



## **Section B: Policy on Academic Freedom and Tenure**

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## Section B: Policy on Academic Freedom and Tenure

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# Introductory Note

## *Information*

The full statement of policies pertaining to academic freedom and tenure, and to faculty appointment and promotion, follows this note. With regard to the Policy on Academic Freedom and Tenure (hereinafter Policy), note that:

1. Use of the term *Scholarly Work* shall in this Policy refer to the collective activities of Research, Scholarship, or Creative Work.
2. References to the "department" in this Policy are to the primary academic unit, generally a disciplinary department within a college/school. Some non-departmentalized colleges/schools have "areas" or "concentrations" that perform many of the functions of a conventional department. Some non-departmentalized colleges function as the primary academic unit. In the case of non-departmentalized colleges and academic divisions, the responsibilities and procedures set forth in this Policy for the department and the college/school be interpreted by the dean in ways that fit the structure of the unit and all recommendatory and appeal procedures should be modified accordingly. In the case of the branch campuses, the directors shall assume the responsibility of the deans of the colleges and schools.
3. For faculty members in the Health Sciences Center, the office of the Vice President for Health Sciences (VPHS) shall perform those functions assigned in this Policy to the office of the Provost. Unless stated otherwise, the term Provost/VPHS shall be used in this Policy to denote the positions of Provost or Vice President for Health Sciences.

*(Most recently approved by the Faculty on December 7, 1998 and by the Board of Regents on December 8, 1998.)*

# B1: Professional Activities of Faculty and Criteria for Evaluation

*Policy*

(\*Approved by Regents December 8, 1998)

(\*\*Approved by Faculty December 7, 1998)

## SECTION 1: PROFESSIONAL ACTIVITIES OF FACULTY AND CRITERIA FOR EVALUATION

### 1.1 GENERAL PRINCIPLES

(a) All members of the faculty - tenured and non-tenured, full-time and part-time, on main campus and branch campuses - are entitled to academic freedom.

(b) The University endorses and adheres to the principles expressed in the following statements approved by the American Association of University Professors: The 1940 Statement of Principles on Academic Freedom and Tenure with 1970 Interpretive Comments (as revised 1990 / Appendix I); 1958 Statement on Procedural Standards in Faculty Dismissal Proceedings (as revised 1990 / Appendix II); 1989 Statement on Procedural Standards in the Renewal or Nonrenewal of Faculty Appointments (Appendix III); 1990 Statement on Recruitment and Resignation of Faculty Members (Appendix IV); 1987 Statement on Professional Ethics (Appendix V); 1971 Committee "W" Statement on Faculty Appointment and Family Relationship (Appendix VI); and the 1989 Committee "A" Statement on Extramural Utterances (Appendix VII). UNM policy closely follows the principles set down in these documents and in certain respects surpasses them in guarantees of due process and other safeguards to faculty members. The procedural requirements of the foregoing statements are superseded by the procedures set forth in the *Faculty Handbook*.

(c) The University strives for inquiry, learning, and scholarship of a breadth and depth that will result in excellence in all of the University's major functions: teaching, scholarly work, and service. Each academic unit has an obligation to contribute to each of the three functions of the University. Faculty members play a central role in the realization of these functions and help fulfill the obligations of their academic unit by contributing their unique expertise and competence.

### 1.2 CATEGORIES FOR FACULTY PERFORMANCE EVALUATIONS

(a) The categories in which faculty performance will be evaluated are the following:

1. Teaching
2. Scholarly Work
3. Service
4. Personal Characteristics

The University's general expectations in each of these categories are set forth below.

(b) In order to earn either tenure or promotion or both, faculty are required to be effective in all four areas. Excellence in either teaching or scholarly work constitutes the chief basis for tenure and promotion. Service and personal characteristics are important but normally round out and complement the faculty member's strengths in teaching and scholarly work. (The criteria for clinical faculty in the Medical School, however, are defined in the tenure and promotion guidelines for the Medical School and are somewhat different in that clinical faculty are expected to be excellent in at least two of the three categories of teaching, scholarly work, and clinical service/administration. The criteria for faculty at the branch campuses are defined in the statement on "Academic Freedom, Tenure, Appointment, and Grievance Procedures" for branch colleges in the *Faculty Handbook*.)

(c) In those cases in which specific assignments limit the faculty member's involvement in some major area of faculty responsibility, a written understanding to this effect shall be made by the department, approved by the dean and the Provost/VPHS and filed in the office of the Provost/VPHS at the time the assignment is made. (If the faculty member holds a probationary appointment, see Sec. 3.2.4.)

### **1.2.1 Teaching**

(a) Due to the variety of subject matter and student populations at the University, teaching occurs in various settings and via a diversity of forms of instruction, such as didactic lecturing, small group seminars, problem-based learning, and clinical practicums. The term teaching as used here includes, but is not restricted to, regularly scheduled undergraduate, graduate, post-graduate, and professional instruction, and the advising, direction and supervision of individual undergraduate, graduate, post-doctoral, and professional students. Library faculty, in the discharge of their professional duties, shall be regarded as engaged in teaching. Teaching also includes the direction or supervision of students in reading, research, internships, residencies, or fellowships. Faculty supervision or guidance of students in recognized academic pursuits that confer no University credit should also be considered as teaching.

(b) Effective teaching is one of the primary qualifications for promotion and tenure. The educational experience provides a student with an increased knowledge base, an opportunity to develop thinking and reasoning skills, and an appreciation for learning. An effective teacher is best characterized as an individual who successfully promotes these goals. Although individual teachers bring to bear different sets of talents in pursuit of these goals an effective teacher, at a minimum, should:

- Demonstrate effective communication skills.
- Show evidence of strong preparation.
- Present material that reflects the current state of knowledge in the field.
- Demonstrate effective management skills.
- Organize individual topics into a meaningful sequence.
- Demonstrate an ability to interact with students in an encouraging and stimulating manner.
- Demonstrate a commitment to the discipline.

(c) Teaching is evaluated by students and faculty. Evidence to be evaluated for teaching during mid-probationary, tenure, and promotion reviews must include student course evaluations, descriptions of courses taught and developed by the faculty member, and written reports of peer observations of teaching.

### **1.2.2 Scholarly Work**

(a) The term *Scholarly Work*, as used in this Policy, comprises scholarship, research, or creative work. *Scholarship* embodies the critical and accurate synthesis and dissemination of knowledge. The term research is understood to mean systematic, original investigation directed toward the generation, development, and validation of new knowledge or the solution of contemporary problems. *Creative work* is understood to mean original or imaginative accomplishment in literature, the arts, or the professions.

(b) The faculty member's scholarly work should contribute to the discipline and serve as an indication of professional competence. The criteria for judging the original or imaginative nature of research or creative work must reflect the generally accepted standards prevailing in the applicable discipline or professional area. To qualify as scholarship or creative work, the results of the endeavor must be disseminated and subject to critical peer evaluation in a manner appropriate to the field in question.

(c) Evidence of scholarship or creative work is determined by the faculty member's publications, exhibits, performances, or media productions and may be supplemented by evidence of integration of the faculty member's scholarly work and teaching. Written evaluations from colleagues and experts in the field, both on campus and at other institutions, may be used at the discretion of the department for the mid-probationary review (Sec. 4.5 and 4.6). Such evaluations must, however, form part of the dossier for both the tenure review and the review for promotion to the senior ranks (Sec. 4.5, 4.7, and 4.8).

### **1.2.3 Service**

(a) There are two broad categories of faculty service: professional and public.

(1) Professional service consists of those activities performed within the academic community that are directly related to the faculty member's discipline or profession. Within the University, it includes both the extraordinary and the routine service necessary for the regular operation of departments and colleges and the University as a whole, including, for example, facilitating the day-to-day operations of academic life, mentoring students and colleagues, and, in the Health Sciences Center, providing patient care. Universities, and their component colleges and departments, rely to a great extent for their operation and advancement on the active participation of faculty members in their administration and governance. Although service is not weighted as heavily as teaching and research or creative works, "service" is an essential element of faculty performance and duties. Faculty members, particularly senior faculty members, have a responsibility to contribute to the government of the University through timely participation on committees and other advisory groups at the department, college, and University levels. Beyond the University, professional service includes service to professional organizations and other groups that engage in or support educational and research activities.

(2) Public service consists of activities that arise from a faculty member's role in the University. These activities normally involve the sharing and application of faculty expertise to issues and needs of the civic community in which the University is located.

(b) Service to the University, to the faculty member's profession and to the local, national, and international communities beyond the University is reviewed in this category. Evidence of performance in this area includes committee work at the University, college and department levels, and participation in professional

organizations of the discipline and in the community in the faculty member's professional capacity.

#### **1.2.4 Personal Characteristics**

This category relates to the personal traits that influence an individual's effectiveness as a teacher, a scholar, researcher, or creative artist, and a leader in a professional area. Of primary concern are intellectual breadth, emotional stability or maturity, and a sufficient vitality and forcefulness to constitute effectiveness. There must also be demonstrated collegiality and interactional skills so that an individual can work harmoniously with others while maintaining independence of thought and action. Attention shall also be given to an individual's moral stature and ethical behavior, for they are fundamental to a faculty member's impact on the University. Information used in the objective appraisal of personal traits may be acquired from peer evaluations (e.g., letters of recommendation for new appointees, or written evaluations prepared by colleagues for promotions or for other departmental reviews) and must be handled with great prudence. By necessity, the category of Personal Characteristics requires flexibility in its appraisal.

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# B2: Faculty Ranks and Titles

## *Policy*

(\*Approved by Regents December 8, 1998)

(\*\*Approved by Faculty December 7, 1998)

## **SECTION 2: FACULTY RANKS AND TITLES**

### **2.1 INTRODUCTION**

Appointment or promotion to the junior ranks of instructor or assistant professor represents a judgment by the department, college/school, and University that the individual has the required qualifications and expertise and that the individual will function to sustain the mission of the University and enrich its academic environment. In a similar manner, appointment or promotion to the senior ranks of associate professor or professor represents an implicit prediction that the individual will continue to make sound contributions to the University. Deans and departmental chairs normally look to the senior ranks for advice and counsel regarding policy matters, including appointment and promotion of other faculty.

### **2.2 TENURE-TRACK FACULTY RANKS AND TITLES**

Faculty members with the rank of assistant professor, associate professor, professor, or distinguished professor may be awarded tenure (for an exception in the Health Sciences, see Sec. 2.3.1). Probationary appointments potentially leading to tenure ("tenure-track" appointments) are made at the ranks of assistant professor, associate professor, and professor levels.

