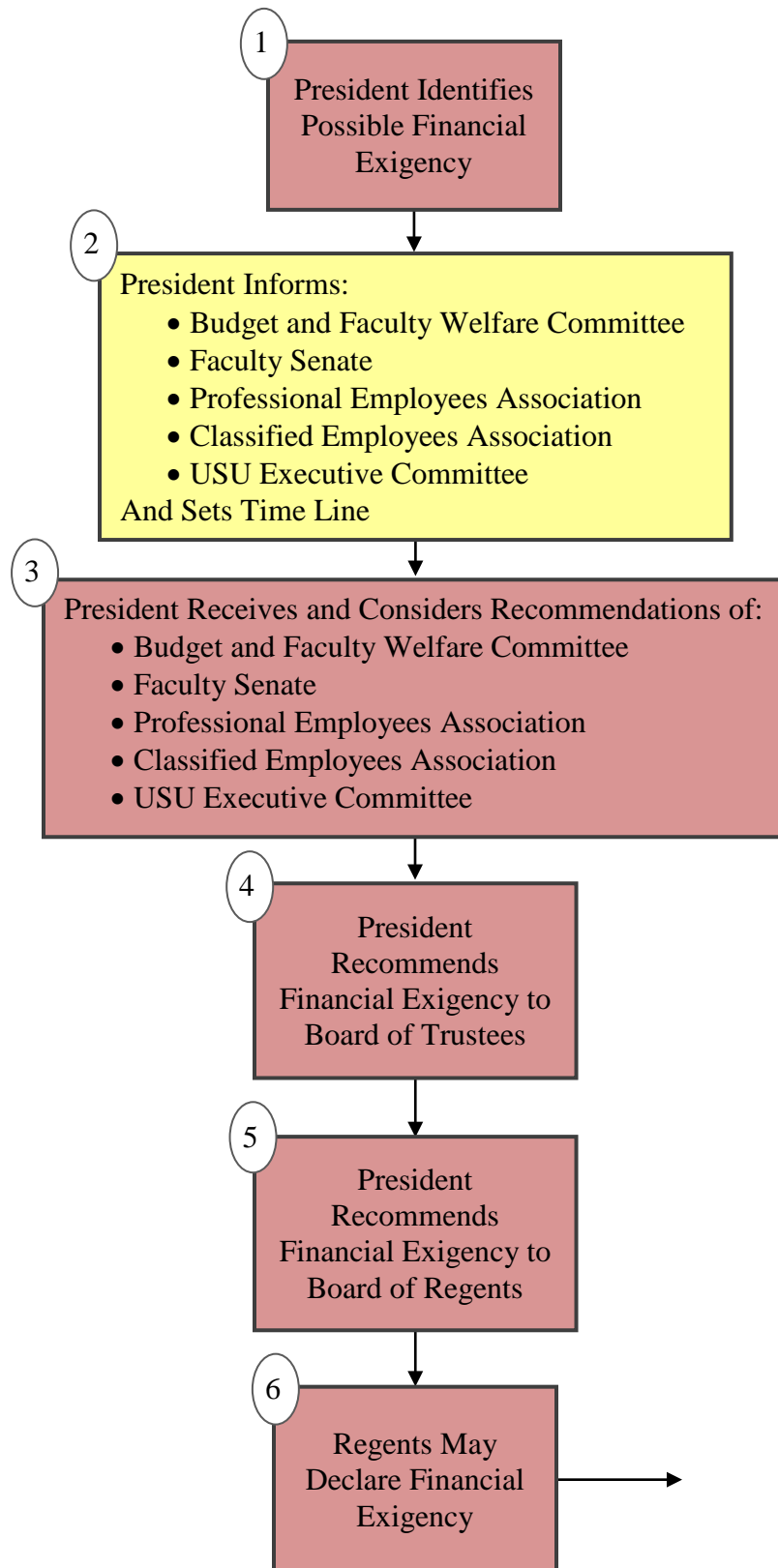
~~A faculty member who has been terminated and who accepts reinstatement in the same position will resume the rank and tenure status held at the time of termination, be credited with any sick leave accrued prior to the date of the termination, be paid a salary commensurate with the rank and length of previous service, and will be credited with any annual leave which that the faculty member had accrued prior to the date of termination and for which the faculty member has not received payment.~~

## Outline of Process For Financial Crisis

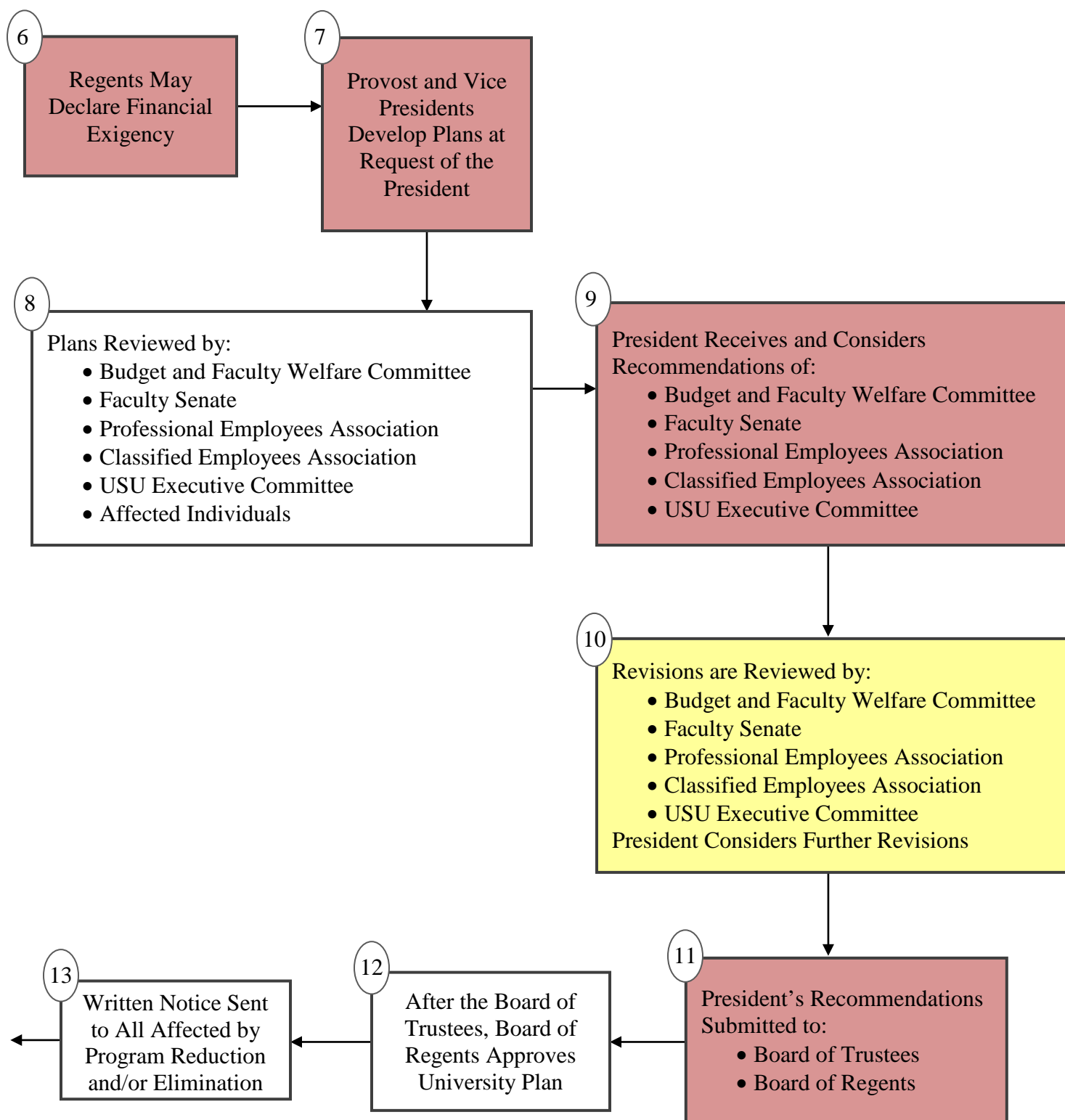


## Outline of Process for Financial Exigency

### Stage 1. Procedure for Declaring Financial Exigency (Section 406.6.1)

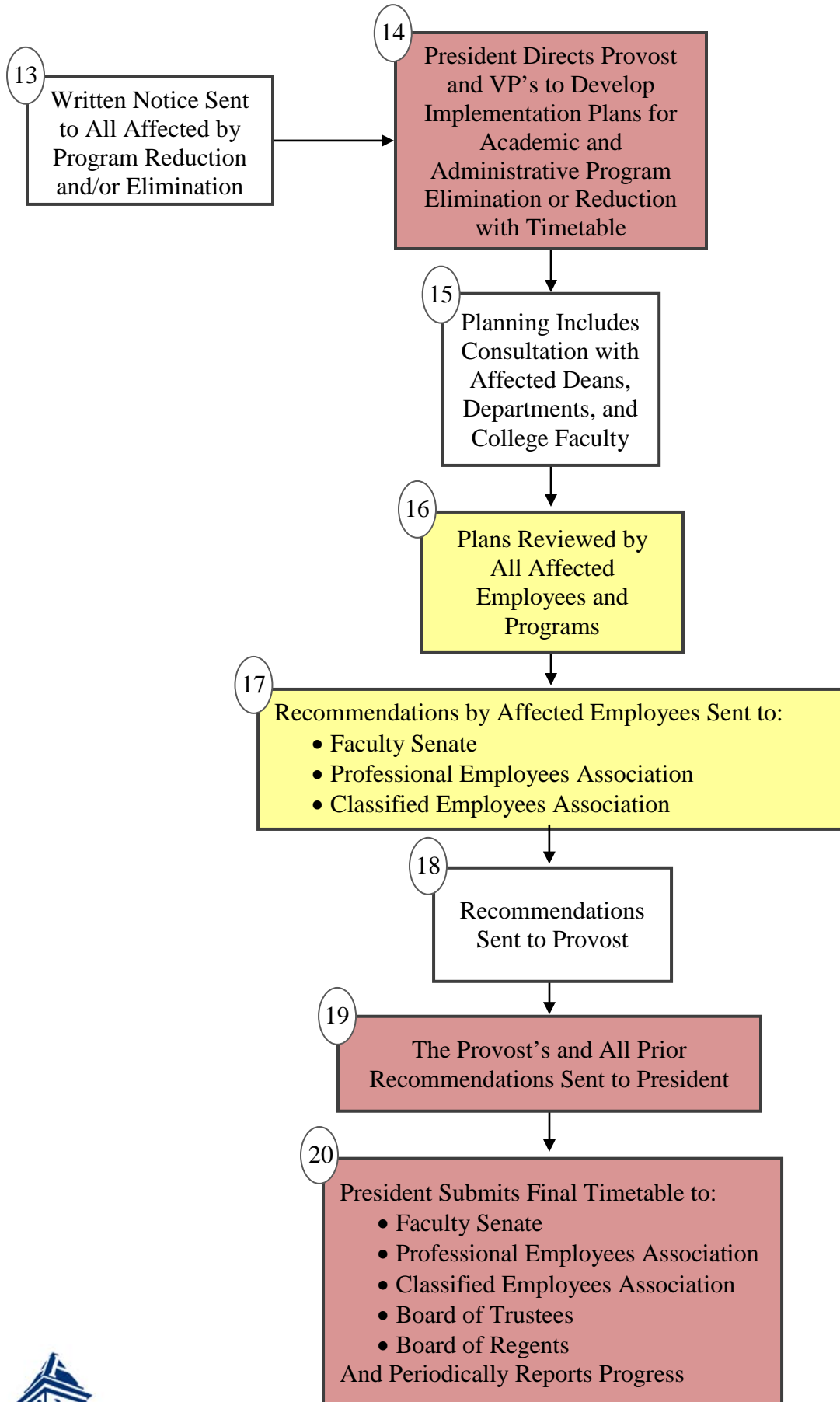


## Stage 2. Planning (Section 406.6.2)





### Stage 3. Implementation (Section 406.6.3)





## **POLICY MANUAL**

### **FACULTY**

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#### **Number 406**

**Subject: Program Discontinuance, Financial Exigency and Financial Crisis**

**Effective Date: July 1, 1997**

**Revision: July 1, 1999, March 6, 2009, August 21, 2009**

**Date of Last Revision: July 8, 2011**

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#### **406.1 INTRODUCTION**

This section of the policy manual specifies the procedures for (1) discontinuing a program for academic reasons; (2) suspending enrollment; (3) determining whether at a particular moment the university faces a state of financial exigency; (4) responding to a financial exigency; (5) determining whether the university faces a major financial crisis not definable as financial exigency; (6) responding to a major financial crisis; and (7) terminating or reducing in status of faculty members due to program discontinuance, bona fide financial exigency, or major financial crisis. Reduction in status of tenured faculty members shall only occur for reasons of program discontinuance, financial crisis, or bona fide financial exigency.

#### **406.2 PROGRAM DISCONTINUANCE FOR ACADEMIC REASONS**

##### **2.1 Definitions**

(1) Program discontinuance.

Program discontinuance for academic reasons under this policy means the cessation of a program, center, institute, school, department, college, campus, or site based upon educational and academic considerations. For the purposes of Policy 406.2, educational and academic considerations do not include cyclical or temporary variations in enrollment and/or budgets, but must reflect long-range judgments that the basic teaching, research, and extension mission of the university will be strengthened by the discontinuance of the program, center, institute, school, department, college, campus, or site. Program discontinuance does not preclude the reallocation of resources to other academic programs with higher priority based on academic and educational reasons.

(2) Academic program.

An academic program is a unit within the university with an identifiable teaching, research, or other academic mission. For purposes of this code, an academic program operates within one or more academic units and includes, but is not limited to, an academic center, institute, school, department, college, campus or site. An academic program is to be determined by existing academic standards, and academic programs are never to be declared with the aim of singling out individual faculty members. An academic program must be designated as such by decision of the Educational Policies Committee and the decision must be ratified by the Faculty Senate, and approved by the president, the Board of Trustees, and the Board of Regents. For a unit to be designated as a “program,” it must fulfill one or more of these criteria: (a) offer or administer a degree, certificate, or some other credential; (b) have an identifiable curriculum or be formally described in current university catalogs or other publications; or (c) be designated a “program” by specific faculty decision and have an identified group of one or more faculty.

## **2.2 Decision-Making Process**

(1) Initiation.

Consideration of the possible discontinuance of an academic program may be initiated at any time by the faculty or a duly appointed faculty committee of that program; the faculty or an appropriate committee of the center, institute, school, department, college, or other academic unit of that program; the Graduate Council; the appropriate department head, academic dean or vice president for extension, or, where appropriate, chancellor or regional campus dean; or by the provost or president of the university. If a program discontinuance may result in the termination of faculty, the person or group initiating the consideration of discontinuance shall prepare, and submit to the provost, a memorandum which (a) clearly identifies the program; (b) states explicit criteria by which faculty are identified with the program, (c) states the reasons, with respect to the university’s mission and goals, for recommending discontinuance; (d) assesses the probable consequences for faculty, related programs, and the university in general; and (e) suggests a timetable for accomplishing discontinuance.

(2) Distribution.

The provost shall distribute copies of the memorandum, embodying an initial or an amended proposal for program discontinuance, to (a) the faculty members and faculty committee most directly involved in the academic program proposed for discontinuance; (b) the appropriate department head, academic dean or vice president for extension, and, where appropriate, chancellor or regional campus dean; (c) relevant departments and colleges; (d) relevant college committees or councils; (e) the Educational Policies Committee; (f) the Budget and Faculty Welfare Committee; and (g) the relevant student college senators.

(3) Consultation.

The groups above shall forward comments and recommendations to the appropriate academic dean, or to the vice president for extension, and, where appropriate, the chancellor or regional campus dean. He/she shall forward the comments and a recommendation to the provost, and, where appropriate, to the Graduate Council; the Graduate Council may review this material and make a recommendation to the provost. After receiving and considering the recommendations and comments, the provost shall submit the proposal, the comments, and a recommendation to the Educational Policies Committee. The Educational Policies Committee's recommendation shall be subject to review and debate by the Faculty Senate [Policy 402.12.6(1)]. All comments, recommendations, and supporting material shall be available to faculty senators for their perusal.

(4) Final recommendation.

The Faculty Senate's recommendations shall be forwarded to the president for consideration. The president shall submit a final recommendation in writing to the Board of Trustees and the Board of Regents and shall attach the written comments and recommendations of the Faculty Senate.

## **2.3 Terminations; Reductions in Status**

(1) Notice of program discontinuance.

After the Board of Regents has approved a proposal by the university to discontinue a program, the appropriate academic dean or vice president of the program, center, institute, school, department, college, campus, or site shall give written notice of the discontinuance to all persons, including, students in the program, center, institute, school, department, college, campus, or site. A minimum of one full year, beginning July 1, shall pass from the time a final decision is made to close an academic program to the actual program discontinuance.

(2) Definition of termination and reduction in status.

Termination means the ending of employment of a tenured faculty member (or one with a term appointment) for medical incapacity, program discontinuance, financial crisis, or financial exigency [see also Policy 407.2.1(5)]. Reduction in status means a decrease in annual time the faculty member is contracted to the university.

(3) Notice of termination or reduction in status.

In addition to the general notice in Policy 406.2.3(1), the president shall give tenured and tenure-track faculty members in the discontinued program, center, institute, school, department, college, campus, or site formal notice of termination or reduction in status as follows: (a) if the appointee is untenured and in the first year of service, notice shall be given at least three months prior to termination or reduction in status; (b) if the appointee is untenured and in the second year of service, notice shall be given at least six months prior to termination or reduction in status; (c) if the appointee is tenured or is untenured but in the third or subsequent years of service, notice shall be given at least 12 months prior to

termination or reduction in status; (d) the length of notice for faculty with term appointments as defined in Policy 401.4 shall be parallel to that for the untenured faculty described above, with the exception of those term appointees with research or federal research ranks; termination of these faculty is coincident with and contingent upon the termination date of their extramural funding; if their funding extends beyond that of a discontinued program, they may be reassigned to another program and (e) appointees with specialized functions as defined in Policy 401.6 shall be parallel to that for the tenured and tenure-eligible faculty described above.

(4) Relocation.

During a grace period of three years, and with the assistance of the appropriate administrators (e.g., academic deans, department heads or supervisors, vice president of extension, and, where applicable, chancellor or regional campus dean) and the consent of the receiving department, every reasonable and good faith effort will be made to enable the affected faculty members who wish to do so to obtain suitable positions for which they are qualified elsewhere in the university. Tenured faculty members terminated through program discontinuance shall, for a period of three years following the date of their final salary payment, receive special consideration among candidates with comparable qualifications for any vacant and funded university position for which they apply and are qualified.

(5) Faculty employment after program reinstatement.

If a terminated program or position is reinstated, tenured faculty members terminated through program discontinuance shall have the right of immediate reinstatement for a period of three years following the final salary payment.

(6) Appeal.

Within 30 calendar days of receiving notice from the president of termination or reduction in status, a faculty member who intends to appeal must notify, in writing, the president and the Academic Freedom and Tenure Committee of the intent to appeal. The formal appeal, with supporting documentation, must be filed with the Academic Freedom and Tenure Committee within 60 calendar days of receipt of notice from the president. A hearing will then be conducted in a timely manner by the Academic Freedom and Tenure Committee, in accordance with procedures established by that committee.

## **406.3 SUSPENSION OF ENROLLMENT**

### **3.1 Definition**

Suspension of enrollment is an action short of discontinuance which if not reversed will lead to discontinuance, and which refers to the suspension of enrollment in a major subject, a minor subject where there is no corresponding major, a certificate program, or program

awarding a credential certifying completion. Suspension of enrollment does not lead to reduction in status or termination of faculty in the program.

### **3.2 Procedure**

#### **(1) Initiation.**

A department that plans to suspend enrollment must notify the Educational Policies Committee as soon as the departmental decision has been made and approved by the dean.

#### **(2) Review.**

The Educational Policies Committee will review the proposed suspension of enrollment for its effect on other academic programs of the university. The committee will hold hearings at which all constituencies affected, including students, faculty, and representatives from other departments affected by the proposed action, have the opportunity to testify. At the conclusion of its deliberations, the Educational Policies Committee will recommend approval or disapproval of suspension of enrollment to the Faculty Senate. The Faculty Senate shall make a recommendation to the president. This process shall be concluded within 90 days following notification of the Educational Policies Committee. Suspension is granted by the president subject to the legal obligation, if any, of the university to permit students already enrolled in the program to complete their course of study.

#### **(3) Time limitation.**

At any time up to three years after suspension has been granted, a suspension of enrollment may be reversed by the department, upon approval of the Educational Policies Committee, the academic dean or vice president for extension, and, where appropriate, the chancellor or regional campus dean, and the president. If suspension has not been reversed within this three year period, program discontinuance must be initiated.

## **406.4 FINANCIAL EXIGENCY**

### **4.1 Definitions**

#### **(1) Financial exigency.**

Financial exigency is an existing or imminent financial crisis which threatens the mission/role of the institution as a whole, which requires programmatic reductions or closings which may entail faculty reductions or dismissals to enable the institution to accomplish its mission/role, and which cannot be alleviated by less drastic means.

#### **(2) Academic program.**

See Policy 406.2.1(2).

(3) Serious distortion of an academic program.

A serious distortion of an academic program shall be deemed to occur when the faculty remaining in the program would not be qualified to meet generally accepted program standards (Section 406.4.4(1)).

#### **4.2 Declaration of Financial Exigency**

(1) Board of Trustees; Board of Regents.

The president may, in accordance with the procedures below and with the approval of the Board of Trustees and the advice of the Faculty Senate, the Professional Employees Association, and the Classified Employees Association, recommend to the Board of Regents that a state of financial exigency be declared. A financial exigency may also be initiated by the Board of Regents. A financial exigency exists only after it has been declared by the Board of Regents.

(2) Initiation.

When the president of the university identifies a possible financial exigency, he/she shall inform the Budget and Faculty Welfare Committee, the Faculty Senate, the Professional Employees Association, and the Classified Employees Association concerning the causes and possible consequences of the crisis. The president shall also identify the measures considered by the university up to that point for dealing with the crisis, including a possible declaration of financial exigency, possible strategies that may be alternative to program reduction or program elimination, reasons why the university's financial circumstances may necessitate academic program reduction or elimination, and the time frame by which decisions must be made by those entitled to participate in the consultative process.

Time considerations will be critical when the university must judge whether or not a financial exigency exists. To the extent that such a judgment must be made in a brief time frame for a given situation, the time periods for the consultative process provided for in this policy shall be specified by written notice from the president giving those for whom the consultative processes were provided the fullest possible amount of time under the circumstances. In that regard, the president shall use his/her best efforts to secure the fullest period of time possible for consideration of these matters and the responses hereto.

(3) Consultation.

Within the time period established by the President the Faculty Senate shall receive and consider the comments and advice of the Budget and Faculty Welfare Committee, as well as timely presented views of any other faculty, administrative body, or individual faculty members, and shall make a recommendation to the president concerning financial exigency.

Within the time period established by the president and before making a recommendation to the Board of Regents, the president shall receive and consider the comments and advice presented on the matter by the Budget and Faculty Welfare Committee, the Faculty Senate, the Professional Employees Association, and the Classified Employees Association.

(4) Recommendation.

The president shall submit his/her final recommendation on the declaration of financial exigency in writing to the Board of Trustees prior to submitting it to the Board of Regents. He/she shall attach the written comments and recommendations of the Faculty Senate, the Professional Employees Association, and the Classified Employees Association. The president shall also send a copy of his/her final recommendations to the Faculty Senate, the Professional Employees Association, and the Classified Employees Association.

#### **4.3 Program Elimination or Reduction Because of Financial Exigency**

(1) Iterative process.

After declaration of financial exigency by the Board of Regents, an iterative process of university program elimination or reduction may begin. The intent of this process is to ensure the continuing integrity of academic programs and the overall mission of the university. The first step in this process shall be for every administrative, academic, nonacademic, and structural component of the university to assess its programs with regard to legal mandate, essentiality to the mission/role of the university, and quality. During subsequent steps, support services shall be reduced to the extent feasible while preventing significant impairment of the university's ability to fulfill its mission/role.

(2) Administrative and support services.

The president will ask the provost and the appropriate vice presidents to develop reduction and/or elimination plans in the areas of university-wide support services and non-academic programs. Such plans will be reviewed by the president's executive committee, the Council of Deans, the Budget and Faculty Welfare Committee, and the relevant committees of the Professional Employees Association and the Classified Employees Association, and will be integrated with academic elimination or reduction plans (see Section 406.4.3 (3)) in light of the overall academic mission of the university.

If a non-academic program has been reduced or eliminated, university-wide support services must be re-evaluated and reduced as appropriate. These reductions shall precede further reductions in or elimination of academic programs.

(3) Academic program elimination or reduction.

The president, after consultation with the Executive Committee, the Council of Deans, and the Budget and Faculty Welfare Committee, shall direct the provost to develop plans for



academic program elimination or reduction. These plans shall include a timetable for their implementation.

The development of academic program elimination or reduction plans must involve consultation among departmental and college faculties to identify areas under consideration for academic program eliminations or reductions. The following criteria and information sources shall be considered by those making judgments about which programs should be eliminated or reduced because of financial exigency: (a) legal mandate; (b) the general academic quality of the program with regard to scholarship, teaching, and service; (c) the extent of importance that the program has for the mission of the university; (d) the mission and goals of the university; (e) Graduate Council review; (f) findings by national accreditation bodies; (g) reports by appropriate national ranking sources; (h) such other systematically derived information, based on long-term considerations of program quality, as may be available; (i) the capacity of the program to generate external funding; (j) faculty/student ratios; (k) cost effectiveness when compared to similar programs at other universities; and (l) relationship to the Board of Regents Master Plan for Higher Education in the State of Utah. The above list is not ranked and is not inclusive.