#### **2.2.1 Assistant Professor**

Individuals who are demonstrably competent in the subject matter of the courses to be taught and who have indicated a serious commitment to a faculty career may be considered for this faculty rank. This appointment is typical for most faculty who are beginning their probationary service. While it is not expected that persons appointed at this rank shall have acquired an extensive reputation in their field, it is expected that they will continue to increase their knowledge, to improve their teaching ability and to present the results of their scholarly work in ways appropriate to their field.

#### **2.2.2 Associate Professor**

(a) Individuals who have acquired significant experience beyond the terminal degree are appropriate for this faculty rank. They shall have demonstrated competence as teachers and have shown a conscientious interest in improving their teaching. They shall have demonstrated a basic general understanding of a substantial part of their discipline and have an established reputation within and outside the University in their fields of scholarly work. This implies scholarly work after the terminal degree sufficient to indicate continuing interest and growth in the candidate's professional field.

(b) Appointment at, or promotion to, the rank of associate professor represents a judgment on the part of the department, college, and University that the individual has made and will continue to make sound contributions to teaching, scholarly work, and service. The appointment should be made only after careful



investigation of the candidate's accomplishments and promise in teaching, scholarly work, and leadership.

### **2.2.3 Professor**

(a) Individuals who have attained high standards in teaching and who have made significant contributions to their disciplines may be considered for this faculty rank. They shall also have developed expertise and interest in the general problems of university education and their social implications, and have shown the ability to make constructive judgments and decisions. It is expected that the professor will continue to develop and mature with regard to teaching, scholarly work, and the other qualities that contributed to earlier appointments.

(b) Appointment or promotion to Professor represents a judgment on the part of the department, college/school, and University that the individual has made significant, nationally recognized scholarly or creative contributions to his or her field and an expectation that the individual will continue to do so.

(c) Professors are the most enduring group of faculty, and it is they who give leadership and set the tone for the entire University. Thus, appointment or promotion should be made only after careful investigation of the candidate's accomplishments in teaching, scholarly work, and leadership.

### **2.2.4 Regents' Professor and Regents' Lecturer**

Criteria for these honorific titles are established at the college level with nominations forwarded by the dean to the Provost/VPHS. The term of appointment is three years. Individuals may be named more than once for Regents' appointments, although appointments may not be made for successive terms. The title "Regents' Professor" may be retained during the balance of an awardee's career. Awards may not be given to administrators, but will not be withdrawn from faculty members who become administrators.

### **2.2.5 Distinguished Professor**

(a) Individuals who have demonstrated outstanding achievements and are nationally and internationally renowned as scholars may be considered for this faculty rank. This is the highest faculty title the University bestows and is used only for a few of its most prominent faculty members.

(b) The Nomination Procedure originates at the department level and must have the recommendation of the departmental and/or college faculty with which the candidate is now or would be affiliated. Upon receiving a recommendation, the Provost shall, in consultation with the Faculty Senate Operations Committee, appoint a University-wide committee of no fewer than five non-administrative senior faculty who shall review the nominee's dossier and make appropriate recommendations to the Provost who makes the appointment. The position of Distinguished Professor is not proprietary with a department or college. Upon termination of employment of a distinguished professor, the title may not be passed on to another individual unless the procedure described herein has been followed.

## **2.3 NON-TENURE-TRACK FACULTY TITLES**

### **2.3.1 Clinician-Educator Faculty**

In the Health Sciences Center, faculty may be appointed to the position of clinician-educator. These appointments are for health professionals with appropriate professional degrees who are primarily engaged in patient care and teaching, and may have related scholarly responsibilities. While not eligible for tenure,

clinician-educators may hold the rank of instructor, assistant professor, associate professor, or professor.

### **2.3.2 Lecturer**

Faculty may be appointed to the position of Lecturer I, II, or III. These appointments are for professionals with appropriate academic qualifications, who are demonstrably competent in the relevant areas of their disciplines. While not eligible for tenure, lecturers in each numerical class may hold the rank of Lecturer, Senior Lecturer, or Principal Lecturer.

(a) Lecturer I—The title used for individuals who have qualifications equivalent to teaching assistants or graduate students and who are not currently graduate students at the University in the same department as their academic appointment.

(b) Lecturer II—The title used for qualified professionals who have completed all requirements except the dissertation for the terminal degree (or equivalent) in their fields of study and who are not currently graduate students at the University in the same department as their academic appointment. It may also be used for professionals who have the terminal degree but only limited experience in teaching or scholarly work, or for professionals who do not have the terminal degree but have extensive experience.

(c) Lecturer III—The title used for qualified professionals who hold the terminal degree (or equivalent) in their fields of study and who have additional experience in teaching and scholarly work.

### **2.3.3 UNM-National Laboratory (NL) Professor**

The title of UNM-NL professor is appropriate for distinguished scientists and engineers affiliated with Sandia and Los Alamos national laboratories who assume positions as professors in academic departments at the University. They are chosen by academic departments, with the approval of the dean, and serve renewable terms of varying duration.

### **2.3.4 Instructor**

This title is used for individuals who are hired as the result of a search to fill a tenure-track or clinician-educator position but who do not yet qualify for an Assistant Professor rank because they have not yet completed their academic programs or have not yet obtained the requisite professional certifications. It is the one non-tenure-track title that refers to a professorial rank (see the Faculty Constitution, Art. I, Sec.1(b) in the Faculty Handbook). Instructors may be appointed with an understanding that they will be advanced to a rank of Assistant Professor contingent upon fulfilling specified goals such as timely completion of the individual's academic program.

### **2.3.5 Assistant Instructor**

This title is given to individuals who assist tenure-track faculty, chiefly in laboratory areas, and who are not candidates for a degree.

### **2.3.6 Visiting Scholar**

This title is used for scholars who are visiting the University and participating in some way in its teaching or research functions.

### **2.3.7 Other Visiting Titles**

The titles of visiting lecturer, visiting instructor, visiting assistant professor, visiting associate professor, and visiting professor are appropriate for persons who are employed to teach on a non-permanent basis. Qualifications are the same as for the corresponding ranks and titles.

### **2.3.8 Research Titles**

(a) The titles of research lecturer, research assistant professor, research associate professor, and research professor are appropriate for persons who are engaged primarily in research activities and have qualifications similar to those held by tenure-track faculty. They may occasionally teach or serve as members of thesis or dissertation committees. Teaching assignments on a regular basis require appointment in a tenure-track faculty rank. Research appointments are renewable annually for an unlimited time. The title of research scholar is used for visiting faculty whose primary function pertains to the exchange of specific laboratory or research skills with University researchers.

(b) Research professors generally have extramural funding in which they are the principal investigator or for which their contribution is crucial to the funding. Appointments are temporary in nature, and therefore, research faculty are not eligible to vote in the general faculty. Such appointments are renewable annually and are non-probationary. In the event that a person with a research title is appointed to a faculty rank that can lead to tenure, the time served with a research title shall not count toward tenure.

### **2.3.9 Artist-in-Residence**

Individuals with non-teaching assignments in creative work are given the title of artist-in-residence.

### **2.3.10 Adjunct Titles**

The titles of adjunct lecturer, adjunct instructor, adjunct assistant professor, adjunct associate professor, and adjunct professor are appropriate for persons whose primary professional responsibility is outside the University or for professional staff of the University who may teach on an occasional, limited, course-by-course basis. Qualifications are the same as for regular faculty ranks and titles.

### **2.3.11 Clinical Titles**

The titles of clinical associate, clinical instructor, clinical assistant professor, clinical associate professor, and clinical professor are appropriate for practicing professionals who volunteer time or are non-University employees assigned to a particular department on a regular basis. These titles are also used for selected administrators from cooperating and collaborating agencies.

### **2.3.12 Postdoctoral Fellow**

Individuals who are engaged in special study and research at the postdoctoral level and are paid from designated funds are given the title of postdoctoral fellow.

### **2.3.13 Associate**

Individuals affiliated with an academic department, but with their primary appointment in another department, are given the title of associate.

### **2.3.14 Professor of Practice**

This title may be used to appoint individuals who have achieved substantial national and/or international distinction in practice, who have had a major impact on fields important to the mission of the University, and who may benefit a program at the University by the integration of professional practice within its teaching and research missions. Appointment as Professor of Practice should only be made in exceptional circumstances to meet demonstrable need that cannot be met by regular faculty appointments. The Professor of Practice shall not be a substitute for regular faculty nor shall appointment as Professor of Practice be made as a matter of courtesy.

Specific titles will be granted with respect to the applicable program, "Professor of Practice in \_\_\_\_". Those holding these appointments will not have voting privileges except as described in Article II, Section 2 of the Faculty Constitution. Professors of Practice are not eligible for tenure.

Full and part-time appointments of those designated Professors of Practice shall not exceed 10% of the FTE tenure/tenure-track faculty of each department, or in the absence thereof, each School or College. For a department of less than 10 FTE tenure/tenure-track faculty, no more than one Professor of Practice shall be appointed.

### **2.3.15 Term Teaching Faculty**

This title is used for part-time faculty greater than .25 FTE and who are employed to teach on a non-permanent basis.

## **2.4 GRADUATE, TEACHING, RESEARCH AND PROJECT ASSISTANTS, AND TEACHING ASSOCIATES**

(a) Graduate, teaching, research and project assistants, and teaching associates occupy a dual role in the University (i.e., they are students who also perform various faculty functions). Some students are given teaching assignments, while the work of others supports instruction indirectly. Because of their dual role, assistants and associates in these positions share in the rights and responsibilities of both students and faculty. They must adhere to established guidelines and to standards of ethical conduct; they must also be accorded the right to freedom from arbitrary or capricious suspension or dismissal from their assistantships.

(b) As students, assistants and associates have all the rights and responsibilities of students when acting in that capacity as defined by University regulations. As teachers, assistants, and associates have the responsibility of adhering to the standards of faculty professional ethics and following the policies and course guidelines of the department or supervisor for whom they act. When given discretion in the selection of instructional material and in the conduct of classes, they are responsible for exercising this discretion in a manner consistent with the guidelines provided for the courses in which they instruct.

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# B3: Faculty Appointments and Contracts

## *Policy*

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## **SECTION 3: FACULTY APPOINTMENTS AND CONTRACTS**

### **3.1 TYPES OF FACULTY APPOINTMENTS**

(a) Faculty appointments may be *probationary*, *tenured*, *continuing non-tenure-track*, or *temporary*. Prior to awarding of tenure, tenure-track faculty appointments are probationary appointments; following the award of tenure, such appointments are *tenured*. All faculty members holding probationary appointments at the rank of assistant professor or above are eligible for consideration for tenure. (For a definition and discussion of tenure, see Sec. 4.7.1 and Appendix I.) Non-tenure-track appointments do not lead to tenure. However, the presumption with continuing non-tenure-track appointments is that they will be continued if the faculty member is not duly notified to the contrary. Non-tenure-track appointments where there is not a presumption of continuation are *temporary*.

(b) The precise terms and conditions of every new appointment to the faculty shall be stated in writing and given to the faculty member before the appointment is made. A copy of this Policy on Academic Freedom and Tenure shall also be given to the faculty member before appointment of the individual.

### **3.2 PROBATIONARY APPOINTMENTS**

(a) The probationary period is the time during which an individual's fitness for tenure is under consideration. Probationary appointments are given only to individuals who are believed to have potential to achieve tenure in the appointing department. Only time spent in a faculty rank in a tenure-track position shall be considered as probationary employment leading to tenure. A mid-probationary review of a faculty member's progress toward tenure will be conducted as provided in this Policy.

(b) Probationary faculty members serve on one-year faculty contracts, following the procedures specified in this Policy.

(c) Notification of the decision of the Provost/VPHS to discontinue a probationary faculty member must be given to the faculty member by March 31 of the first year of appointment, Dec. 15 of the second year of appointment, and June 30 of the third and subsequent years of appointment. Probationary members notified in their third or subsequent years of their discontinuation are offered a one-year terminal contract.

#### **3.2.1 Full-time Faculty**

(a) When initial probationary appointments are made at the assistant professor level, the new assistant professor shall normally be appointed on year-to-year contracts on the assumption of a probationary period no longer than six full academic or fiscal years with a mid-probationary review in the third year. When initial probationary appointments are made at the associate professor level, the maximum probationary period is four years and when initial probationary appointments are made at the professor level, the maximum

probationary period is three years. For initial appointments commencing after Dec. 31, the remainder of that academic or fiscal year is not included in determining the length of the probationary period.

(b) By written agreement between the appointee and the chair of the department and with the approval of the dean and the Provost/VPHS, the probationary period may be reduced below these maximum periods. When the probationary period is reduced below the maximum periods by agreement, the agreement will identify specific times for the mid-probationary and tenure reviews. If the probationary period is established to be two years or less, there shall be no mid-probationary review. The duration of the probationary period will not be extended beyond six full academic or fiscal years. However, if a faculty member goes on leave of absence without pay, family leave or paid medical leave for a semester or more during a year of probationary service, the probationary period will normally, upon timely request of the probationary faculty member, be suspended for the duration of the leave, and subsequent mid-probationary and tenure reviews will be one full year later. A faculty member shall be reviewed for tenure only once.

### **3.2.2 Part-time Faculty**

(a) Part-time probationary appointments are made in exceptional cases and such appointments may be made only with the approval of the department, the dean, and the Provost/VPHS. If approval is granted, an agreement will be drawn up and signed by the faculty member, the department chair, the dean, and the Provost/VPHS stating that the individual is working toward tenure in a part-time faculty position. Part-time probationary appointments may be made for positions that are less than 1.0 full-time equivalent (FTE) but not less than one-half (0.5) FTE. At the time of appointment to any part-time probationary position, the appointee and the University must reach an understanding that clearly defines the terms of the appointment.

(b) The performance expectations for a faculty member on a part-time probationary appointment will be the same as those set forth for faculty holding full-time probationary appointments, but the probationary period shall be longer. The probationary period shall be pro-rated based upon the fraction of full-time equivalent and rounded-up one year for fractional-year calculations. A part-time probationary faculty member appointed as an assistant professor may, by agreement upon appointment, serve up to a maximum of 12 years in probationary status. A part-time probationary faculty member appointed at the senior ranks (associate professor and professor levels) may, by agreement upon appointment, serve up to a maximum of 8 years in probationary status if initially appointed to the rank of associate professor, and serve up to a maximum of 6 years in probationary status if initially appointed to the rank of professor. When a part-time probationary faculty member is awarded tenure, there is no presumption that the faculty member will ever be placed on full-time status at the University.

(c) A part-time probationary faculty member may move to a full-time probationary position and a full-time probationary faculty member may move to a part-time position, with appropriate adjustments of the probationary period and expectations, only with the approval of the faculty member, the department, the dean, and the Provost/VPHS.

(d) Part-time probationary faculty and tenured faculty with part-time appointments shall be considered regular members of the voting faculty of the department, the college/school, and the University. Part-time

probationary faculty shall be subject to the performance reviews and procedures specified in this Policy for full-time probationary faculty.

(e) Tenured faculty with part-time appointments are eligible for sabbatical leave. Such leave benefits may be earned on the same timetable as those for full-time faculty members, but the sabbatical salary shall be proportionately reduced.

### **3.2.3 Appointments in Two or More Units**

(a) Appointments in which the services of a full-time faculty member are shared by two or more academic units or colleges are not only possible but encouraged when they benefit the University. A joint appointment must:

1. not total more than 1.0 Full-Time Equivalent (FTE) and
2. be approved, in writing, by the faculty member, all the departments and colleges involved and the Provost/VPHS.

(b) Before a faculty member receives a joint appointment, the appropriate academic units must jointly specify in writing, and secure written administrative approval for, all conditions of the appointment. The resulting agreement shall address matters such as probationary period, criteria for tenure and promotion and procedures for recommending salary increases and reappointment or non-reappointment, promotion and tenure. The agreement shall specify the academic unit that shall have primary responsibility for promotion and tenure. Any such agreement shall conform to the provisions of this Policy pertaining to promotion and tenure.

### **3.2.4 Appointments with Administrative Duties or Other Special Assignments**

It is not expected that probationary faculty members will assume significant administrative duties. However, in a case in which administrative or other specific assignments limit the probationary faculty member's involvement in some major area of faculty responsibility (Sec. 1.2 (b)), a written understanding to this effect shall be made by the department, with the consent of a majority of the tenured faculty of the department, and approved by the dean and the Provost/VPHS at the time the assignment is made. The resulting agreement shall address matters such as probationary period, criteria for tenure and promotion, and procedures for recommending salary increases and reappointment or non-reappointment, promotion and tenure. Any such agreement shall conform to the provisions of this Policy pertaining to promotion and tenure. Copies of the agreement shall be filed with the Provost/VPHS and with the Committee on Academic Freedom and Tenure (the Committee). The Committee shall review the agreement for conformity to Faculty Handbook policies. Similarly, if an administrator is given academic rank at any time following the initial appointment, these requirements will apply. The policies of this section do not apply to library faculty whose teaching responsibilities may be defined to include administrative duties (see Sec. 1.2.1 (a)).

## **3.3 TENURED APPOINTMENTS**

### **3.3.1 Appointments with Tenure**

An initial appointment with tenure may be recommended to the Provost/VPHS for exceptional cases in which an ad hoc tenure review of the candidate has been conducted in accordance with the standards and



procedures of this Policy. Otherwise, a tenured appointment may be granted after a favorable tenure decision made in accordance with the standards and procedures of this Policy subsequent to a period of probationary service.

### **3.3.2 Changes in Appointments**

(a) A faculty member with tenure may at his or her request, either permanently or temporarily for a specified time, change to part-time service while retaining tenure status, provided that the department, the dean, and the Provost/VPHS approve the terms in advance.

(b) A faculty member with tenure who resigns from the University:

1. and is rehired within three years as a full-time member of the same department shall have tenure upon return.
2. and is rehired by the same department after more than three years' absence may be required to serve a probationary period of not more than one year at the discretion of the department.
3. and is rehired as a full-time member of another academic department may be required to serve a probationary period of not more than one year at the discretion of the department.

### **3.3.3 Appointments with Administrative Duties**

It is understood that a faculty member who has been granted tenure and, thereafter, accepts an administrative post within the University, retains tenured status in the original academic unit. No tenure may be granted with respect to an administrative post or administrative duties.

## **3.4 CONTINUING NON-TENURE-TRACK APPOINTMENTS**

### **3.4.1 Clinician-Educator Faculty**

Clinician-educator appointments are for a fixed term, subject to renewal at the discretion of the dean, following policies and procedures adopted by colleges in the Health Sciences Center.

### **3.4.2 Lecturers**

Lecturers are initially appointed to annual terms renewable at the discretion of the University. Written notice regarding the status of a lecturer shall be given according to the following minimum periods of notice: (1) not later than March 31 of the first academic year of service or (2) not later than December 15 of the second or subsequent academic year of service. Lecturers who have completed at least three academic years of continuous service are eligible for renewable two-year term appointments. Senior Lecturers serve on renewable two-year term appointments, and Principal Lecturers serve on renewable three-year term appointments. Two- and three-year term appointments are renewable at the discretion of the University. Notice of the status of these term appointments will be given no later than December 15 of the final year of the term appointment.

### **3.4.3 UNM-National Laboratory Professors**

UNM-National Laboratory professors are chosen by academic departments, with approval of the dean, and serve renewable terms of varying duration.

### **3.4.4 Professor of Practice**

Professors of Practice are chosen by department, school, or college, with approval of the dean, and serve

renewable terms of three years. Initial appointments may be granted for a term up to three years, with the approval of faculty within the department, school, or college. Appointments may be renewed in terms of up to three years with the approval of faculty within the department, school, or college. These appointments may be either full-time or fractional (i.e., less than 100%) when the individual appointed is actively engaged in practice. Faculty involvement in the decision to appoint the Professor of Practice should be identical to the procedures used in all faculty hires within department, school, or college. Individuals appointed to these positions must be reviewed annually in accordance with Faculty Handbook Section B4.10 Annual Review of Continuing Non-tenure-track Faculty.

### **3.5 TEMPORARY APPOINTMENTS**

Temporary appointments of one year or less may be made to faculty titles listed in Sec. 2.3.4 through Sec. 2.3.13 for various reasons, including to appoint faculty members as visiting professors, to fill positions funded by other than State-appropriated funds, to replace faculty members on leave, or whenever an appointment has to be made so late that normal search procedures cannot be followed. With the exception of appointments made without a normal search procedure, faculty members on such appointments may be reappointed for a second or third year if mutually agreeable to the faculty member and the department and college involved. Temporary appointments shall not lead to tenure. They shall not exceed a total of three consecutive years except in the case of faculty with research, adjunct, or clinical titles.

### **3.6 STANDARD CONTRACTS**

Standard faculty appointments are for the academic or fiscal year. For academic year appointments, faculty members will be notified of the date they are expected to be available for duty. The appointment period for the first semester ends Dec. 31, even though the semester may end at a different time.

#### **3.6.1 Probationary Faculty**

Probationary faculty members receive an annual contract, issued each year by the Provost/VPHS. This contract provides information about their tenure status, rank, salary and term of service. It is signed by the faculty member and returned to the Faculty Contracts Office.