If an academic program is eliminated or reduced, those support services and administrative oversight associated with it shall be re-evaluated and reduced if appropriate. Any reductions in support services shall precede further reduction or elimination of academic programs.

#### (4) Review.

If a plan calls for the elimination or reduction of a specific program, center, institute, school, department, college, campus, or site, that element of the plan shall be reviewed by the Budget and Faculty Welfare Committee; the Educational Policies Committee; the Graduate Council, where appropriate; the faculty members and/or faculty committee most directly involved in the program; the appropriate department head or supervisor, academic dean, vice president for extension, and, where applicable, chancellor and regional campus dean; relevant college committees or councils; relevant committees of the Professional Employees Association and the Classified Employees Association; and relevant student advisory committees. The views of these bodies shall be forwarded to the Faculty Senate for its consideration within the time periods prescribed by the president. The conclusions of the above bodies and the Faculty Senate shall be forwarded to the provost who shall consider them and forward them, along with his/her own recommendation, to the president. When the president's recommendations are submitted to the Board of Trustees and the Board of Regents, they shall be accompanied by the Faculty Senate's recommendations. After the Board of Trustees and the Board of Regents has approved the plan by the university to eliminate a program, the appropriate academic or regional campus dean, vice president, or chancellor of the program, center, institute, school, department, college, campus, or site shall give written notice of the elimination to all persons, including students, in the program, center, institute, school, department, college, campus, or site.

#### (5) Timetable.

Once financial exigency has been declared, the president shall submit to the Faculty Senate a timetable for relieving the state of exigency. Further, he/she shall report progress in this endeavor to the Faculty Senate on a quarterly basis.

#### **4.4 Terminations; Reductions in Status**

##### **(1) Plan for faculty reduction.**

As the process described in Policy 406.4.3 is taking place, the academic dean of each college, in consultation, where appropriate, with the chancellor and regional campus deans, shall, in consultation with the departments, department heads, and appropriate college committees, devise an orderly sequence of steps which shall constitute the college's faculty reduction plan. Included in such a plan will be explicit criteria by which individual faculty will be identified with the various programs under consideration for reduction or elimination. Program reductions are never to be declared with the aim of singling out a specific faculty member.

Insofar as feasible, the plan will emphasize the creation of various incentives such as voluntary retirement, early retirement, resignation, reduction in status, salary reduction, severance pay, or similar actions that will result in immediate or eventual cost savings for the university, and that are voluntarily entered into by individual faculty members rather than imposed by university authority.

When non-voluntary faculty reductions are necessary, unless explicitly stated and compelling academic reasons exist to the contrary, consideration will be given first to not filling existing faculty vacancies and not filling vacancies from resignations, retirements, or deaths. Consideration should next be given to the termination of instructional positions occupied by teaching assistants and faculty with special appointments (adjunct, visiting, and temporary). Next, consideration should be given to the termination of faculty with term appointments. Finally, consideration should be given to the termination of tenure-eligible or tenured faculty members. The integrity of the tenure system will be respected. Within an academic program, the appointment of a faculty member with tenure will not be terminated in favor of retaining a faculty member without tenure, except in extraordinary circumstances where a serious distortion of the specific academic program would otherwise result. The question of serious distortion shall be decided by the Educational Policies Committee and the Faculty Senate, with the approval of the president and the Board of Trustees. The finding of serious distortion shall be based on criteria which include, but are not limited to, essentiality of service and work, field of specialization, and maintenance of necessary programs or services.

Termination or reduction in status of tenured, tenure-eligible, or term appointment faculty members shall follow the procedures below.

##### **(2) Review procedure.**

Proposed faculty reduction plans shall be reviewed by affected department and college faculties in light of the future strength, balance, quality of teaching, research, extension, and mission of the department and college, tempered by concern for individual circumstances.

Faculty response to such reduction plans shall be forwarded in a timely manner to the appropriate department heads, academic deans, vice president for extension, and, where appropriate, to the chancellor or regional campus deans.

The academic dean shall notify, in writing, any faculty member who is the subject of a recommendation for reduction. A faculty member who is so identified may respond in writing at any point in the review with his/her comments becoming part of the record to be forwarded to the next level of review. Academic deans, shall consider such a response in consultation, where appropriate, with the chancellor and regional campus deans, shall add his/her separate recommendations and forward the complete file to the provost or the appropriate vice president.

The provost or any appropriate vice provost shall review the recommendations of the academic dean and any timely faculty response, as well as any appeals filed as in Policy 406.4.4(3).

### (3) Appeal to the provost.

If a faculty member chooses to formally appeal to the provost, the faculty member must submit, within 30 days of his/her receipt from the academic dean of a notice of a recommendation for termination or reduction in status, a written notice of intent to appeal with the provost. A faculty member who has submitted notice of intent to appeal must file a formal written appeal with the provost within 90 days of receipt of the notice of proposed termination.

### (4) Notice of termination or reduction in status.

The provost shall forward the complete file with a recommendation to the president. The provost shall also notify any affected faculty members in writing of his/her recommendation to the president. Written notice from the president or from the president's designee will be given to a faculty member who is terminated due to program elimination or reduction because of financial exigency as follows: (a) if the appointee is untenured and in the first year of service, notice shall be given at least three months prior to termination or reduction in status; (b) if the appointee is untenured and in the second year of service, notice shall be given at least six months prior to termination or reduction in status; (c) if the appointee is tenured or is untenured but in the third or subsequent year of service, notice shall be given at least 12 months prior to termination or reduction in status.

The notice must include the following: (a) the effective date of termination; (b) a statement of the reasons for the declaration of financial exigency; (c) the basis, the procedures, and the criteria used for termination; (d) opportunities for appeal, including access to appropriate documentation, and the appealable issues as set forth in Policy 406.4.4(5) below; and (e) the reinstatement rights.

### (5) Appeal and hearing.

A faculty member may appeal a termination only for: (a) violation of his/her academic freedom, legal, statutory, or constitutional rights; (b) failure to comply with this policy, the Board of Regents policy, or with the plan for personnel reduction approved by the Board of Regents; or (c) arbitrary or capricious action. Within 30 days of receiving a notice from the president for termination or reduction in status, a faculty member who intends to appeal must notify, in writing, the president and the Academic Freedom and Tenure Committee of the intent to appeal. The formal appeal, with supporting documentation, must be filed with the Academic Freedom and Tenure Committee within 45 days of receipt of notice from the president. A hearing will then be conducted in a timely manner by the Academic Freedom and Tenure Committee, in accordance with procedures in Policy 407.

#### **(6) Relocation.**

During the grace period of three years, and with the assistance of the appropriate administrators (e.g., academic deans, department heads, vice president for extension, and, where appropriate, the chancellor or regional campus deans), and with the consent of the receiving unit, every reasonable and good faith effort will be made to enable the affected faculty members who wish to do so to obtain suitable positions elsewhere in the university if qualified.

### **406.5 REINSTATEMENT RIGHTS**

#### **5.1 For Tenured Faculty**

In cases of termination of tenured faculty members, the position concerned may not be filled by replacement within a period of three years from the effective date of the termination unless the tenured faculty member has been offered a return to employment in that position and has not accepted the offer within 30 calendar days after the offer was extended.

#### **5.2 For Non-Tenured Faculty**

In cases of termination of non-tenured faculty members, the position concerned may not be filled by replacement within a period of one year from the effective date of the termination unless the person terminated has been offered a return to employment in that position and the person terminated has not accepted the offer within 30 calendar days.

#### **5.3 Termination of Offer of Reinstatement**

If an offer of reinstatement is not accepted within the timelines stated above, the university and the Board of Regents have no further obligation to the person terminated. After the expiration of the applicable reinstatement period as provided herein, the institution and the Board of Regents have no further obligation to the affected faculty.

#### **5.4 Faculty Status and Benefits after Reinstatement**

A faculty member who has been terminated and who accepts reinstatement in the same position will resume the rank and tenure status held at the time of termination, be credited with any sick leave accrued prior to the date of the termination, be paid a salary commensurate with the rank and length of previous service, and will be credited with any annual leave which the faculty member had accrued prior to the date of termination and for which the faculty member has not received payment.

## **406.6 MAJOR FINANCIAL CRISIS**

### **6.1 Definitions**

(1) Major financial crisis.

To constitute a major financial crisis, a situation facing the university shall: (a) be significantly and demonstrably more than a minor, temporary, and/or cyclical fluctuation in operating funds; and (b) involve substantial risk to the survival of departments, colleges, or other major academic components of the university. A substantial risk to survival is considered one where a substantial reduction occurs in (1) the ability to fulfill the mission of the academic unit, (2) the number of students served by the academic unit, or (3) the number and quality of course offerings.

(2) Academic program.

See Policy 406.2.1(2).

### **6.2 Declaration of Major Financial Crisis**

(1) Initiation.

If the president of the university identifies a possible major financial crisis, he/she shall inform the Budget and Faculty Welfare Committee, the Faculty Senate, the Professional Employees Association, and the Classified Employees Association concerning the causes and possible consequences of the crisis. The president shall also identify the measures considered by the university up to that point for dealing with the crisis, including a possible declaration of financial exigency, strategies that may be alternatives to program reduction or program elimination, reasons why the university's financial circumstances may necessitate academic program reduction or elimination, and the time frame by which decisions must be made by those entitled to participate in the consultative process. The president shall use his/her best efforts to secure the fullest period of time possible for consideration of these matters and the responses hereto.

(2) Consultation.

The Faculty Senate shall receive and consider the comments and advice of the Budget and Faculty Welfare Committee, the Professional Employees Association, and the Classified

Employees Association, as well as timely presented views of any other faculty or administrative body, on whether the president should declare the existence of a major financial crisis. The Faculty Senate shall then express its views in writing to the president. The Professional Employees Association and the Classified Employees Association shall also have the opportunity to express their views in writing to the president.

(3) Implementation.

The president, with the approval of the Board of Trustees, may declare the existence of a major financial crisis after following (1) and (2) above. The university's actions in response to the crisis shall be governed by Policies 406.4.3 and 4.4.

### **6.3 Program Elimination or Reduction Because of Major Financial Crisis**

(1) Strategies.

When the president has declared the existence of a major financial crisis, he/she shall consult the president's executive committee, the Council of Deans, the Graduate Council, appropriate directors of non-academic programs, the Budget and Faculty Welfare Committee, and the Educational Policies Committee concerning strategies for dealing with the crisis. These shall include examination of feasibility of all of the following: restrictions on enrollment, reductions or elimination of non-academic programs, across-the-board budget reductions, phased reductions, attrition, reductions in supplies, and, reduction or elimination of academic programs. The president will then outline to the Faculty Senate the strategies he/she proposes to follow in developing a specific plan for coping with the crisis. After receiving input from the groups above, the Faculty Senate will make whatever recommendations it deems appropriate concerning such strategies.

The policies below apply when, after receipt of the recommendations of the Faculty Senate, the president has concluded that a declared major financial crisis entails academic program reduction or elimination.

(2) Iterative process.

After declaration of a major financial crisis by the president an iterative process of university program elimination or reduction may begin. This process should be carried out in a manner that best insures the continuing integrity of academic programs. The first step in this process shall be for every administrative, academic, non-academic, and structural component of the university to assess its programs with regard to quality and essentiality to the mission of the university. During subsequent steps, support services shall be reduced to the extent feasible to prevent significant impairment of the university's ability to fulfill its mission/role.

(3) Administrative and support services.

The president will ask the provost and the appropriate vice presidents to develop reduction and/or elimination plans in the areas of university-wide support services and nonacademic

programs. Such plans will be reviewed by the president's executive committee, the Council of Deans, the Budget and Faculty Welfare Committee, the Professional Employees Association, and the Classified Employees Association, and will be integrated with academic elimination or reduction plans in light of the overall mission/role of the university.

If a non-academic program has been reduced or eliminated, university-wide support services must be re-evaluated and reduced as appropriate. Any reductions in support services or administrative oversight shall precede further reductions in or elimination of academic programs.

#### (4) Academic program elimination or reduction.

The president shall direct the provost to assist academic departments in developing plans to implement academic program elimination or reduction. The individual academic departments of the university shall be asked to evaluate their programs, consider alternatives to program reduction or elimination, and examine possible time frames (including multiyear) for accomplishing possible budget reductions. The academic dean of each college, and, where appropriate, the chancellor and regional campus deans shall review the departmental reports and comment upon them. The departmental reports and comments from the academic deans, and, where appropriate the chancellor and regional campus deans shall be forwarded to the president's executive committee, the Council of Deans, the Graduate Council, where appropriate, and the Educational Policies Committee for their review and statement of reactions.