#### **3.6.2 Tenured Faculty**

Faculty members receiving tenure (or being appointed with tenure) receive a contract, issued by the Provost/VPHS, establishing their status as tenured faculty members. Thereafter, tenured faculty members receive an annual contract that provides information about tenure status, rank, salary and terms of service (e.g., sabbatical leave, departmental administrative service, etc.).

#### **3.6.3 Senior Academic Officers**

Academic officers holding the title of associate or assistant provost, associate or assistant vice president, dean, program director and other similar titles, receive a contract, issued by the Provost/VPHS, each year that reflects their administrative duties. It is within the University's discretion whether or not to renew such administrative appointments, subject to the University's Policy on Contract Employees.

#### **3.6.4 Temporary Faculty**

Temporary faculty are issued contracts for a limited period of time. It is within the University's discretion whether to renew such contracts, subject to the provisions of this Policy.

### **3.6.5 Term Teaching Faculty**

Term faculty appointments are greater than .25 FTE and faculty in this category are issued contracts for a limited period\*. It is within the University's discretion whether to renew such contracts, subject to the provisions of this Policy.

*\*Note: The Faculty Contracts Office has administratively defined a limited period as at least two consecutive semesters.*

## **3.7 SPECIAL CONTRACTS**

### **3.7.1 Notice Contracts**

A notice contract is a one-year contract issued to an untenured probationary faculty member who the University has determined is qualified for retention, but who cannot be retained at the moment, for financial reasons or the restructuring of academic units. If circumstances change, faculty members with notice contracts may be offered more permanent appointments. In this event, the year served on notice contract shall be treated as if it were included in the faculty member's original appointment.

### **3.7.2 Terminal Contracts**

A terminal contract is a one-year contract that follows a negative decision, made at or following the mid-probationary review, on the retention of a tenure-track faculty member. A terminal contract is the last faculty contract a faculty member may receive at this University unless the decision to terminate is overturned.

### **3.7.3 Special Conditions Contracts**

Under conditions that would otherwise lead the President to propose termination for cause of a faculty member with tenure, the President and the faculty member may agree to a contract containing special conditions. The terms of such a contract, including performance standards, dates of periodic review, review procedures, possible remedies in case standards are not met, etc., are subject to mutual agreement between the faculty member and the President.

\*Approved by Regents: January 11, 1964; January 18, 1969; March 15, 1969; November 8, 1969; January 9, 1971; April 16, 1971; December 20, 1974; February 1, 1975; September 27, 1975; June 13, 1977; August 29, 1978; June 1, 1979; August 12, 1983, August 6, 1985; December 8, 1998.

\*\*Approved by Faculty: February 11, 1964; December 10, 1968; March 11, 1969; September 23, 1969; December 8, 1970; April 20, 1971; December 10, 1974; September 9, 1975; May 11, 1977; May 11, 1978; May 9, 1979; October 14, 1980; March 8, 1983; January 18, 1985; December 7, 1998.

# B4: Faculty Reviews

## *Policy*

(\*Approved by Regents December 8, 1998)

(\*\*Approved by Faculty December 7, 1998)

### **4.1 INTRODUCTION**

(a) One of the most important responsibilities of tenured faculty and department chairs is their participation in the procedures for formal review of colleagues. It is a fundamental principle that, when a faculty member's academic performance and qualifications are reviewed, the process is to be conducted objectively by their peers and the faculty are guaranteed due process as set forth in this Policy. There are six types of review: (1) the annual review of probationary faculty, (2) the mid-probationary review, (3) tenure review, (4) the review for advancement in rank (promotion), (5) the annual review of tenured faculty (i.e., post-tenure review), and (6) the annual review of continuing non-tenure-track faculty (i.e., clinician educators and lecturers). Mid-probationary, tenure, and promotion reviews, in contrast to annual reviews, necessarily involve evaluation of performance at three levels: department, college/school, and the University (i.e., Offices of the Provost/VPHS).

(b) Tenure and promotion recommendations made by the department, through the department chair, will be given primary consideration in this procedure (see Introductory Note #2). These recommendations are reviewed by academic officers and forwarded with their recommendations to the Provost/VPHS who makes the decision on tenure and promotion. Ultimate decisions in matters of appointment and promotion in rank are made on the authority of the Board of Regents.

### **4.2 ANNUAL REVIEW OF PROBATIONARY FACULTY**

#### **4.2.1 Purpose**

The purpose of the annual review is to provide the probationary faculty member written information about his or her performance in the department, identifying both strengths and weaknesses. The review entails cumulative evaluation of the faculty member's achievements and progress toward tenure.

#### **4.2.2 Timetable**

The annual review for each probationary faculty member must be initiated and completed by the department chair during the Spring semester of each academic year of probationary appointment. An annual review will not be conducted during the academic year designated for mid-probationary or tenure review. Faculty members whose appointments begin in the Spring semester will have their first annual reviews during the following Spring semester so that annual reviews of all faculty occur at the same time of year.

#### **4.2.3 Procedures**

(a) The annual review is conducted by the department chair, in consultation with at least the tenured members in the department and, where appropriate, with any other faculty who are well acquainted with

the probationary member's work.

(b) In preparation for the annual review, the faculty member shall assemble a file including:

- *curriculum vitae*
- classroom materials, teaching evaluations, and other materials reflecting on teaching performance
- copies of scholarly works completed or submitted during the previous year and other materials reflecting on scholarly work
- statement of self evaluation based upon goals set for the previous year
- statement setting goals for the coming year

(c) As part of the review, the chair shall review the faculty member's assembled file and obtain written evaluations of the member's performance from at least those tenured members of the department who are best acquainted with the probationary faculty member's work. Whether all tenured members of the department will be required to participate in the annual reviews and whether peer evaluations of teaching are to be included in the review shall be matters of consistent departmental policy and not decided on a case-by-case basis (see Sec. 4.4.8). If peer evaluations of teaching are to be included, the chair shall arrange for the faculty member's teaching to be observed. The evaluation of all components (teaching, scholarly work, service, and personal characteristics) shall be summarized by the chair in the written annual review provided to the probationary faculty member. If earlier reviews have identified specific deficiencies, special attention should be paid to the progress made toward remedying them. The chair shall discuss each annual review report with the probationary member before the end of the Spring semester. The probationary member shall acknowledge receipt of the report and may provide a written response. This report and any response shall be filed with the department and college/school.

#### **4.2.4 Discontinuance of Probationary Appointment**

Probationary faculty members serve on annual contracts. A decision as to whether the contract will be renewed is made as the result of a review of the faculty member's performance. In case of a recommendation of non-renewal made at a point other than at the mid-probationary or tenure review, the faculty member must be notified immediately in writing by the chair who shall include a statement of the reasons. This recommendation, and any response of the faculty member, shall be reviewed by the dean. The dean's recommendation is forwarded to the office of the Provost/VPHS and the final decision is made by the Provost/VPHS. The faculty member shall have 10 working days from receipt of the chair's recommendation and statement of reasons to respond for consideration by the dean. The faculty member shall also have 10 working days from receipt of the dean's recommendation to respond for consideration by the Provost/VPHS. The probationary faculty member whose appointment is to be discontinued is entitled to the notice periods and terminal contract requirement specified in Sec. 3.2 (c). (See Sec. 5.4 for termination of employment of a probationary faculty member during a contract year.)

#### **4.2.5 Appeal to the Academic Freedom and Tenure Committee or President**

The faculty member may appeal the final decision by the Provost/VPHS to the Academic Freedom and Tenure Committee on grounds that the decision to discontinue the probationary appointment involved academic freedom violations, improper considerations or prejudicial violation of Policy procedures (Sec. 6). The faculty member may appeal a negative decision to the President on any other grounds.

### **4.3 GENERAL SEQUENCE AND PROCEDURES FOR MID-PROBATIONARY, TENURE AND PROMOTION REVIEWS**

The sequence and procedures for mid-probationary, tenure and promotion reviews are set forth below.

#### **4.3.1 Departmental Review and Recommendations**

(a) The department chair, in consultation with at least the tenured members of the department, conducts a formal review of the faculty member's achievements in teaching, scholarly work, service, and personal characteristics. The criteria are presented in this Policy and in any supplemental policies within academic units. This review shall take account of the annual reviews of the faculty member. Tenured members of the department are expected to submit written evaluations of the candidate and indicate either a positive or negative mid-probationary, tenure, and/or promotion recommendation.

(b) The chair shall prepare a report that is included in the member's dossier. The report shall summarize the faculty evaluations of the candidate, external letters as required, teaching evaluations and other documented evidence. Information acquired from interviews shall be summarized in writing and verified by the interviewee prior to inclusion in the dossier. The chair includes his or her personal observations and evaluation and, based upon documented information, the chair makes a positive or negative recommendation.

(c) The chair shall discuss the review and recommendation with the faculty member. Thereafter, the department chair shall forward the candidate's dossier, written documentation of the department's review, including copies of all evaluations received from faculty members, any external evaluations, and the chair's report and recommendation to the dean of the college/school. At the same time, the faculty member shall be advised in writing whether the recommendation is positive or negative. If the recommendation is negative, a copy of the chair's report, the internal peer reviews and external letters (all redacted as necessary to preserve confidentiality), if requested by the candidate, shall be furnished to the candidate.

#### **4.3.2 Review by the Dean**

The college dean is to review the candidate's dossier and the chair's recommendation and shall provide a written assessment and recommendation for promotion, continuation (mid-probationary review), or tenure and promotion. The dean shall normally abide by the chair's recommendation. The dean shall forward the assessment and recommendation together with the entire dossier to the office of the Provost/VPHS. If the dean's recommendation is negative, or conflicts with the chair's recommendation, a copy of the dean's letter (redacted as necessary to preserve confidentiality) shall be provided to the candidate and the department chair. In a case where the dean decides not to follow the chair's recommendation, the chair shall have 10 working days to present an appeal to the Associate Provost (for faculty in the Health Sciences Center, this does not apply [Sec. 4.3.4—4.3.6]).

#### **4.3.3 Review by the Associate Provost**

The associate provost for academic affairs reviews the candidate's dossier and the recommendations of the chair and the dean. The associate provost shall provide a written recommendation to the Provost. If the associate provost's recommendation is negative, a copy of the recommendation (redacted as necessary to preserve confidentiality) shall be concurrently provided to the faculty member, the dean, and the chair. (This step is omitted for faculty in the Health Sciences Center.)

#### **4.3.4 Review and Decision by the Provost**

(a) The Provost reviews the faculty member's dossier and the recommendations of the chair, dean, and associate provost. The final decision shall be made by the Provost. If the Provost considers not following a recommendation in which the associate provost, the dean and the chair have concurred (or if there is a conflict in the recommendations made by these officers), the Provost shall immediately, and in writing, inform the faculty member and the officers involved in the decision and include a written statement of reasons. The faculty member and the officers involved have 10 working days to present their views to the Provost before the Provost makes a final decision.