The following criteria and information sources shall be considered by those making judgments about which programs should be eliminated or reduced because of a major financial crisis: (a) legal mandate; (b) the general academic quality of the program with regard to scholarship, teaching, and service; (c) the extent of importance that the program has for the mission of the university; (d) the mission and goals of the university; (e) Graduate Council review where appropriate; (f) findings by national accreditation bodies; (g) reports by appropriate national ranking sources; (h) such other systematically derived information, based on long-term considerations of program quality, as may be available; (i) the capacity of the program to generate external funding; (j) faculty/students ratios; (k) cost effectiveness when compared to similar programs at other universities; and (l) relationship to the Board of Regents' Master Plan for Higher Education in the State of Utah. The above list is not ranked and is not inclusive.

If an academic program is eliminated or reduced, those support services associated with it shall be re-evaluated and reduced if appropriate. These reductions shall precede further reductions or elimination of academic programs. Unless financial exigency is declared, tenured faculty members may not be terminated because their program was reduced, except when program elimination has occurred.

#### (5) Review.

If a plan calls for the elimination or reduction of a specific program, center, institute,

school, department, college, campus, or site that element of the plan shall be reviewed by the Budget and Faculty Welfare Committee; the Educational Policies Committee; the Graduate Council; the faculty members and/or faculty committee most directly involved in the program; the appropriate department head, academic dean, vice president for extension, and, where appropriate, the chancellor or regional campus dean; relevant college committees or councils; and relevant student advisory committees. The views of these bodies shall be forwarded to the Faculty Senate for its consideration within the time periods prescribed by the president. The conclusions of the above bodies and the Faculty Senate shall be forwarded to the president who shall consider them in his/her review of the proposed plan. The views of the Faculty Senate on the plans shall be forwarded to the Board of Trustees and/or to such other body as may be required by state law or university policy.

(6) Timetable.

Once a major financial crisis has been declared, the president shall submit to the Faculty Senate, the Professional Employees Association, and the Classified Employees Association a timetable for relieving the crisis. Further, he/she shall report progress in this endeavor to the Faculty Senate, the Professional Employees Association, and the Classified Employees Association on a quarterly basis.

#### **6.4 Terminations; Reductions in Status**

The procedures described in Policy 406.4.4 shall apply, except that the appointment of a faculty member with tenure will not be terminated in favor of retaining a faculty member without tenure unless program elimination has occurred.



Suggestion sent by: David Tarboton  
Email: [dtarb@usu.edu](mailto:dtarb@usu.edu)  
Date: October 25, 2012  
Suggestion: Faculty Senate:

I have a suggestion for the senate to consider taking up.

At present the faculty code, section 405.8.2 states: "All promotion advisory committee members shall participate interactively in all committee meetings, either physically or by electronic conferencing, at the appointed date and time. Ombudspersons must be present in person..."

This makes holding tenure and promotion meetings really challenging when multiple faculty are either on sabbatical or leave of absence. Would it be possible to change this. It would be really worthwhile in terms of saving faculty time. I suggest this be amended to say that faculty on sabbatical or extended (more than a month) leave of absence are not required to participate in these meetings and that as long as the committee is not reduced to less than three members present, replacements do not have to be appointed. Somehow the university should be able to figure out how to get by without faculty who are away.

David Tarboton



## **POLICY MANUAL**

### **FACULTY**

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#### **Number 402**

**Subject: The Faculty Senate and Its Committees**

**Effective Date: July 1, 1997**

**Revision Dates: November 16, 2001, April 29, 2002, January 12, 2007, April 30, 2007, March 6, 2009, August 13, 2010, July 8, 2011**

**Date of Last Revision: January 6, 2012**

#### **402.12 SENATE STANDING COMMITTEES**

##### **12.1 Executive Committee**

###### **(1) Duties.**

The Executive Committee shall perform the following duties:

- (a) prepare Senate meeting agendas;
- (b) propose such standing and special committees of the Senate as may be needed;
- (c) examine the work of the Senate committees to discourage duplication of effort and to ensure that all committee assignments are carried out;
- (d) act as a steering committee to direct problems to the proper committees;
- (e) act as a liaison to harmonize the work of all committees;
- (f) transact such business as may be referred to it by the Senate; and

###### **(2) Membership.**

The Senate Executive Committee shall consist of the following members:

- (a) the Senate President;
- (b) the President-Elect of the Senate;
- (c) immediate Past President;
- (d) elected faculty senators, representing each of the academic colleges, Regional Campuses, USU-CEU, Extension, and the Library;

- (e) the president of the university and executive vice president and provost, who shall serve as ex-officio members; and
- (f) a senator appointed by the president and approved by the Senate.

All members have a vote.

### (3) Eligibility; election; term.

Any elected senator who is completing or has completed one year of a Senate term is eligible to serve on the Executive Committee, subject to the following exceptions: (1) Senators with only one year remaining in their terms; and (2) Senators who are completing their terms, unless they have been re-elected to the Senate for an additional, successive term.

The election of Executive Committee members shall be conducted each spring following the election of new members to the Senate. Elections shall be by separate caucus of faculty senators within each academic college, Regional Campuses [and Distance Education](#), USU-CEU, Extension, and the Library. Caucuses shall be held within one week following the April meeting of the Senate.

A faculty senator elected to the Executive Committee shall serve for a two-year term, renewable (reelected) once.

### (4) Joint meeting of new and old Executive Committees.

Newly elected Executive Committee members will attend the April meeting of the old Executive Committee.

### (5) Meetings; Senate agenda.

The Executive Committee shall meet at least 14 days in advance of regularly scheduled Senate meetings to prepare the agenda and make assignments to those who are to report to the Senate.

### (6) Reports and recommendations of other Senate committees.

The Executive Committee will place reports and recommendations of other Senate committees on the Senate agenda without alteration.

## **12.2 Committee on Committees (CoC)**

The responsibility of the Committee on Committees is to: (1) apportion Senate elective positions annually; (2) coordinate and supervise the election of members to the Senate; (3) prepare eligibility slates and supervise nominations and elections within the Senate; and (4) recommend to the Senate the appointed members of all Senate committees and the members of university committees that include Senate representatives.

The Committee on Committees shall consist of three elected faculty senators. They are elected according to the same procedures, at the same time, and with the same eligibility restrictions that govern election of the Senate President-Elect. See policy 402.10.3 and 7.3. Members of the Committee on Committees serve two-year terms. They elect a chair from within their membership.

### **12.3 Academic Freedom and Tenure Committee (AFT)**

#### **(1) Duties.**

##### **(a) Jurisdiction as an administrative hearing body.**

The Academic Freedom and Tenure Committee, as represented by each of its hearing panels is an administrative hearing body, with jurisdiction in matters related to academic freedom, tenure, promotion, dismissals, and other sanctions; and actions alleged not to be in accordance with the adopted standards, policies, and procedures of the university. In relation to these matters, the committee may hear both complaints initiated by the university against a faculty member and grievance petitions brought by a faculty member.

##### **(b) Procedural due process.**

Hearing panels of the Academic Freedom and Tenure Committee shall, when hearing grievances, determine whether procedural due process was granted the petitioner as provided in this policy and determine whether the grievance is valid or not valid (see policy 407.6.6(8)) The recommendation of the hearing panel shall be binding on the general membership of the Academic Freedom and Tenure Committee.

##### **(c) Policy revisions.**

The Academic Freedom and Tenure Committee shall recommend to the Professional Responsibilities and Procedures Committee possible policy revisions arising from within the Academic Freedom and Tenure Committee's jurisdiction.

##### **(d) Review.**

The Academic Freedom and Tenure Committee will review, for consideration by the Senate, all matters pertaining to faculty rights, academic freedom, and tenure.

#### **(2) Membership.**

The Academic Freedom and Tenure Committee consists of the following members:

(a) one faculty member elected by and from the faculty in each academic college, Regional Campuses [and Distance Education](#), USU-CEU, Extension, and the Library, and (b) three faculty members appointed from the elected faculty senators by the Committee on Committees.

#### **(3) Election and appointment of members; terms.**

Committee members elected from the faculty shall be elected and will serve terms in accordance with policy 402.11.2. Committee members appointed from the Senate shall be selected in accordance with policy 402.12.2(4) and will serve three year terms (see also policy 402.11.2).

(4) Officers.

(a) Eligibility; election; term. No later than the last day of the Spring semester (before the terms of the newly elected members begin), the Committee shall elect from among its members a new chair and vice chair, each to serve a one-year term beginning July 1. Any member who has at least one year remaining in a committee term or who has been re-elected to an additional, successive term is eligible to serve as chair or vice chair.

(b) Responsibilities of the chair and vice chair. The chair shall set the agenda for and preside at Academic Freedom and Tenure Committee meetings, and appoint hearing panels as required. In the absence of the chair, the vice chair shall assume these duties. The vice chair shall be responsible for the recording of the minutes.

(5) Supplemental appointments.

If necessary in order to hear grievances in a timely manner, supplemental members of the Academic Freedom and Tenure Committee may be appointed by the Committee on Committees from the elected members of the Senate. This appointment process shall be initiated by the chair of the Academic Freedom and Tenure Committee. The term of these appointees shall expire June 30 following appointment.

(6) Hearing panels.

Hearing panels shall be appointed as necessary to hear grievances. Four members shall be appointed by the chair of the Academic Freedom and Tenure Committee from the Academic Freedom and Tenure Committee, and the remaining member shall be an administrator who holds a faculty appointment appointed by the president of the university. Faculty members of hearing panels shall be selected by the chair of the Academic Freedom and Tenure Committee on a rotating basis. All five panel members have a vote. Even if their Academic Freedom and Tenure Committee terms expire, hearing panel members shall serve until the recommendation of the hearing panel has been submitted to the Academic Freedom and Tenure Committee and to the president of the university.

#### **12.4 Budget and Faculty Welfare Committee (BFW)**

(1) Duties.

The duties of the Budget and Faculty Welfare Committee are to (a) participate in the university budget preparation process; (b) 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; (c) 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; (d) report to the Senate significant fiscal and budgetary trends which

may affect the academic programs of the university; and (e) provide faculty representatives for the Benefits Advisory Committee (BAC).

(2) Membership.

The membership, election, and appointment of members; term of members; officers; and meetings and quorum of the Budget and Faculty Welfare Committee shall be parallel to those of the Academic Freedom and Tenure Committee, as stated in policy 402.12.3(2) through 12.3(5).

## **12.5 Professional Responsibilities and Procedures Committee (PRPC)**

(1) Duties.

The Professional Responsibilities and Procedures Committee shall advise the Faculty Senate regarding composition, interpretation, and revision of Section 400 in University Policies and Procedures. Recommended revisions shall be submitted to the Senate for its consideration.

(2) Membership.

The membership, election, and appointment of members; term of members; officers; and meetings and quorum of the Professional Responsibilities and Procedures Committee shall be parallel to those of the Academic Freedom and Tenure Committee, as stated in policy 402.12.3(2) through 12.3(5).

## **12.6 Educational Policies Committee (EPC)**

(1) Duties.

The major function of this committee shall be to serve as the Senate committee on educational policy, including program discontinuance for academic reasons (policy 406.2). In addition to conducting studies and making recommendations as specifically instructed by the Senate, the committee itself may initiate such activities. Routine actions taken under established policy, such as approval for specific course changes, additions, or deletions, shall be submitted to the Senate as information items. All policy recommendations and major actions shall be referred to the Senate for approval or disapproval. Specific duties of the Educational Policies Committee shall include consideration of standards and requirements for university designated honors such as cum laude, magna cum laude, and summa cum laude.

(2) Membership.

The Educational Policies Committee consists of the executive vice president and provost or designee; one faculty representative from each academic college, Regional Campuses [and Distance Education](#), USU-CEU, Extension, and the Library; one faculty representative from the Graduate Council; the chairs of the EPC Curriculum Subcommittee, General Education Subcommittee, Academic Standards Subcommittee, two student officers from the elected

ASUSU student government and one student officer from the GSS. The faculty representatives are elected to the committee in accordance with policy 402.11.2.

(3) Term of members.

The term of office for faculty members on the Educational Policies Committee shall be in accordance with policy 402.11.2. The term of office for student members shall be one year and shall coincide with the term of ASUSU and GSS officers.

(4) Chair.

The executive vice president and provost or his/her designated representative shall serve as chair of the Educational Policies Committee. The Committee will elect a vice chair from its members to serve in the absence of the chair. The chair or his/her designee will report to the Senate on the committee's actions.

(5) Curriculum Subcommittee.

The Curriculum Subcommittee will formulate recommendations on curricular matters, such as course changes, and forward the same to the Educational Policies Committee. This subcommittee shall consist of the chairs of the curriculum committee of each academic college, three faculty members appointed from the elected membership of the Educational Policies Committee, one faculty representative [each](#) from [each](#) Regional Campuses and Distance Education, USU-CEU, Extension, and the Library, and two students, one from the ASUSU and one from the GSS. The terms of Educational Policies Committee members on the subcommittee will correspond to their terms on the Educational Policies Committee. The term of office for student members shall be one year and shall coincide with the term of ASUSU and GSS officers. The subcommittee shall elect a chair annually, preferably at the last meeting of the academic year.