(b) The Provost provides written notification of the decision to the faculty member no later than June 30 of the review year, exercising the personnel authority of the Regents delegated by them for this purpose. In the case of mid-probationary and tenure reviews, if the decision by the Provost is negative, a terminal contract is issued for the following year. If a negative decision is not made by June 30, the faculty member is entitled to an additional terminal year contract.

#### **4.3.5 Review and Decision by the Vice President for Health Sciences**

The VPHS reviews faculty dossiers and the recommendations of the chair and dean for faculty in the Health Sciences Center. The VPHS makes the final decision. In all other aspects, the review is identical to the process described in Sec. 4.3.4 for the Provost.

#### **4.3.6 Negative Recommendations**

If at any level of review, the recommendation is negative, the faculty member shall be given a copy of the negative recommendation and may request a copy of all other reports, recommendations and internal peer reviews and external letters (all redacted as necessary to preserve confidentiality). The faculty member shall have 10 working days after receipt of such materials, if requested, to present his/her views to the next level of review before the next recommendation, or the final decision, is made. In addition, if the Provost/VPHS makes a negative decision, the faculty member may request reconsideration by the Provost/VPHS. Such request shall be made in writing by July 15. The Provost/VPHS shall respond within 10 working days of receiving the request.

#### **4.3.7 Appeal to the Academic Freedom and Tenure Committee or President**

The faculty member may appeal the final decision by the Provost/VPHS to the Academic Freedom and Tenure Committee on grounds that the mid-probationary, tenure, or promotion review involved academic freedom violations, improper considerations or prejudicial violation of the Policy procedures (Sec. 6). The faculty member may appeal a negative decision to the President on any other grounds.

### **4.4 GENERAL POLICIES RELATING TO FACULTY REVIEWS**

The following general policies apply to mid-probationary, tenure, and promotion reviews, unless otherwise specified in this Policy.

#### **4.4.1 Confidential Materials**

Internal peer evaluations of a faculty member, student evaluations, and letters received from reviewers outside the University are added to the faculty member's dossier by the department chair, and they shall be kept confidential from the faculty member to the extent allowed by law and by University policy (see "Confidentiality of Faculty Records Policy" in the *Faculty Handbook*).

#### **4.4.2 Evaluations by Untenured Faculty**

At the discretion of the tenured faculty of the department, untenured faculty may participate in reviews. The chair's report shall distinguish between the evaluations and votes of the tenured faculty, on the one hand, and those of the untenured faculty, on the other. Untenured faculty members may decline to participate in the review without penalty.

#### **4.4.3 Absent Faculty**

Faculty absent from campus at the time of a mid-probationary, tenure, or promotion review of a departmental colleague shall be informed of the upcoming review by the department chair with sufficient time to participate if they so choose.

#### **4.4.4 Other Sources of Relevant Information**

Academic officers with responsibilities for the review of faculty members may consult any person or call upon their own personal knowledge of the candidate in formulating their recommendations or decisions. To the extent that they rely on information not already documented in the dossier, they shall so state in their written report and explain the nature and source of such information and obtain written confirmation of orally transmitted information for inclusion in the dossier. Sec. 4.5.4 also applies.

#### **4.4.5 Faculty Advisory Committees**

Academic officers with responsibilities for the review of faculty members are encouraged to appoint experienced faculty advisory committees. If advisory committees are used, they shall have access to the complete dossier of the faculty member. Advisory committees shall communicate with the candidate or chairs only through the academic officer whom they advise and shall not discuss the consideration outside committee meetings.

#### **4.4.6 Statement of Reasons**

All written recommendations shall include a statement of supporting reasons.

#### **4.4.7 Directing Questions Arising During Review to Chair**

Academic officers and advisory committees considering matters of promotion and tenure shall communicate with the chair if there are major faults or omissions in the dossier or if significant questions or possible misunderstandings arise. In such circumstances, the chair shall discuss substantive problems with the candidate and department faculty as appropriate.

#### **4.4.8 Procedural Consistency**

Where departments are given discretion to choose among alternative procedures in this Policy, such discretion shall be exercised as a matter of department policy and not on a case-by-case basis.

### **4.5 PREPARATION OF THE DOSSIER FOR MID-PROBATIONARY, TENURE, AND PROMOTION REVIEWS**

#### **4.5.1 Content**

(a) The dossier is a collection of documents that summarize and evaluate a faculty member's accomplishments in teaching, scholarly work, and service and contain evidence of personal and professional effectiveness. It is the foundation for evaluation at each level of the review process. The



organization of the dossier shall be standardized within each unit, combining clarity, convenience, and effectiveness in a manner appropriate to the discipline. The faculty member shall provide the following elements:

1. statement by the faculty member of professional goals and progress toward achieving them,
2. complete and current *curriculum vitae*, and
3. systematic collection of professional materials documenting the faculty member's achievements in the evaluation categories of teaching; scholarly work; and service.

(b) Student teaching evaluations shall be included and organized to reflect the various types of courses or students taught. Peer evaluations of teaching shall also be included. The dossier shall include those books, offprints, manuscripts, research proposals, and papers presented at professional meetings that best represent scholarly contributions. Reviews of such materials, including reviews of juried creative works, may also be included. The faculty member shall provide a table of contents, which the chair signs to acknowledge that materials received from the faculty member are complete and appropriate.

#### **4.5.2 External Letters**

When external review letters are required (i.e., for tenure or promotion, or for mid-probationary review in some departments), the candidate shall suggest potential reviewers to the chair. The chair, in consultation with tenured faculty, shall identify additional reviewers. The chair shall select reputable scholars, researchers, or creative artists and critics who can evaluate the candidate's contributions to scholarship, research, or creative work. The materials supplied to external reviewers shall include written instructions and a curriculum vitae. Such external review letters shall be added to the dossier by the chair. External reviewers shall be advised that the University will endeavor to keep the reviewer's identity confidential, to the extent permitted by law.

#### **4.5.3 Timetable**

In the Spring semester before the faculty member is scheduled for mid-probationary, tenure or promotion review, the department chair shall meet with the faculty member to discuss the assembly of the dossier. Early in the Fall semester of the review year, the candidate shall submit the dossier to the chair. During the confidential evaluation process, peer evaluators within the University shall have access to the dossier and to the external reviews.

#### **4.5.4 Adding Material to the Dossier**

The substantive record for the faculty candidate is the material consolidated by the department chair in the dossier. As the review proceeds, the University officer at each level adds any written response received from the faculty candidate or officer(s) at lower level(s) to the dossier as well as his or her own recommendation. If any substantive material is introduced at a higher administrative review, the candidate, chair and dean (if appropriate) shall be furnished copies. If necessary to preserve confidentiality, material provided to the candidate shall be redacted and the candidate shall have 5 working days to submit written comments if desired.

### **4.6 SPECIFIC PROVISIONS FOR MID-PROBATIONARY REVIEW**

#### **4.6.1 Purpose and Standards**

(a) The purpose of the mid-probationary review is to enable the department to evaluate progress towards

tenure, to inform the probationary faculty member of his or her strengths and weaknesses, and to decide whether or not to continue the faculty member's appointment. The review entails evaluation of the faculty member's achievements in the four categories of teaching, scholarly work, service, and personal characteristics, according to the standards specified in this Policy and the criteria of the academic unit.

(b) The mid-probationary review requires identification of the specific areas of strength and weakness demonstrated by the faculty member and the evidence supporting conclusions to that effect. The aim of the required identification of areas of strength and weakness is to give the faculty member a clear picture of the performance levels by which he or she is to be judged and offer the opportunity to correct any noted deficiencies prior to subsequent reviews. The existence of some identified deficiencies in this review are considered normal, as it is not anticipated that the probationary member will have fully attained the standards required for the award of tenure by the time of the mid-probationary review.

(c) For a positive mid-probationary review there should be demonstration of, or at least clear progress toward, the competence or effectiveness in all four evaluation categories expected of tenured faculty, as well as promise of excellence in either teaching or scholarly work. If the University concludes that insufficient progress towards tenure has been made and that deficiencies are unlikely to be corrected in the time remaining before the tenure decision, then a negative mid-probationary decision is both appropriate and necessary.

#### **4.6.2 Timetable**

This review shall occur at the approximate mid-point of the faculty member's probationary period at the University. The year of a probationary faculty member's mid-probationary review shall be specified in writing at the time of appointment to probationary status. If, as a result of a mid-probationary review, it is decided that a faculty member should not be continued, written notice shall be provided by June 30 and the faculty member shall be given a terminal contract for an additional year.

#### **4.6.3 Procedures**

The sequence and procedures for the mid-probationary review are as set forth in Sec. 4.3 above.

#### **4.6.4 External Letters**

If a department requires external letters of evaluation for mid-probationary reviews, this must be stated in a written departmental policy.

#### **4.6.5 Fiscal and Programmatic Contingencies**

(a) The mid-probationary review process may take into account the programmatic and fiscal needs of the department, the college/school, and the University. Should programmatic changes or fiscal emergency be the sole reason for a decision not to continue the appointment of a probationary faculty member, then the department, college/school, and the University shall explain in writing the exact nature of these circumstances.

(b) Should the concerned unit's circumstances require that a faculty member judged worthy of retention be released from service, the Provost/VPHS shall notify the Academic Freedom and Tenure Committee in

writing and explain the unit's or the administration's plans for the academic and fiscal disposition of the position held by the faculty member under review.

(c) A faculty member who is released from service because a position is being discontinued, shifted within a department or to another department or college/school is issued a notice contract for one additional year of employment.

## **4.7 SPECIFIC PROVISIONS FOR TENURE REVIEW**

### **4.7.1 Purposes of the Tenure System**

The academic freedom of teachers and scholars is the means by which society is protected from hindrances to the search for knowledge and from limits on the dissemination of knowledge. The system of tenure for faculty members is the preeminent means of fostering and protecting academic freedom of the faculty. The tenure system consists of rules and procedures that establish an essentially self-regulated body of scholars, researchers, and creative artists enjoying the continuity of existence and economic security within which academic freedom is both fostered and protected. The protection of academic freedom shall be extended to all members of the faculty during their terms of appointment. The tenured faculty of a university serve the institution by providing continuity to the university and to its mission of instruction, scholarly work, and service. The awarding of tenure carries both benefits and responsibilities to the individual so recognized. As the 1940 Statement of Principles on Academic Freedom and Tenure of the American Association of University Professors (AAUP) notes, "freedom and economic security, hence tenure, are indispensable to the success of an institution in fulfilling its obligations to its students and to society." It is the responsibility of faculty members, supported by the tenure system, to use the opportunities thus provided for the advancement of the purposes of the University and of the community it serves. These purposes include teaching, scholarly work, and service.

### **4.7.2 Purpose of the Tenure Review and Standards for Tenure**

The awarding of tenure is the most serious commitment the department, college/school, and University make to a faculty member. Tenure is a privilege, not a right, and is awarded only after the most serious deliberation and review. The tenure review consists of evaluation of the faculty member's teaching, scholarly work, service, and personal characteristics, according to the standards specified in this Policy and the criteria of the academic unit. For a positive tenure review, the faculty member shall have demonstrated competence or effectiveness in all four areas, and excellence in either teaching or scholarly work. Faculty in the School of Medicine are required to demonstrate excellence in two of the following categories of teaching, scholarly work, or service/administration as described in the Medical School tenure and promotion guidelines.

### **4.7.3 Timetable**

A review and report on a candidate's acceptability for tenure is initiated by the department in the Fall semester of the final year of the faculty member's probationary period. The faculty member's contract identifies the year for tenure review. Notification of the tenure review decision by the Provost/VPHS shall be made no later than June 30 of that year.

#### **4.7.4 Procedures**

The sequence and procedures for the tenure review are as set forth in Sec. 4.3. The mid-probationary review report and annual reviews must be taken into consideration during this process.

#### **4.7.5 External Letters**

External letters of evaluation are required as part of tenure reviews. Procedures for obtaining external letters are provided above in Sec. 4.5.2.

### **4.8 SPECIFIC PROVISIONS FOR ADVANCEMENT IN RANK: PROMOTIONS**

#### **4.8.1 Purpose**

(a) The promotion process is the mechanism by which the University promotes and recognizes the professional development of faculty members, and thereby maintains the quality of the University. A description of the faculty ranks is provided in this policy (Sec. 2) to set a framework for the promotion process. The promotion review consists of evaluation of the faculty member's teaching, scholarly work, service, and personal characteristics (Sec. 1), according to the standards specified in this Policy and the criteria of the academic unit, both as appropriate for the promotion level.

(b) Decisions to promote a faculty member are made after a thorough evaluation of his or her performance in all the areas of faculty professional activities and the corresponding categories of performance evaluation specified in this Handbook. The candidate's performance is judged by all recommending parties in the light of the categories and definitions set forth in this Policy, the assignments of the candidate, and any special conditions pertaining to the candidate's appointment.

#### **4.8.2 Promotion to Associate Professor**

(a) It is the policy of the University that tenure and promotion to the rank of associate professor will normally be granted together. A candidate for tenure who does not already hold the rank of associate professor shall simultaneously be considered for promotion to the associate professor rank. A favorable decision on promotion to associate professor rank shall normally be a basic prerequisite for the awarding of tenure. Requests for departures from this policy must be made prior to the initiation of the tenure or promotion review process with the concurrence of the department, the dean, and the Provost/VPHS.

(b) Timetable for promotion to associate professor: The anticipated length of service in the rank of assistant professor is six years, with review for promotion to the rank of associate professor occurring in the sixth year. The review process for advancement to associate professor is normally conducted at the same time as the review for tenure (i.e., Fall semester of the final academic year of the probationary period). Recommendations for promotion in less time are to be carefully weighed and justified. Notification of the outcome of the review shall be made during the Spring semester no later than June 30 of that year.

#### **4.8.3 Promotion to Professor**

(a) Qualifications for promotion to the rank of professor include attainment of high standards in teaching, scholarly work, and service to the University or profession. Promotion indicates that the faculty member is of comparable stature with others in his or her field at the same rank in comparable universities. Service in a given rank for any number of years is not in itself a sufficient reason for promotion to professor.

(b) Timetable for promotion to professor: The anticipated length of service in the rank of associate professor prior to consideration for promotion to the rank of professor is at least five years. Recommendations for promotion in less time must be carefully weighed and justified. The review for advancement in rank to that of professor is initiated during the Fall semester. Notification of the outcome of the review is made during the Spring no later than June 30 of that year.

#### **4.8.4 Procedures for Advancement in Rank**

(a) The sequence and procedures for the review of advancement in rank (promotion) are as set forth in Sec. 4.3, with the following additions:

1. The process begins in the Fall semester when the candidate requests consideration by the department chair. A dossier is presented by the candidate for consideration according to department policy. The candidate has the right to withdraw his or her dossier from consideration at any point in the review process.
2. The chair secures written evaluations from at least the full professors within the department and from distinguished persons in the field outside the department.
3. The chair discusses the outcome of the review with the faculty member. After this discussion, the faculty member may choose to withdraw his or her request. If not, the chair forwards the recommendation and member's dossier to the dean (Sec. 4.3.1).
4. The Provost/VPHS shall communicate in writing the final decision to the faculty member, the department chair and college dean. If promotion is awarded, it is effective immediately upon the faculty member's acceptance of the next contract.

#### **4.9 POST-TENURE REVIEW**

(Approved by the Faculty Senate, February 13, 1996, and May 6, 1997; approved by the Regents, April 11, 1996, and May 16, 1997, and included in the Policy on AF&T in the version approved by the Faculty on December 6, 1998 and by the Board of Regents on December 8, 1998.)

##### **4.9.1 Introduction**

The Post Tenure Review Policy ensures that all tenured faculty members will receive an annual review and that those with either exceptionally good performance or deficiency in one or more areas will be identified. Special achievement shall be rewarded in a manner determined by each college/school. For a faculty member who receives two successive annual reviews with identified uncorrected deficiencies, the Post-Tenure Review policy provides a mechanism to either (a) overturn the findings of deficiency in the annual reviews or (b) establish a remedial program for correcting the deficiencies.

##### **4.9.2 General Principles**

A tenured professor who performs well should be rewarded, and one who performs inadequately should seek or accept help and improve or be subject to dismissal. The purpose of UNM's post-tenure review is to determine levels of performance efficiently, equitably, and in conformity with tenure rights expressed in the Policy on Academic Freedom and Tenure and guaranteed by the Contract Clause of the U.S. Constitution.

##### **4.9.3 Data Collection**

Biographical updates, student evaluations of teaching (supplemented by periodic but not necessarily

annual peer evaluations of teaching), and (with necessary exceptions, as in the Medical School) evaluations for salary recommendations shall be required annually of all faculty, including tenured professors. Some departments and divisions may also wish to require information more detailed than in the current biographical update form. The biographical update shall include space for objectives for the coming year.

#### **4.9.4 Performance Criteria**

Deans shall require each department or division to file a statement of criteria and procedures for annual evaluation of the performance of tenured faculty members. The criteria and procedures shall be consistent with the Faculty Handbook, reflect the standards of excellence and appropriate balance of teaching, research, or other creative activity, and service prevailing in the discipline and department or division, and have the approval of the department or division faculty and the dean. At a minimum, the procedures shall include an annual written evaluation, as described below. Sec. 1 (of this Policy) describes good teaching and good research at some length, including the importance of one's original research in imparting new ideas in the classroom and inspiring students to engage in original research. Sec. 1 also stresses the need for service in the department, the University, and one's discipline, particularly by senior members of the faculty. (Reviews from outside the University, as suggested in Sec. 1, shall not normally be included in annual and more formal post-tenure reviews [Sec. 4.9.5 and 4.9.7].)

#### **4.9.5 Annual Reviews**

(a) Each department shall conduct an annual review of each tenured faculty member's teaching, scholarly work, and service. This review, which may be combined with salary review and may be performed by the chair or the chair and a committee of tenured faculty, shall be in writing (normally 50 to 100 words for most faculty, more for those with special achievements or identified deficiencies) and contain a description and critique of performance during the past year and performance goals for the coming year. It shall be discussed with the faculty member if there are deficiencies. Two copies of the annual review, signed by the chair, shall be given to the faculty member, one to be signed as acknowledgment of receipt and returned to the chair. A faculty member who disagrees with the review may add a comment or rebuttal. The review and any such statement shall be placed in the faculty member's personnel file. The faculty member, in addition, may appeal the chair's evaluation to the dean. At any point in these or subsequent proceedings, the faculty member shall have access to aggregate information concerning the teaching evaluations, publications, grants, etc., of the department as a whole for purposes of comparison. Aggregate information shall be determined by each department and will contain, at a minimum, summary data of faculty activities in the areas of teaching, scholarly work and service. In the dissemination of aggregate data, confidentiality shall be protected to the extent provided by law.

(b) Administrators who hold tenured faculty rank shall also be reviewed on the performance of their faculty duties (teaching, research, and service). The manner in which the chair and other administrators are reviewed shall be decided by an agreement between the dean and tenured faculty in the unit, in a manner consistent with the intent of this document. Administrators who have no assigned faculty duties within the department will not be reviewed under this policy.

#### **4.9.6 Reports to Deans**

Each department shall annually provide the dean with summaries of the reviews of all faculty members (normally no more than 50 words for most faculty, more for those with special achievements or identified deficiencies) and the full text of any comment or rebuttal. The summaries shall include the special achievements or identified deficiencies of individual faculty members. Merit, as determined in annual salary reviews, shall be the primary criterion for raises. In the case of special achievement, the summary shall state the rewards to be provided. The dean or a college committee shall participate in the merit award for special achievement. In the case of deficiency, the summary shall suggest remedies, and the chair and the dean shall monitor improvements. If the dean disagrees with the chair's evaluation, he or she shall so inform the chair and the faculty member.

#### **4.9.7 More Complete Reviews**

If in the judgment of the chair the annual review for any faculty members shows a serious deficiency that has continued for two consecutive years, the chair shall inform the faculty member. One of two possible courses of action shall follow:

1. The faculty member may request that the chair submit his or her findings to the other tenured faculty members for consideration in a more complete review during the following year, or
2. If the faculty member does not request the review, the chair may initiate such a review with the concurrence of a majority of the tenured faculty in the department.

The more complete review shall be similar to the mid-probationary review described in the Faculty Handbook, with the aim of identifying strengths and weaknesses. This review shall be undertaken by the chair with a committee of at least three tenured faculty members chosen by the tenured faculty. If they find that the faculty member's performance is not seriously deficient, the member shall be so informed and a statement of the decision placed in the file. If serious deficiency is found, a specific remedial program shall be developed in consultation with the faculty member, including procedures, criteria for evaluating progress, and a reasonable timetable. The results of the program shall be reported by the chair to the dean. If the dean concludes, after consulting the college promotion and tenure committee, or other advisory committee, if any, that serious deficiencies persist, he or she shall so inform the Provost/VPHS.