(6) General Education Subcommittee.

The General Education Subcommittee formulates and reviews policy with respect to general education. The subcommittee shall consist of three faculty members and one student appointed from the Educational Policies Committee. Their terms will correspond to their Educational Policies Committee terms. Additional members may be appointed to the subcommittee for two-year terms by the Educational Policies Committee to lend academic expertise to the areas of emphasis in the general education program of the university. Recommendations developed by the General Education Subcommittee will be submitted to the Educational Policies Committee. The subcommittee shall elect a chair annually, preferably at the last meeting of the academic year.

(7) Academic Standards Subcommittee.

The Academic Standards Subcommittee (a) recommends policy on all matters pertaining to academic evaluation of students, including admission, retention, grade assignment, and graduation; (b) recommends discipline policy regarding student academic dishonesty; and (c)

approves the process for discipline regarding alleged academic violations by students and for grievance hearings in cases of alleged student academic dishonesty. The subcommittee shall consist of four faculty members and one student appointed from the Educational Policies Committee. Their terms will correspond to their Educational Policies Committee terms. Additional members may be appointed to the subcommittee for two-year terms by the Educational Policies Committee to lend expertise.

Recommendations from this subcommittee will be submitted to the Educational Policies Committee. The subcommittee shall elect a chair annually, preferably at the last meeting of the academic year.

## **12.7 Faculty Evaluation Committee (FEC)**

### **(1) Duties.**

The Faculty Evaluation Committee shall (a) assess methods for evaluating faculty performance; (b) recommend improvements in methods of evaluation; and (c) decide university awards for Professor and Advisor of the Year.

### **(2) Membership.**

The committee shall consist of one faculty representative from each academic college, Regional Campuses and Distance Education, USU-CEU, Extension, and the Library, two student officers from the ASUSU and one student officer from the GSS. The faculty representatives are elected to the committee in accordance with policy 402.11.2. The committee will elect a chair annually, preferably at the last meeting of the academic year.

## **12.8 Faculty Diversity, Development, and Equity Committee (FDDE)**

### **(1) Duties.**

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.

### **(2) Membership.**

The membership, election, and appointment of members; term of members; officers; and meetings and quorum of the Diversity, Development, and Equity Committee shall be parallel to those of the Academic Freedom and Tenure Committee, as stated in policy 402.12.3(2) through 12.3(5).



### **12.9 Executive Committee of the Faculty Forum (ECFF)**

The Executive Committee of the Faculty Forum shall have the duty of composing the agenda for the annual meeting and any special meetings of the Faculty Forum. The membership of this committee shall consist of the elected members of the Faculty Senate Executive Committee excluding administrators (see policy 402.12.1(2a-2d)).

### **12.10 Senate Handbook Committee (SHC)**

The Senate Handbook Committee composes and/or revises annually the Senate Handbook (policy 402.2.3). This committee consists of the Faculty Senate President, President-Elect of the Senate, and the Past President of the Senate. Additional members may be appointed by the Committee on Committees.

### **402.13 UNIVERSITY COUNCILS AND COMMITTEES WITH FACULTY REPRESENTATIVES**

The Senate Committee on Committees recommends to the Senate faculty members to be appointed to the following university councils, boards, and committees: Athletic Council, Graduate Council, University Research Council, Council on Teacher Education, University Libraries Advisory Council, Honors Program Advisory Board, University Scheduling Committee, Calendar Committee, Bookstore Committee, Honorary Degrees and Awards Screening Committee, Diversity Council, and Parking Policy Committee. The faculty representative need not be a Senate member unless his/her role on the council or committee is to represent the Senate specifically as well as the faculty generally. See also policy 402.10.3, 11.2 and 12.2(4). In the spirit of shared governance, at the Regional Campuses and USU-CEU, the chancellor and regional campus deans will establish procedures whereby faculty members on those campuses can be actively engaged and represented in key local decisions parallel to the councils and committees described in this paragraph.



## POLICY MANUAL

### FACULTY

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#### Number 407

**Subject:** Academic Due Process: Sanctions and Hearing Procedures

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#### 407.1 INTRODUCTION

This section of the policy manual describes allowable sanctions that may be imposed on a faculty member and specifies procedures for the imposition of a sanction, ~~for establishing medical incapacity,~~ and for conducting a grievance hearing.

Where administrators have faculty assignments, they are subject to the provisions of this policy, such provisions to be carried out by their immediate supervisors.

In the absence of the president, or where a potential or actual conflict of interest exists, the president may designate a tenured faculty member to act on his/her behalf. If the provost is not a tenured faculty member or where a potential or actual conflict of interest exists, the provost may designate a tenured faculty member to act on his/her behalf.

In all proceedings in this policy, the rights of access to records are maintained (see Policy 405.6.4).

#### 1.1 Non-punitive Measures

Non-punitive measures such as guidance, ~~counseling, therapy,~~ leave of absence, ~~voluntary resignation,~~ or early retirement should be considered and taken in lieu of a sanction ~~when: (1) it is available; (2) it will provide reasonable assurance that the faculty member will not repeat his/her violation of professional responsibility; (3) substantial institutional interests are not undermined; and (4) the faculty member consents thereto.~~ The faculty member should consult the ADA Coordinator within HR if performance issues are medically related.

## **1.2 Definitions of Days**

In all proceedings under Policy 407, a day is defined as a calendar day (Sunday through Saturday, excluding official university holidays).

## **407.2 SANCTIONS**

Misconduct contrary to the standards of conduct set forth in Policy 403 may lead to sanction. Minor departures from responsible professional behavior are likely to be minor lapses, which can be corrected simply by calling the matter to the attention of the faculty member involved. Such minor lapses are handled within the faculty member's academic unit.

Apparent failures to comply with the standards of conduct are approached by positive attempts to improve faculty performance such as sustained attempts to inform, persuade, and improve. If appropriate, positive efforts to improve faculty performance shall precede or accompany all sanctions.

### **2.1 Authorized Sanctions**

#### **(1) Reprimand.**

A reprimand is a written statement detailing a violation of the standards of conduct in Policy 403.

#### **(2) Probation.**

Probation is a period of time, not to exceed one year, during which faculty members who have violated the standards of conduct in Policy 403 are afforded the opportunity to demonstrate their ability to comply with their professional responsibilities. Failure to fulfill the terms of probation may result in the imposition of another sanction.

#### **(3) Suspension.**

Suspension is the barring of a faculty member from the exercise of all or part of his/her duties for a period of time, not to exceed one year. Suspension may be imposed with full pay, partial pay, or without pay.

#### **(4) Reduction in rank.**

Reduction in rank is a one-step reduction in faculty rank as defined in Policies 401.4 and 401.5. Reduction in rank is different from reduction in status (see Policy 406.2.3 (2)).

#### **(5) Dismissal.**

Dismissal is the ending of employment.

Termination and non-renewal are defined here to differentiate them from dismissal. Termination and non-renewal are not sanctions. Termination means the ending of employment of a tenured faculty member or a faculty member with term appointment for ~~medical reasons~~, program discontinuance, financial crisis, or bona fide financial exigency. Non-renewal means the ending of employment of a faculty member without tenure or a faculty member with term appointment by non-renewal of his/her contract (see Policy 405).

## **2.2 Purpose**

The imposition of a sanction should serve one or more of the following purposes: (1) to induce self-improvement and reform by a faculty member whose conduct demonstrates the need for self-improvement and reform; (2) to indicate to the faculty member the seriousness of his/her violation and thereby deter him/her from future violations; (3) to reassure the institutional community that violations of the standards of conduct will not be tolerated, thereby helping to maintain respect for and commitment to the standards by other members of the institutional community; or (4) to remove from institutional employment faculty members whose violation of the standards of conduct makes them unsuitable to continue in beneficial service to the institution.

## **2.3 Imposing a Sanction**

The decision to impose a sanction should be guided by mercy and restraint. A sanction shall be imposed when: (1) the purpose set forth in Policy 407.2.2 cannot be adequately served by non-punitive measures; (2) the sanction is not disproportionately severe in relation to the violation of the standards of conduct for which it is imposed; and (3) the imposition of such sanction is fair and just to the faculty member involved, giving due consideration to the situation and to any relevant matters tending to mitigate the seriousness of the violation.

Sanctions are mutually exclusive and are imposed by the authority of the president. However, probation and another sanction consequent on the failure to fulfill the terms of probation cannot be imposed simultaneously. Sanctions are not cumulative; the sanctions are progressive in severity, but do not have to be imposed progressively.

## **2.4 Restitution**

When a sanction less than dismissal is imposed, the terms of imposition may include the requirement that the faculty member take reasonable action to make restitution or to remedy a situation created by a violation of the standards of conduct.

## **2.5 Double Jeopardy**

No faculty member shall be twice subject to proceedings under this policy for the same instance of a violation of a standard of conduct.

Where a faculty member has been subject to proceedings in a court of law, a sanction shall not be imposed on the faculty member for the same acts unless the acts constitute violations of the standards of conduct in Policy 403.

### **407.3 PROCEDURES FOR REPRIMANDS**

#### **3.1 Notification of Intent to Issue a Reprimand**

If a faculty member's department head or supervisor and academic dean or the vice president for extension and agriculture, or, where appropriate, chancellor or regional campus dean believe that a faculty member has violated the standards of conduct in Policy 403 and such violation warrants a reprimand, they shall notify the faculty member of the basis of the proposed reprimand. The faculty member shall be afforded an opportunity to meet and persuade them that the proposed reprimand should not be imposed. If a reprimand is imposed, it must be issued within 5 days of the meeting.

#### **3.2 Review of Reprimand**

If a faculty member believes that the reprimand has been unjustly imposed, he or she may request a review of the reprimand by the Academic Freedom and Tenure Committee. Such request must be made in writing to the chair of the committee within 20 days after the faculty member receives the reprimand. Within 20 days of receipt of a written request for review, the chair of the Academic Freedom and Tenure Committee shall select by lot and convene a special panel of three members of the Academic Freedom and Tenure Committee (see Policy 402.12.3(2)). The panel shall provide the faculty member with the opportunity to submit a detailed written statement if he or she desires. The panel shall decide whether the facts merit a reprimand hearing. Submission of a request for review does not automatically result in a reprimand hearing.

The panel may seek to bring about a settlement of the matter with the consent of all parties involved. If settlement is not possible or appropriate within 20 days after the panel is convened, the panel will decide whether or not to hold a hearing on the matter.

#### **3.3 Reprimand Hearing**

The reprimand hearing will occur within 10 days after the review of the reprimand by the panel. The hearing will be informal but will provide the faculty member and those imposing the reprimand with the rights to be present, to be heard, and to present evidence.

Within 10 days after the hearing, the panel will report its findings and recommendations in writing to the faculty member and to those imposing the reprimand. If the panel determines that the written reprimand is unjust or otherwise inappropriate, such sanction shall be rescinded by those who imposed it and removed from the faculty member's file.

## **407.4 PROCEDURES FOR SANCTIONS OTHER THAN REPRIMANDS**

Probation, suspension with other than full pay, reduction in rank, and dismissal may be imposed on a faculty member only after it has been determined, by the proceedings in this policy, that he or she has violated the standards of conduct in Policy 403. The president may suspend a faculty member with full pay pending completion of the procedures described below. In all proceedings to impose a sanction other than a reprimand, the following procedures shall govern, except for procedures which govern allegations of research fraud (see Policy 407.8) and sexual harassment (Policy 407.9).

### **4.1 Initiation**

Whenever there are grounds to believe that a faculty member has failed to comply with the standards of conduct in Policy 403, the president, upon his/her own initiative, upon a recommendation from a department head, supervisor, academic dean, the vice president for extension and agriculture, chancellor, regional campus dean, or other administrative office, upon request of the Board of Trustees, or upon the receipt of complaints from any person, may initiate proceedings for probation, suspension, reduction in rank, or dismissal of a faculty member.

### **4.2 Notice of Intent to Impose a Sanction**

At the direction of the president, the provost shall cause written notice to be delivered personally or by certified mail, return receipt requested, to the faculty member under investigation. A copy of this notice shall be sent to the chair of the Academic Freedom and Tenure Committee, along with a statement confirming the date the faculty member received it. Copies will also be sent to the faculty member's department head or supervisor and academic dean, vice president for extension and agriculture, or, where appropriate, chancellor or regional campus dean.

Such notice shall contain the following:

- (1) A concise and clear statement of the facts, conduct, or circumstances reported to constitute failure to comply with the standards of conduct in Policy 403, including a statement of the standard or standards the faculty member is alleged to have violated.
- (2) A statement of the sanction proposed.
- (3) A statement that (a) the faculty member has the right to be heard in a conference with the provost (see Policy 407.4.5) either in person or by electronic conferencing; (b) the faculty member may have an advisor of his/her own choosing present at such conference; (c) this conference must be requested in writing within 5 days after receipt of the notice by the faculty member; and (d) this conference must be held within 10 days after receipt of notice by the faculty member.

(4) A statement of the schedule of events that lead to a formal hearing, and that a faculty member may be accompanied at such hearing by an advisor of his/her own choosing.

(5) A statement that within 20 days of the receipt of this notice, the faculty member, if he or she wishes to contest the alleged violation, must file in writing with the chair of the Academic Freedom and Tenure Committee a statement of intent to contest the alleged violation through formal hearing; and that failure to do so will result in the imposition of the proposed sanction.

(6) A statement that within 20 days of the filing of the written statement of intent to contest the alleged violation through formal hearing, the faculty member must file, with the chair of the hearing panel, a written response which answers the alleged violation contained in the original notice; and that failure to do so will result in the imposition of the proposed sanction.

#### **4.3 Schedule of Events**

The proceedings shall commence with the receipt by the faculty member of the written notice as described in Policy 407.4.2. A copy of the notice must be delivered by the provost to the chair of the Academic Freedom and Tenure Committee within 10 days of receipt of notice by the faculty member.

If the faculty member desires a conference with the provost, he or she must request it within 5 days of receipt of notice. The conference must be held within 10 days of receipt of notice.

The faculty member must present to the chair of the Academic Freedom and Tenure Committee a written statement of intent to contest the alleged violation through formal hearing within 20 days of receipt of notice. The chair of the Academic Freedom and Tenure Committee must notify the provost of the faculty member's intent to contest the alleged violation through formal hearing within 10 days of receiving such statement of intent.

The chair of the Academic Freedom and Tenure Committee must appoint four members of a hearing panel (Policy 402.12.3(7)), including a hearing panel chair, within 10 days of the filing of the written statement of intent to contest the alleged violation through formal hearing. The president must appoint an administrative member of the hearing panel within the same time.

The faculty member must file, with the chair of the hearing panel, a written response which answers the alleged violation contained in the original notice, within 20 days of the filing of the written statement of intent to contest the alleged violation through formal hearing. The chair of the hearing panel must provide the president with a copy of the faculty member's written response which answers the alleged violation contained in the original notice within 5 days of receiving such response.

A prehearing conference will be held within 10 days prior to the formal hearing. The formal hearing will be held within 40 days of receipt of the faculty member's statement of intent to contest the alleged violation through formal hearing. The chair of the hearing panel will schedule the hearing date. The hearing panel must provide a written report of its

recommendation to the president, provost, and to the faculty member within 20 days of the hearing.

The schedule of events for sanctions may be suspended for a reasonable time if key participants are not available either in person, by teleconference, by letter, or other appropriate means. The hearing panel, appointed by the chair of the Academic Freedom and Tenure Committee, will determine by a majority vote whether a suspension of the schedule of events for sanctions is warranted.

#### **4.4 Emergencies**

Emergencies may be grounds for a reasonable extension of the time limits for filing a notice of intent to contest the alleged violation, or for responding to the alleged violation, or for conducting the hearing. Such emergencies must be of a serious and compelling nature, and any such extension shall be by mutual agreement. Failing agreement, an extension for filing a notice of intent to contest the alleged violation is granted only by a majority vote of the Academic Freedom and Tenure Committee; an extension for filing a written response or for conducting the formal hearing is granted only by a majority vote of the hearing panel.

#### **4.5 Conference with Provost**

A faculty member notified of an intent to impose a sanction has the right to be heard in conference with the provost either in person or by electronic conferencing. The schedule for requesting and holding a conference is specified in 4.3 above. Both the faculty member and the provost may each have an advisor of their own choosing present at the conference. The purpose of the conference is to attempt to reach an agreement or settlement. In the event that the alleged violations are disposed of by mutual agreement or negotiation at the conference, no hearing need be held. A copy of such settlement shall be sent to the chair of the Academic Freedom and Tenure Committee.

The right to a conference with the provost is discretionary with the faculty member; requesting or rejecting such a conference does not abrogate the faculty member's right to a formal hearing.

#### **4.6 Notice of Intent to Contest the Alleged Violation**

A faculty member notified of action leading to sanction must file a notice of intent to contest the alleged violation if the faculty member desires a formal hearing. The notice of intent to contest the alleged violation must be filed with the chair of the Academic Freedom and Tenure Committee within 20 days of receipt of notice. Failure to do so will result in entry of the faculty member's default in the premises, and the imposition of the proposed sanction.

#### **4.7 Response to the Alleged Violation**

The faculty member must file a written response which answers the alleged violation contained in the original notice with the chair of the hearing panel within 20 days of the filing



of the written statement of intent to contest the alleged violation. Appropriate, substantiating documentation shall be submitted with the response. Failure to do so will result in entry of the faculty member's default in the premises, and the imposition of the proposed sanction.

#### **4.8 Pre-hearing Conference**

Within 10 days prior to the date set for the hearing, a pre-hearing conference will be held before the chair of the Academic Freedom and Tenure Committee, who shall preside, and the chair of the hearing panel. At this pre-hearing conference the provost or administrative representative and the faculty member shall make available to each other lists of their proposed witnesses and the documentary evidence to be introduced at the hearing. The pre-hearing conference shall delineate the issues to be examined at the hearing, stipulate the facts to be agreed upon, and achieve such other appropriate pre-hearing objectives as will make the hearing fair, effective, and expeditious.

Before the formal hearing begins, upon request, either party shall allow the other to examine all documentary evidence and any written or recorded statements that were made by witnesses listed by either party.

#### **4.9 Hearing to Consider Imposition of a Sanction**

##### **(1) Date.**

The formal hearing will be held within 40 days of receipt of the faculty member's statement of intent to contest the alleged violation through formal hearing. The chair of the hearing panel will schedule the hearing date. The formal hearing may be continued upon good cause shown by either party. The panel will grant adjournment to enable either party to investigate evidence to which a valid claim of surprise is made.

##### **(2) Records; witnesses; counsel.**

Upon request by either the provost or administrative representative, the faculty member, or any member of the hearing panel, the chair of the hearing panel shall request the production of university records and the presence of witnesses to appear and testify. Compliance with such requests is an obligation of employment of any university official or employee except that the privilege against self-incrimination and access to university records as provided in Policy 405.6.4 shall be honored by the panel.

The faculty member and the provost or administrative representative each have the right to have present any one person as an advisor of their choice at all stages of the hearing. The faculty member and the provost or administrative representative shall also each have the right to confront and cross-examine witnesses, to present evidence and call witnesses in their own behalf, to testify, and to be present with their advisor and/or counsel at all meetings and proceedings of the panel except sessions which are closed for deliberation and vote. The faculty member's advisor and the provost or administrative representative's advisor are permitted to advise and counsel their respective parties but are not permitted to argue the case

or interrogate witnesses. Members of the hearing panel may question witnesses and parties to the hearing.

(3) Opening the hearing to the public.

Hearings shall be closed to the public unless the faculty member requests that they be open and the panel determines, following such request, that an open hearing will not prejudice the interests of the university, the faculty member, or the witnesses. When an open hearing is requested by the faculty member but such request is denied, the specific reasons for denial shall be stated in the record. In any closed hearing the faculty member and the provost or administrative representative shall each have the right to the presence of not more than three persons each designated by them as observers.

(4) Hearing record.

A verbatim record of the hearing or hearings shall be made by the president's office and, upon request, a written copy shall be made available to the faculty member without cost.

(5) Burden of proof.

The burden of proof that adequate cause exists to impose a sanction rests with the provost or administrative representative and shall be satisfied only by a preponderance of the evidence in the record considered as a whole.

The panel will not be bound by rules of evidence, and will admit any evidence that is of probative value in determining the issues involved. Every possible effort will be made to obtain the most reliable evidence available.

The findings of fact and the recommendation will be based solely on the hearing record.

(6) Publicity.

Except for such simple announcements as may be required covering the time of the hearing and similar matters, public statements and publicity about the case by all parties and persons involved or present will be avoided as far as possible until the proceedings have been completed.

(7) Deliberations; standards for review.

Hearing panel deliberations and voting shall be conducted in closed sessions from which all other persons are excluded. Upon request of any member of the panel, votes shall be taken by secret written ballot. A simple majority of members shall be required for recommendations by the hearing panel. The panel chair shall be entitled to vote on all questions. The hearing panel may recommend the sanction proposed by the provost or a less severe sanction, including no sanction.

The standard of review by the hearing panel shall be whether the imposition of the proposed sanction (a) is an arbitrary or capricious action, (b) fails to accord the faculty member the academic due process statutory, or constitutional **rights**, established by these policies, (c) violates the academic freedom of the faculty member, or (d) violates the legal, statutory, or constitutional rights of the faculty member. If the faculty member asserts a violation of statutory or constitutional civil rights in any of the protected categories of race, color, religion, sex, national origin, age, disability, marital or parental status, or veteran's status, in the faculty member's written response to the alleged violation or at any time during the course of the proceeding, such claims shall be immediately referred in writing to the Affirmative Action/Equal Opportunity (AA/EO) Office by the chair of the hearing panel. All such statutory and constitutional civil rights claims shall be handled as outlined in Policy 305.

The hearing panel must report its recommendation to the president, the provost, and to the faculty member within 20 days of the hearing.

#### **4.10 Decision by the President**

The president shall review the report and recommendation of the hearing panel and notify the faculty member, the provost, and the chair of the Academic and Freedom Committee of his/her decision within 10 days.

Prior to making his/her decision, the president may remand the matter to the hearing panel for review and further hearing, if necessary. The president shall state in writing to the chair of the hearing panel the specific purposes or reasons for the remand. The further review and hearing shall be limited to those purposes or reasons. The hearing panel shall complete its review and report its conclusions to the president within 20 days after receipt of the remand by the chair of the hearing panel. The president shall review the report and notify the faculty member, the provost, and the chair of the Academic Freedom and Tenure Committee within 10 days of his/her decision.

The decision of the president is final.

#### **4.11 Temporary Suspension with Full Pay Pending Legal Action**

In the event that a faculty member is charged with a felony that affects an institutional interest, the president may temporarily suspend the faculty member with full pay without following the procedures above upon written notice to the faculty member. This suspension shall remain in effect until such time as the faculty member has resigned, been acquitted of the felony charges, or been sanctioned according to procedures above.

#### ~~**407.5 MEDICAL INCAPACITY**~~

~~A faculty member may be transferred to the university's disability program because of medical incapacity which does not allow the faculty member to perform his/her duties and responsibilities. Procedures for this purpose shall be as follows.~~

## **5.1 Faculty Member Initiation**

~~When a faculty member feels unable to perform his/her duties because of medical incapacity, he or she may request transfer to the university's disability program. The request for transfer will be sent to the faculty member's department head or supervisor and must include a letter from the faculty member's physician certifying the incapacity.~~

~~The department head or supervisor will send a recommendation to the appropriate academic dean or vice president for extension and agriculture and, where appropriate, to the chancellor or regional campus dean, requesting that the faculty member be placed on the medical disability program.~~

~~A faculty member's transfer from the department or division's budget to the disability program shall be in accordance with the provisions of the university's group disability insurance policy.~~

## **5.2 University Initiation**

~~Procedures to transfer a faculty member to the disability program may also be initiated by a written statement alleging medical incapacity made to the provost by the faculty member's department head or supervisor, academic dean, vice president for extension and agriculture, or, where appropriate, chancellor or regional campus dean.~~

~~Within 20 days after the receipt of such written allegation, the provost shall notify the faculty member thereof and inform him or her of the rights to a conference with the provost and to be examined at university expense by two appropriately licensed professionals. The two professionals shall be chosen by the Budget and Faculty Welfare Committee from lists submitted by the provost and the faculty member.~~

~~If the faculty member refuses medical examination or if the medical examiners find the faculty member to be suffering from a medical condition which could substantially and adversely affect the performance of his/her duties, the provost may recommend that the president initiate procedures described in Policy 407.4 to transfer the faculty member to the disability program. Under these circumstances, references to imposing a sanction shall be replaced by references to transferring to the disability program. A transference to the disability program is a termination (see Policy 407.2.1(5)).~~

## **407.65 GRIEVANCES**

Faculty members may grieve actions taken against them, including actions initiated by the university against the faculty member. Grievances are allegations of arbitrary or capricious conduct; violations of legal, constitutional, or statutory rights; or violations of this code or other adopted policies and procedures. A faculty member may not grieve a decision reached under Policies 407.3, .4, and .5. **407.3 and 407.4.**

### **65.1 Initiation**

A faculty member who has grounds to file a grievance may file written notice of intent to grieve with the chair of the Academic Freedom and Tenure Committee in a timely fashion, but in no instance later than 120 days after the grievant knew or should have known the facts and circumstances giving rise to the grievance.