#### **4.9.8 Enhancement Programs**

Whether or not a tenured faculty member accepts a recommendation to participate in a teaching or scholarly work enhancement program, and whether or not the member performs well in the program, he or she shall be judged, after a reasonable period of time, on subsequent classroom and scholarly work performance.

#### **4.9.9 Individual Request for Review**

Any faculty member who feels that two or more consecutive annual reviews have inaccurately conveyed his or her professional accomplishments or have contained other substantial deficiencies shall have the option of initiating the more complete review described above.

#### **4.9.10 Frequency of Review**

The more complete review shall not be initiated for any faculty member more frequently than once every five years.

#### **4.9.11 Review by the Committee on Academic Freedom and Tenure**

If a tenured faculty member's professional deficiencies are considered by the Provost/VPHS to be very serious and to have been uncorrected at the conclusion of the agreed time period, and, further, if there is evidence that the faculty member's performance has deteriorated since the award of tenure and that his or her academic performance is now typically unsatisfactory, the President of the University shall initiate the process specified in Sec. 6 for removing a faculty member for cause under the procedures and standards set forth in that section, including "If the faculty member's academic competence is questioned, the proof before the Committee shall be insufficient unless it includes testimony of teachers and other scholars, either from the University or from other institutions, and it shows that the faculty member's academic performance (1) has deteriorated since receipt of tenure and (2) is now typically unsatisfactory" (Sec. 6.4.3 (k)), and "[T]he burden of proof resides with the President and University administration" Sec. 6.4.3 (a)).

#### **4.9.12 Limitation on Applicability**

This policy does not apply to proposed terminations of tenured faculty for alleged misconduct or violation of University policy or law, which is provided for in Sec. 6.

#### **4.10 ANNUAL REVIEW OF CONTINUING NON-TENURE-TRACK FACULTY**

Continuing non-tenure-track faculty (lecturers and clinician educators) shall be reviewed annually following procedures adopted by each department.

\*Approved by Regents: January 11, 1964; January 18, 1969; March 15, 1969; November 8, 1969; January 9, 1971; April 16, 1971; December 20, 1974; February 1, 1975; September 27, 1975; June 13, 1977; August 29, 1978; June 1, 1979; August 12, 1983, August 6, 1985; December 8, 1998.

\*\*Approved by Faculty: February 11, 1964; December 10, 1968; March 11, 1969; September 23, 1969; December 8, 1970; April 20, 1971; December 10, 1974; September 9, 1975; May 11, 1977; May 11, 1978; May 9, 1979; October 14, 1980; March 8, 1983; January 18, 1985; December 7, 1998.



# **B5: Separation from the University**

## *Policy*

(\*Approved by Regents December 8, 1998)

(\*\*Approved by Faculty December 7, 1998)

## **SECTION 5: SEPARATION FROM THE UNIVERSITY**

### **5.1 INTRODUCTION**

This section refers to the ways in which the professional relationship between an individual faculty member and the institution may be dissolved or suspended. The dissolution of this professional relationship may be initiated by the faculty member or by the institution

### **5.2 FACULTY-INITIATED SEPARATION**

#### **5.2.1 Resignation**

(a) Faculty members may terminate their appointment effective at the end of an academic year, provided that they give notice in writing at the earliest possible opportunity, but normally not later than May 15. Conditions for the resignation of clinical faculty in the School of Medicine are defined in the School of Medicine policies. Faculty members may properly request a waiver of this requirement of notice in case of hardship or in a situation where they would otherwise be denied substantial professional advancement or other opportunity.

(b) A faculty member may properly give notice after May 15 but within 10 days after receiving the contract (1) if it is not in the member's hands in time to meet the normal time requirements and (2) if the member is not satisfied with the terms and conditions of the offered contract.

#### **5.2.2 Retirement**

The date of retirement shall normally be the end of the contract year or the end of a semester, and shall be negotiated between the faculty member and the administrative unit. Appropriate State statutes and State and University regulations and policies regarding retirement shall be consulted.

### **5.3 UNIVERSITY-INITIATED TERMINATION OF SERVICES OF FACULTY MEMBERS WITH TENURE**

#### **5.3.1 General**

The services of a faculty member having tenure shall be terminated only for one of the following reasons: (1) adequate cause, (2) bona fide financial exigencies of the University, (3) bona fide discontinuance of a program or department of instruction, or (4) health reasons. Termination decisions shall not interfere with any retirement benefits for which a faculty member may be eligible. No faculty member shall be retired involuntarily unless such action is authorized by statute or by this Policy. The process for dismissal of a tenured faculty member is described in Sec. 6.

### **5.3.2 Adequate Cause**

Adequate cause for termination of a faculty member with tenure consists of academic incompetence, neglect of duty, serious violation of University policy, commission of a serious crime, loss of medical licensure or clinical privileges, or other serious professional or ethical deficiencies. Adequate cause may be determined in several ways, including admission, conviction by a court of law, or findings of a hearing before a relevant University faculty-review committee such as the Academic Freedom and Tenure Committee (Sec. 6.4.3).

### **5.3.3 Financial Exigency**

Termination of a tenured appointment may occur under extraordinary circumstances because of a demonstrably bona fide financial exigency, namely, an imminent financial crisis that threatens the survival of the institution as a whole and that can not be alleviated by less drastic means. The following standards and procedures will apply:

- (a) The exact nature of the need for termination must be substantiated in writing by the department, the college, and the Provost.
- (b) The Provost must explain the action with regard to this particular position to the Committee on Academic Freedom and Tenure and show that the plans for the academic and fiscal disposition of the position are reasonable and that all feasible alternatives to termination of the appointment have been pursued. The burden shall rest on the administration to prove the existence and extent of the condition of financial exigency.
- (c) Should the Provost decide that the University's financial crisis requires that the faculty position in question be eliminated, shifted within the department, or shifted to another department or college, the faculty member, department chair, and college/ school dean shall be so notified as early as possible, but no later than May 1. The faculty member will be issued a notice contract for one additional year of employment.
- (d) If a tenured faculty member is terminated because of a bona fide financial exigency of the University, the released faculty member's place will not be filled by a replacement for a period of two years, unless the released faculty member has declined an offer of reappointment with at least the previous rank and salary.

### **5.3.4 Program Discontinuance**

Termination of a tenured appointment may occur as a result of bona fide formal discontinuance of a program or department of instruction. The following standards and procedures will apply:

- (a) The formal decision to discontinue a program or department of instruction will be based essentially upon educational considerations, as determined by the Board of Regents after consideration by and recommendation from the Faculty Senate.
- (b) Before the administration issues notice to a tenured faculty member of its intention to terminate an appointment because of formal discontinuance of a program or department of instruction, the University

will make every effort to place the faculty member in another suitable position. If placement in another position would be facilitated by a reasonable period of training, financial and other support for such training will be offered. If no position is available within the University, with or without retraining, the faculty member's appointment then may be terminated, but only with provision for severance salary equitably adjusted to the faculty member's length of past and potential service.

(c) A faculty member may appeal a proposed relocation or termination resulting from a discontinuance and has a right to a full hearing before the Academic Freedom and Tenure Committee. The issues in such a hearing may include the University's alleged failure to satisfy any of the conditions specified in this section of the Handbook. In such a hearing, a determination by the Board of Regents (after recommendation by the Faculty Senate) that a program or department is to be discontinued will be considered presumptively valid, but the burden of proof on other issues will rest with the administration.

(d) Should a program or department of instruction be discontinued and, within three years, should the program be restored or the position be reestablished elsewhere in the University, the faculty member must be given the opportunity to return to the position with at least the previous rank and salary.

### **5.3.5 Health Reasons**

(a) An appointment with tenure may be terminated for health reasons, following the procedures of this section, based upon clear and convincing evidence that the faculty member cannot continue satisfactorily to perform his or her normal professional duties, that such condition is likely to be permanent, and that no reasonable accommodation as required by the Americans with Disabilities Act is feasible. Extended sick leave or leave without pay is appropriate when a serious health condition requires absence from faculty duties, but the condition is not expected to be permanent.

(b) The decision to terminate the employment of a faculty member for health reasons shall be reached only after there has been appropriate consultation with at least the other tenured members of the department, the chair, the dean, and the Provost/VPHS. The faculty member, or his or her representative, shall be informed in writing by the Provost/VPHS of the basis of the proposed action and be given an opportunity to present the faculty member's position to the Provost prior to the Provost making a recommendation to the President. If the President concludes that the faculty member cannot continue satisfactorily to perform his or her normal professional duties but the faculty member does not agree, the President shall initiate proceedings before the Committee on Academic Freedom and Tenure to terminate the employment of the faculty member pursuant to the procedures of this Policy dealing with dismissal (Sec. 6.4.3).

## **5.4 UNIVERSITY-INITIATED TERMINATION OF CONTRACT OF ANON-TENURED FACULTY MEMBER**

(a) The University has the discretion whether or not to renew the annual contract of probationary or non-tenure-track faculty members (for probationary faculty-Sec. 3.2(c) for notice periods and Sec. 4.2.4, 4.2.5, and 6.4.1 for rights of appeal; for continuing non-tenure-track faculty-Sec. 3.4 for notice periods). For Faculty members on two- or three-year term appointments, the University's discretionary renewal or non-renewal may be exercised only during the final year of the appointment; the notice periods specified above apply to the final year of the appointment. For non-tenured faculty members with two or three year term

appointments, these term appointments may be terminated early, on the expiration date of an annual contract, following the procedures described in Sec. 5. 3.

(b) Under the extraordinary circumstances and with proof of adequate cause as outlined in Sec. 5.3.2, a non-tenured faculty member's annual contract may be terminated before its expiration and/or without regard for the notice periods or terminal contract requirements set forth in this Policy. A decision to terminate the contract of a non-tenured faculty member under these circumstances shall be made by the Provost/ VPHS after recommendations by the chair and the dean. At each administrative level, the faculty member shall be fully informed in writing of the reasons proposed for such termination and shall be given an adequate opportunity to respond in writing and/or orally to the Provost/VPHS prior to the final decision. The faculty member shall have the right to appeal a termination decision by the Provost/VPHS to the Academic Freedom and Tenure Committee on grounds within the Committee's jurisdiction (Sec. 6.2); however, such appeal shall not postpone the date of termination.

## **5.5 SUSPENSION**

Suspension is an emergency, short-term condition that can be invoked by the dean, Provost/VPHS, or President. The faculty member suspended must be named in the suspension order, the terms of which may vary from a directive not to meet classes to a legal exclusion from campus. An emergency suspension order is justified only as an effort to forestall imminent harm to the faculty member, to others, or to University property. As an emergency measure, it is intended to serve only until more formal action may be taken to resolve the issue at hand. Unless prohibited by law, suspension is always with pay, unless suspension is imposed as a disciplinary measure after a full opportunity for hearing and review, in which case the suspension may be with or without pay.