However, if the subject of the grievance is termination, non-renewal (including the denial of tenure), or reduction in status a faculty member must file written notice of intent to grieve with the chair of the Academic Freedom and Tenure Committee within 20 days of receipt of notice of termination, non-renewal, or reduction in status.

Once notice of intent to grieve has been filed with the chair of the Academic Freedom and Tenure Committee, the actual grievance statement must be filed in writing with the chair of the Academic Freedom and Tenure Committee within 20 days. Failure to file the grievance statement during this time dismisses the intent to grieve with prejudice against the faculty member refiling.

Proceedings for grievances may be suspended for a reasonable time if key participants are not available either in person, by teleconference, by letter, or other appropriate means. The hearing panel, appointed by the chair of the Academic Freedom and Tenure Committee, will determine by a majority vote whether a suspension of grievance proceedings is warranted.

### **65.2 Grievance Statement**

The grievance statement must include a specific identification of the grievance, a concise summary of the evidence with supporting documentation, and a list of individuals (i.e., respondents) who are asked to respond to the grievance statement. Five copies plus an additional copy for each respondent must be filed with the chair of the Academic Freedom and Tenure Committee.

If a faculty member asserts a violation of statutory or constitutional civil rights in any of the protected categories of race, color, religion, sex, national origin, age, disability, marital or parental status, or veteran's status in his/her grievance statement (or at any time during the course of the proceeding), such claims shall be immediately referred in writing to the AA/EO Office by the chair of the Academic Freedom and Tenure Committee. All such statutory and constitutional civil rights claims shall be handled as outlined in Policy 407.89. The chair of the Academic Freedom and Tenure Committee shall inform the faculty member in writing.

### **65.3 Grievance Hearing Panel**

Once the grievance statement has been filed, the chair of the Academic Freedom and Tenure Committee must, within 15 days, appoint a grievance hearing panel in accord with Policy 402.12.3. The president will appoint the fifth member of the grievance hearing panel within 15 days of the filing of the grievance statement.

#### **65.4 Distribution of Grievance Statement and Responses**

Within 5 days after the filing of the grievance statement, the chair of the Academic Freedom and Tenure Committee must distribute copies of the grievance statement to each of the respondents named in the grievance.

Within 20 days after the filing of the grievance statement, these respondents must file six copies of their written responses with the chair of the grievance hearing panel. Within 25 days after the filing of the grievance statement, the chair of the grievance hearing panel must distribute the respondents' responses to the grievant.

Within 25 days after the filing of the grievance statement, the chair of the grievance hearing panel must distribute copies of the grievance statement and the respondents' responses to the remaining members of the grievance hearing panel.

#### **65.5 Pre-hearing Conference**

Within 40 days after the filing of the grievance statement, a pre-hearing conference shall be held before the chair of the Academic Freedom and Tenure Committee, who shall preside, and the chair of the grievance hearing panel. At this pre-hearing conference the parties shall make available to each other lists of their witnesses and the documentary evidence to be introduced at the hearing. The pre-hearing conference shall delineate the issues to be examined at the hearing, stipulate the facts to be agreed upon, and achieve such other appropriate pre-hearing objectives as will make the hearing fair, effective, and expeditious.

Before the formal hearing begins, upon request, either party shall allow the other to examine all documentary evidence and any written or recorded statements that were made by witnesses listed by either party.

#### **6.5.6 Grievance Hearing**

(1) Date.

The grievance hearing will be held within 20 days of the pre-hearing conference. The grievance hearing panel will schedule the hearing. The grievance hearing may be continued upon good cause shown by any of the parties and mutual agreement thereto. The grievance hearing panel will grant adjournment to enable either party to investigate evidence to which a valid claim of surprise is made.

(2) Records; witnesses; counsel.

Upon request by either of the parties to the grievance, the hearing panel shall request the production of university records and the presence of witnesses to appear and to testify.

Compliance with such requests is an obligation of employment of any university official or employee except that the privilege against self-incrimination and access to university records as provided in Policy 405.65.4 shall be honored by the hearing panel.

Each party to the grievance has the right to have present any one person as an advisor of his/her choice at all stages of the hearing. Each party shall also have the right to confront and cross-examine witnesses, to present evidence and call witnesses in his/her own behalf, to testify, and to be present with his/her advisor at all meetings and proceedings of the hearing panel except sessions which are closed for deliberation and vote. The advisors and counsels are permitted to advise and counsel their respective parties but are not permitted to argue the case or interrogate witnesses. Members of the hearing panel may question witnesses and parties to the hearing.

### (3) Opening the hearing to the public.

Grievance hearings shall be closed to the public unless a party requests that they be open, the other party agrees, and the hearing panel determines that an open hearing will not prejudice the interests of any of the parties to the grievance. Where an open hearing is requested on the mutual consent of the parties but such request is denied, the specific reasons for denial shall be stated in the record. In any closed grievance hearing the parties shall have the right to choose and to have present not more than three persons each designated by them as observers.

### (4) Record.

The chair of the hearing panel will be responsible for seeing that a taped record of the hearing is taken. If a written record is desired by either party to the grievance, the parties will share equally in the cost of the transcription.

### (5) Burden of proof.

The burden of proof that adequate cause for grievance exists rests with the faculty member and shall be satisfied only by a preponderance of the evidence in the record considered as a whole.

The grievance hearing panel will not be bound by strict rules of evidence, and may admit any evidence which is of probative value in determining the issues involved. Every possible effort will be made to obtain the most reliable evidence available.

The findings of fact and the recommendation will be based solely on the hearing record.

### (6) Publicity.

Except for such simple pronouncements as may be required covering the time of the hearing and similar matters, public statements and publicity about the grievance by either party will be avoided as far as possible until the proceedings have been completed.

(7) Deliberations.

Hearing panel deliberations and voting shall be conducted in closed sessions from which all other persons are excluded. Upon request of any member of the hearing panel, votes shall be taken by secret ballot. A simple majority of members shall be required for recommendations. The chair shall be entitled to vote on all questions.

(8) Recommendation of the hearing panel.

In its finding, the hearing panel will determine only whether the grievance is valid or not valid; that is, whether or not there has been arbitrary or capricious conduct, violations of legal, constitutional, or statutory rights, or violations of these policies or other adopted policies and procedures. The determination of the hearing panel shall be binding on the Academic Freedom and Tenure Committee as a whole. A hearing panel shall submit a written report and recommendation to the president within 20 days of the hearing. A copy of the hearing panel's report shall be forwarded to both parties to the grievance.

(9) Presidential review and recommendation.

The president shall review the report and recommendation of the hearing panel and notify the parties to the grievance of his/her decision within 10 days.

The decision of the president is final.

## **407.76 NON-RENEWAL**

### **76.1 Definition of Non-Renewal**

Non-renewal is the ending of employment of tenure-eligible or term appointment faculty, other than by dismissal (Policy 407.2.1(5)) or by termination (Policy 406.2.3(2)). When non-renewal occurs at the end of the pre-tenure probationary period for tenure-eligible faculty (Policy 405.1.4), it is a denial of tenure.

### **76.2 Reasons for Non-Renewal**

There are only three reasons for non-renewal: unsatisfactory performance of the faculty member's assigned role (Policies 405.6.1 and 11.1); failure to satisfy the criteria for the award of tenure; or cessation of extramural funding that is required for a substantial portion of the salary support of the faculty member. Non-renewal prior to the end of the pre-tenure probationary period for tenure-eligible faculty is an administrative decision of the department head or supervisor, academic dean or vice president for extension and agriculture, and, where appropriate, the chancellor or regional campus dean, and must be approved by the provost and president. In making a decision regarding non-renewal, the department head or supervisor, academic dean or vice president for extension and agriculture, and, where appropriate, the chancellor or regional campus dean is to take into consideration the most current and all



previous reports from the Tenure-Advisory Committee when making a decision regarding non-renewal (Policy 405.6.2(1)). Tenure-eligible and term appointment faculty members may not have their appointments non-renewed for reasons which that violate their academic freedom or legal rights.

### **76.3 Notice of Non-Renewal**

#### **(1) Delivery of notice.**

The president or the president's designee shall prepare written notice of non-renewal and shall deliver the notice personally to the faculty member, or shall have the notice delivered by certified mail, return receipt requested. If the notice is thus mailed, it is deemed effective for all purposes.

#### **(2) Notification schedule.**

For tenure-eligible faculty appointments, non-renewal must first be preceded by the following minimum notice (a) not later than March 1 for first-year and second-year appointees; (b) not later than December 15 for third-year appointees; (c) no later than January 29 prior to the issuance of a terminal year appointment for fourth-year and fifth-year appointees, except in the case of denial of tenure (see Policy 407.76.1), where minimum notice shall be not later than April 15.

For term appointments commencing at times other than the beginning of the academic year, notice of non-renewal must be no later than: (a) 60 days prior to the end of the first year of service; (b) 130 days prior to the end of the second year of service; or (c) 30 days prior to the issuance of a terminal year appointment after two or more years of service.

### **76.4 Procedures**

#### **(1) Statement of reasons for non-renewal.**

Reasons for non-renewal may be stated in the notice of non-renewal, at the president's discretion.

#### **(2) Conference.**

Within 5 days of the receipt of the notice of non-renewal, at the faculty member's request, a conference to discuss the non-renewal shall occur between the department head and the faculty member who received notice of nonrenewal.

#### **(3) Review by higher administrative level.**

Within 15 days of the notice of non-renewal, at the faculty member's request, the non-renewal and relevant documentation shall be reviewed in a conference including the faculty member and the academic dean or vice president for extension and agriculture, and, where appropriate,

the chancellor or regional campus dean. Unless specifically requested by the faculty member, this conference shall not include the department head or supervisor.

## **407.87 INQUIRY INTO ALLEGATIONS OF SCIENTIFIC MISCONDUCT IN RESEARCH AND IMPOSING SANCTIONS FOR RESEARCH FRAUD**

In order to distinguish misconduct from honest error and ambiguities of interpretation that are inherent in scientific research, and to provide an environment that promotes integrity, the university has adopted procedures for assessing allegations and conducting inquiries and investigations related to possible scientific misconduct in research. These procedures are contained in the most recent version of “UTAH STATE UNIVERSITY Scientific Misconduct Procedures” (USU-SMP). The USU-SMP procedures were recommended by the Office of Research Integrity of the U. S. Department of Health and Human Services and modified by USU. The USU-SMP are maintained and made available by the vice president for research and dean of the school of graduate studies. They shall also be included in the Faculty Handbook.

### **87.1 Applicability**

The Scientific Misconduct Procedures apply to all faculty, professional employees, graduate and undergraduate researchers, trainees, technicians, staff members, fellows, guest researchers or collaborators conducting funded research at USU.

If the imposition of a sanction is recommended for a member of the faculty as a result of such inquiry and investigation, these sanctions shall apply for research fraud as defined in Policy 407.87.2(2) and shall be governed by the procedures in described in Policy 407.4.

### **87.2 Definitions**

#### **(1) Definitions of Scientific Misconduct in Research**

Scientific misconduct or misconduct in science means fabrication, falsification, plagiarism, using data generated by someone else without permission, or other practices that seriously deviate from those that are commonly accepted within the scientific community for proposing, conducting, or reporting research. It does not include honest error or honest differences in interpretations or judgments of data.

#### **(2) Definition of Research Fraud for the Imposition of a Sanction**

Research fraud is an act of deception which that is different from unintentional error. For the purposes of imposing a sanction under Policy 407.4, research fraud is considered to be a violation of the standards of conduct set forth in Policy 403 which occurs within a research setting and involves one or more of the following deceptive practices: plagiarism (Policy 403.3.2(1)); falsification of data (Policy 403.3.2(2)); misappropriation of other’s ideas (Policy 403.3.2(3)); failure to exercise “reasonable care” where appropriate in research (Policy

403.3.2(7) and 403.5)); and misuse of confidential or privileged information (Policy 403.3.2(4)).

### (3) Definition of the Accuser in Scientific Misconduct

The accuser is a person who makes an allegation of scientific misconduct.

### (4) Definition of the Respondent in Scientific Misconduct

The respondent is the person against whom an allegation of scientific misconduct is directed or the person who is subject of the inquiry or investigation.

## **87.3 Research Integrity Officer**

The Research Integrity Officer is responsible for assessing allegations of scientific misconduct and determining when such allegations warrant inquiries and for overseeing any inquiries and investigations. This officer will be the vice president for research and dean of the school of graduate studies.

## **87.4 Inquiry into Allegations of Scientific Misconduct**

The procedures detailed in the USU-SMP will be followed when an allegation of possible misconduct in science is received by an academic or administrative officer. Special circumstances in an individual case may dictate a variation from the normal procedure when doing so is deemed to be in the best interest of the university. Any change from the normal procedure must ensure fair treatment to the subject of the inquiry or investigation. Any significant variation must be approved in advance by the vice president for research and dean of the school of graduate studies.

## **87.5 Protection of the Good Faith Accuser and the Respondent**

University employees who receive or learn of an allegation of scientific misconduct will treat the accuser with fairness and respect and, when the allegation has been made in good faith, will take reasonable steps to protect the position, confidentiality, and reputation of the accuser and other individuals who cooperate with the university against retaliation. Likewise, university employees who receive or learn of an allegation of scientific misconduct will treat the respondent with fairness and respect. In both instances, university employees will protect, to the maximum extent possible, the confidentiality of information regarding the accuser, the respondent, and other affected individuals.

# **407.98 SEXUAL HARASSMENT**

## **98.1 Definition of Sexual Harassment**

Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature when:

- (1) Submission to such conduct is made explicitly or implicitly a term or condition of an individual's employment or status in a course, program, or activity, including a student's academic success;
- (2) Submission to or rejection of such conduct is used as a basis for an employment decision affecting an individual; or
- (3) Such conduct unreasonably interferes with an individual's work or academic performance or creates an intimidating, hostile, or offensive working or learning environment.

## **98.2 Policy Statement**

No faculty member shall engage in sexual harassment. Sexual harassment will not be tolerated by the faculty or administration of the university. Any statement in Policies 407.98 and 407.109 that refers to faculty also applies to students with teaching or research responsibilities and other instructional personnel of the university.

Sexual harassment may involve a misuse of power and threaten relationships between teacher and student or supervisor and subordinate and may exist among peers.

## **98.3 Examples of Sexual Harassment**

Sexual harassment encompasses the verbal or physical conduct prohibited by Policy 407.98.1 above and also includes, but is not limited to:

- (1) Sexual assault and physical molestation;
- (2) Direct or implied threats that submission to sexual advances will be a condition of employment, work status, promotion, grades, or letters of recommendation;
- (3) Subtle pressure for sexual activity, an element of which may be conduct such as repeated and unwanted staring or touching of a sexual nature or unwelcome "sexual talk;"
- (4) Sexual conduct (not legitimately related to the subject matter of a course in which one is involved) that produces discomfort or humiliation, or both, and that includes one or more of the following: (a) comments of a sexual nature; or (b) sexually explicit statements, questions, jokes, pictorials, or anecdotes;
- (5) Sexual conduct that would discomfort or humiliate, or both, a reasonable person at whom the conduct was directed that includes one or more of the following: (a) unnecessary touching, patting, hugging, or brushing against a person's body; (b) remarks of a sexual nature about a person's clothing or body; or (c) remarks about sexual activity or speculations about previous sexual experience.

#### **98.4 Isolated Acts**

For sexual harassment to be committed in some instances, a pattern of prohibitive conduct is required. Members of the university community who, without establishing a pattern of doing so, engage in isolated conduct of the kind described in Policy 407.98.3 demonstrate insensitivity that necessitates remedial measures. When university administrators become aware that such activities are occurring in their areas, they should direct that those engaged in such conduct undertake an educational program designed to help them understand the harm they are doing and must advise the AA/EO Office of such activities.

#### **98.5 Procedures for Inquiry into Allegations of Sexual Harassment and Other Violations of Statutory and Constitutional Civil Rights**

##### **(1) Initiation.**

A complaint that the provisions of this policy have been violated may be brought by any member of the university community to any academic or administrative office. The complaint shall be filed with the AA/EO Office. The complaint must be filed within 120 calendar days of the last alleged occurrence. Alleged incidences outside the timeline should nonetheless be brought to the attention of the AA/EO Office for review.

##### **(2) Procedures.**

An inquiry or investigation shall be conducted in accordance with the policies and practices of the AA/EO Office. Since damage could result to the career and reputation of any person accused of a violation of this policy, or other constitutional or statutory civil rights laws, all information regarding such matters should be held as confidential, to the maximum extent possible.

In the event the allegations in the complaint are not substantiated, all reasonable steps will be taken to restore the reputation of the accused faculty member.

A complainant found to have been intentionally dishonest in making the allegations or to have made them maliciously is subject to sanction or other university discipline.

Any appeal of the findings and recommendation of the inquiry or investigation shall also be conducted in accordance with the policies and practices of the AA/EO Office.

##### **(3) Temporary suspension with full pay pending final disposition.**

In extraordinary circumstances, where the provost finds that it is reasonably certain that the alleged sexual harassment has occurred and serious and immediate harm will ensue if the faculty member continues to work, and after consulting the chair of the Academic Freedom and Tenure Committee, the provost may at any time during or after an inquiry or investigation

into a sexual harassment complaint recommend to the president the suspension with pay of any faculty member or teaching assistant accused of sexual harassment.

(4) Report to the Academic Freedom and Tenure Committee.

Whenever a referral has been made by an Academic Freedom and Tenure grievance committee to the AA/EO, the Director of the AA/EO shall meet periodically with the Academic Freedom and Tenure grievance committee and the chair of the Academic Freedom and Tenure Committee to discuss any inquiry or investigation.

(5) Exclusive action.

A faculty member may not file a grievance under Policy 407.76 to challenge the proceedings under this policy.

## **407.109 CONSENSUAL RELATIONSHIPS**

### **109.1 Rationale**

The university's educational mission is promoted by professionalism in faculty-student relationships. Professionalism is fostered by an atmosphere of mutual trust and respect. Actions that harm this atmosphere undermine professionalism and hinder fulfillment of the university's educational mission. Trust and respect are diminished when those in positions of authority abuse or appear to abuse their power. Those who abuse or appear to abuse their power in such a context violate their duty to the university community.

Faculty members exercise power over students, whether in giving them praise or criticism, evaluating them, making recommendations for their further studies or their future employment, or conferring any other benefits on them. Amorous relationships between faculty members and students are not acceptable to the university when the faculty member has professional responsibility for the student. Such situations greatly increase the chances that the faculty member will abuse his/her power and sexually exploit the student. Voluntary consent by the student in such a relationship is suspect, given the fundamentally asymmetric nature of the relationship. Moreover, other students and faculty may be affected by such unprofessional behavior because it places the faculty member in a position to favor or advance one student's interest at the expense of others and implicitly makes obtaining benefits contingent on amorous or sexual favors. Therefore, the university will view it as unprofessional conduct if faculty members engage in amorous relations with students in certain situations, even when both parties appear to have consented to the relationship.

### **109.2 Consensual Relationships in the Instructional Context**

No faculty member shall have an amorous relationship (consensual or otherwise) with a student who is enrolled in a course being taught by the faculty member, whose academic work (including work as a teaching assistant) is being supervised by the faculty member, or whose

present or future academic or professional success is controlled or influenced by the faculty member. A violation of this policy is considered to be violation of the standards of conduct set forth in Policy 403.

### **~~109~~3 Consensual Relationships Outside the Instructional Context**

Amorous relationships between faculty members and students occurring outside the instructional context may lead to difficulties. Particularly when the faculty member and student are in the same academic unit or in units that are academically allied, relationships that the parties view as consensual may appear to others to be exploitive. Further, in such situations (and others that cannot be anticipated), the faculty member may face serious conflicts of interest and should be careful to distance himself/herself from any decisions that may reward or penalize the student involved. A faculty member who fails to withdraw from participation in activities or decisions that may reward or penalize a student with whom the faculty member has or had an amorous relationship is considered to be in violation of the standards of conduct set forth in Policy 403.

## **~~407.11~~10 COMPLAINTS**

A complaint alleging violations of Policies ~~407.98~~ or ~~407.109~~ may be informally or formally registered by any person, or the formal process (Policy ~~407.121~~11) may be initiated by the provost.

### **~~11~~10.1 Informal Complaint**

At the complainant's option, a complaint that one or more provisions in Policies ~~407.98~~ or ~~407.109~~ have been violated may be brought to any appropriate member of the university community, including any academic or administrative officer of the university such as the provost, the AA/EO Director, the vice president for student services, any academic dean, vice president for extension and agriculture, chancellor, regional campus dean, supervisor, department head, ombudsperson, or advisor.

The person to whom the complaint is brought will counsel the complainant about the options available under this policy and, at the complainant's request, may help the complainant resolve the complaint informally and/or help the complainant draft a formal complaint if the complainant decides to follow that route.

The person to whom the informal complaint is brought will not inform the accused of the complainant's action without the consent of the complainant.

### **~~11~~10.2 Formal Complaint**

A complainant who wishes to make a formal complaint should file it with the AA/EO Office.

## **407.1211 PROCEDURES FOR INQUIRY INTO ALLEGATIONS OF VIOLATIONS OF POLICY ON SEXUAL HARASSMENT AND CONSENSUAL RELATIONSHIPS (Policy 407.98 and 407.109)**

In all proceedings to impose a sanction for violations of Policies 407.98 and/or 407.109, the following rules and procedures shall govern.

### **12.1 Initiation of a Preliminary Inquiry into Alleged Violations of Policies 407.98 and/or 407.109**

Whenever there are grounds to believe that a faculty member has violated Policies 407.98 and/or 407.109, the Director of the AA/EO, upon the filing of a complaint, will initiate a preliminary inquiry. In conducting the preliminary inquiry, the Director of the AA/EO may interview the complainant, the accused, and other persons believed to have pertinent factual knowledge. At all times, the Director of the AA/EO will conduct the preliminary inquiry in a manner to ensure confidentiality.

The Director of the AA/EO must decide whether or not an inquiry is appropriate, and must inform those filing the complaint of this decision within 10 days of receiving the complaint of alleged violation of Policies 407.98 and/or 407.109. If an inquiry is warranted, the Director of the AA/EO will inform the provost who shall cause an inquiry panel to be established.

### **12.2 Inquiry into Allegations of Violation of Policies 407.98 and/or 407.109**

#### **(1) Purpose.**

An inquiry into allegations of violation of Policies 407.98 and/or 407.109 shall determine from review of factual evidence whether the initiation of actions described in Policies 407.1 through 407.4 is warranted. The purpose of the inquiry is to establish whether there is a reasonable basis for believing that the alleged violation of this policy has occurred.

#### **(2) Notification of faculty member.**

Within 10 days of the decision to hold an inquiry, the provost shall notify the faculty member in writing, return receipt requested, of the specific allegations filed against him/her and the procedures described in this policy regarding the inquiry.

#### **(3) Membership of the inquiry panel.**

The inquiry will be conducted by a panel of three faculty members, including two chosen by the chair of the Academic Freedom and Tenure Committee from the membership of that committee or from the Faculty Senate at large, and one to be chosen by the provost. Each member of the inquiry panel shall be impartial and shall be removed and replaced if there are any real or apparent conflicts of interest. Not all members of the inquiry panel shall be of the same sex.



(4) Inquiry panel deliberations.

In conducting the inquiry, the inquiry panel may interview the complainant, the accused, and other persons believed to have pertinent factual knowledge. At all times, the inquiry panel will take steps to ensure confidentiality. The inquiry will afford the accused a full opportunity to respond to the allegations.

The inquiry panel must review the allegations and provide a written report of its findings within 20 days after the provost's notification to the accused. The inquiry panel will review the evidence relating to the allegations and determine whether or not actions as described in Policies 407.1 through 407.4 are warranted.

(5) Inquiry panel report.

The written report of the inquiry panel shall be submitted to the provost. If the report recommends proceedings to take actions described in Policies 407.1 through 407.4, the provost shall forward a recommendation to the president to initiate such proceedings, and will so notify the complainant and the accused. If the inquiry panel report indicates that the allegations are unsupported, the provost shall so notify the complainant and the accused.

The outcomes of the inquiry are either a judgment that the allegations are not warranted or the recommendation of actions described in Policies 407.1 through 407.4.

### **1211.3 Protection of Complainant and Others**

(1) Consent of complainant.

Inquiries will be initiated only with the complainant's consent. The complainant will be informed fully of steps taken during the inquiry.

(2) Protection of witnesses.

All reasonable measures will be taken to assure that the complainant and all others testifying before the hearing panel will suffer no retaliation as the result of their activities in regard to the process. Steps to avoid retaliation might include: (a) lateral transfers of one or more of the parties in an employment setting and a comparable move if a classroom setting is involved, and (b) arrangements that academic and/or employment evaluations concerning the complainant or others be made by an appropriate individual other than the accused, and/or (c) temporary suspension with full pay pending final disposition.

In extraordinary circumstances, after consulting the chair of the Academic Freedom and Tenure Committee, the provost may, at any time during or after an inquiry into a sexual harassment complaint, recommend to the president the suspension with pay of any faculty member or teaching assistant accused of sexual harassment if, after reviewing the allegations and interviewing the accused, the complainant, and, if it seems appropriate, others, the

provost finds that it is reasonably certain that the alleged sexual harassment has occurred and serious and immediate harm will ensue if the person continues to work.

#### **~~12~~11.4 Protection of the Accused**

At the time the inquiry commences, the accused will be informed of the allegations, the identity of the complainant, and the findings of the preliminary inquiry. In the event the allegations are not substantiated, all reasonable steps will be taken to restore the reputation of the accused.

A complainant found to have been intentionally dishonest in making the allegations or to have made them maliciously is subject to sanction or other university discipline.