## **5.6 DISMISSAL OR NON-REAPPOINTMENT OF GRADUATE, TEACHING, RESEARCH, AND SPECIAL ASSISTANTS**

(a) No graduate, teaching, research, or special assistant has a right to reappointment or to continuance in service beyond the contract period. However, assistants have the right to be secure from arbitrary or capricious dismissal. If an assistant is not satisfactorily performing assigned duties, the supervisor shall so inform the assistant and point out the unsatisfactory aspects of the work and how these should be corrected. If dismissal is contemplated after such warning has been judged ineffective, the assistant shall be given a written statement of the reasons for this action and have an opportunity to respond to the supervisor prior to the final decision. The assistant may be suspended with pay by the dean of the college/school if warranted, prior to the final decision. The assistant may appeal dismissal to any or all of the following: the department chair, the dean of the college/school, or the Dean of Graduate Studies.

(b) If an assistant who is dismissed or not reappointed alleges that the decision violates academic freedom or Faculty Handbook procedures, or involves improper considerations, the assistant may appeal to the Academic Freedom and Tenure Committee pursuant to this Policy (Sec. 6.2), after completing the process of administrative appeal.

\*Approved by Regents: January 11, 1964; January 18, 1969; March 15, 1969; November 8, 1969; January 9, 1971; April 16, 1971; December 20, 1974; February 1, 1975; September 27, 1975; June 13, 1977;

August 29, 1978; June 1, 1979; August 12, 1983, August 6, 1985; December 8, 1998.

\*\*Approved by Faculty: February 11, 1964; December 10, 1968; March 11, 1969; September 23, 1969; December 8, 1970; April 20, 1971; December 10, 1974; September 9, 1975; May 11, 1977; May 11, 1978; May 9, 1979; October 14, 1980; March 8, 1983; January 18, 1985; December 7, 1998.

# **B6: Academic Freedom and Tenure Committee**

## *Policy*

(\*Approved by Regents December 8, 1998)

(\*\*Approved by Faculty December 7, 1998)

## **SECTION 6: ACADEMIC FREEDOM AND TENURE COMMITTEE**

### **6.1 COMPOSITION, ELECTION, DUTIES, AND SUPPORT OF COMMITTEE**

The faculty Academic Freedom and Tenure Committee (the Committee) shall consist of 13 members, all of whom shall be tenured members of the voting faculty. For the purpose of this Section, members of the voting faculty shall exclude departmental chairs and other academic administrators above the rank of chair. The following shall apply:

- Not more than one member of any department or equivalent unit shall serve as a member of the Committee at the same time.
- The Committee may appoint its own counsel. The University shall bear the cost of the services of such counsel.
- A quorum shall consist of seven (7) members.
- The office of the Secretary of the University shall provide clerical and administrative support for the Committee, including facilitating the communication of the Committee with members of the faculty, the administration and the Board of Regents and others, and serving as a repository of information and records relevant to the Committee.

#### **6.1.1 Nominations**

Nominations of at least 14 persons shall be made by mail addressed to the University Secretary.

#### **6.1.2 Election**

Election shall be by mail ballot. Ballots, accompanied by biographical sketches of the nominees shall be distributed by the Secretary to all eligible members of the voting faculty. Eligible faculty members may vote for a maximum of six (6) candidates in even-numbered years and seven (7) in odd-numbered years. The six nominees in even-numbered years and the seven nominees in odd-numbered years who receive the most votes shall become members of the committee for two-year terms commencing at the start of the academic year following election. The remaining nominees shall be called on to serve, in order of the votes they received, as replacements to complete the terms of any members who resign from the Committee after the election.

#### **6.1.3 Term**

The term of service shall be two years. Committee members may be elected to a second two-year term. At least one year must pass before a Committee member who has served two consecutive two-year terms is again eligible to serve.

#### **6.1.4 Duties**

The Committee shall (1) discharge the functions assigned to it as defined herein, and (2) from time to time review this statement of policy and recommend appropriate revisions.

### **6.1.5 Effective Date and Revision of Policy on Academic Freedom and Tenure**

This policy and any subsequent revision thereof shall become effective immediately after approval by the University faculty and approval by the Regents and shall supersede all previous action or statements of policy relative to academic freedom and tenure, and faculty appointment and promotion, except that the mid-probationary standards established in Sec. 4.6.1(c) shall apply only to faculty hired after the effective date of this policy and that the procedures and standards for handling complaints and appeals set forth in Sec. 6 shall apply only to complaints filed with the Committee after the effective date of this policy.

## **6.2 MATTERS THAT MAY BE APPEALED OR REFERRED TO THE COMMITTEE**

### **6.2.1 General**

(a) The Academic Freedom and Tenure Committee is responsible for reviewing significant decisions affecting faculty tenure, promotion, sabbatical leave and employment, and determining if any of the following influenced the decision-making process:

1. violation of academic freedom,
2. improper consideration in which a decision on substantive issues was not based upon impartial professional academic judgment and resulted in prejudice to the faculty member, or
3. procedural violations of Faculty Handbook policies that resulted in prejudice to the faculty member.

(b) Academic freedom is defined in the 1940 Statement of Principles adopted by the American Association of University Professors and is the right of all members of the faculty and graduate students employed in teaching and research positions.

(c) In reviewing allegations, the Committee shall not reverse or modify the decision of an appropriate University officer or faculty body solely because it disagrees with their academic judgment. The Committee may reverse or modify a decision only if the decision violated the faculty member's academic freedom or was based upon improper considerations. The Committee may judge a matter to involve procedural violations and remand the matter to the appropriate administrative officer with remedies (Sec. 6.6 (e)).

(d) If a faculty member wishes to appeal on grounds not within the jurisdiction of the Committee, he or she may appeal a decision by the Provost/VPHS to the President. Matters that can be appealed or referred to the Committee are described in Sec. 6.2.

### **6.2.2 Matters Involving Termination of Employment**

#### **(a) Denial of Tenure**

If the Provost/VPHS denies tenure to a faculty member and that faculty member believes that infringement of academic freedom, improper considerations, or prejudicial violation of the procedures specified in this Policy occurred, the faculty member may appeal the decision to the Committee. If the faculty member bases an appeal on issues outside the jurisdiction of the Committee, he or she may present the appeal to

the President.

(b) Dismissal of Tenured Faculty Member

1. If, after all reasonable efforts to resolve disputes and correct problems have failed, the University intends to proceed with terminating the services of a tenured faculty member who does not accept the terms of the action, the President of the University shall file a complaint with the Committee as provided herein. The burden of proof in such cases shall be on the President.

1. In cases in which grounds for termination of a tenured faculty member are conviction or admission of a serious crime the President may terminate the faculty member's services. If the faculty member contends that the violation does not constitute adequate cause for revocation of tenure, the faculty member may appeal the President's termination decision to the Committee on that ground. Tenured clinical faculty whose services are terminated because of loss of medical licensure or hospital privileges may appeal such decision to the Board of Regents rather than through the Committee.

(c) Dismissal or Non-Renewal of a Non-Tenured Faculty Member

If the annual contract of a probationary faculty member is not renewed by the Provost/VPHS, or a faculty member receives a negative mid-probationary review, or a probationary or other non-tenured faculty member is dismissed during the term of his or her contract and if the faculty member believes that violation of academic freedom, improper considerations, or prejudicial violations of the procedures specified in this Policy occurred, the faculty member may appeal the action to the Committee.

(d) Involuntary Retirement

If a faculty member has been involuntarily retired and believes that the action is associated with violation of academic freedom, improper considerations, or prejudicial violation of the procedures specified in this Policy, the faculty member may appeal the decision to the Committee. (See Sec. 5.3.5 on termination for health reasons.)

(e) Dismissal of Student Assistants

If a graduate, teaching, research or project assistant is dismissed and the student assistant believes that violation of academic freedom, improper considerations or prejudicial violation of the procedures specified in this Faculty Handbook are involved in the dismissal, he or she may appeal the dismissal to the Academic Freedom and Tenure Committee. In this context, student assistants shall be considered faculty.

### **6.2.3 Matters Not Involving Termination of Employment**

(a) Denial of Promotion

If the Provost/VPHS makes a negative decision on the granting of promotion to a faculty member and the faculty member believes that violation of academic freedom, improper considerations or prejudicial violation of University procedures are involved in that decision, the faculty member may appeal the decision to the Committee.

(b) Denial of Sabbatical Leave



If a faculty member has been denied a sabbatical leave and that faculty member believes that violation of academic freedom, improper considerations or prejudicial violation of the procedures specified in this Policy are involved in that decision, the faculty member may appeal the decision to the Committee.

(c) Report of Violation of Academic Freedom or Faculty Handbook Procedure

Anyone discovering what he or she believes to be a violation of academic freedom anywhere within the University or of the procedures specified in this Policy, may properly bring the matter to the attention of any member of the Committee. A current roster of the Committee is maintained by the University Secretary.

#### **6.2.4 Use of Advisory Committees or Boards**

(a) Report of Unethical Behavior by a Faculty Member

If any matters in Sec. 6.2 involve claims of unethical behavior by a faculty member, the case may be referred initially by the AF&T Committee to the Faculty Ethics and Advisory Committee for review and recommendation (Appendix VIII). The AF&T Committee will accept the report from the Faculty Ethics and Advisory Committee and apply the recommendations in a manner appropriate to the case before the AF&T Committee.

(b) Discrimination Claims Involving Faculty

If any matters in Sec. 6.2 involve claims of unlawful discrimination by or against a faculty member, the case may be initially reviewed and investigated by the University Office of Equal Opportunity Programs (OEO). This process shall follow established University procedures and include consultation by the director of OEO with the chair of the Committee on Academic Freedom and Tenure or a designee. The investigation by the OEO shall not exceed three (3) months unless there are extenuating circumstances. After conclusion of the OEO investigation, the Committee, at its discretion, may consider the evidence obtained by and the determination of the OEO investigation in connection with the issues before it.

### **6.3 COMPLAINT**

#### **6.3.1 General**

(a) The involvement of the Committee shall be initiated by a written complaint. The complaint shall include the basis of the complaint, the underlying facts, any supporting documentation, the names, and telephone numbers of any relevant contact people, and the desired remedy.

(b) In the case of proposed dismissal of a faculty member with tenure, the President files a complaint with the Committee and sends a copy of the complaint to the faculty member.

(c) When a faculty member initiates a complaint (i.e., acts as the complainant), a copy of the complaint shall be forwarded by the Committee to the person(s) whose action is questioned in the complaint. The individual(s) against whom allegations are made shall be the respondent.

#### **6.3.2 Preliminary Review**

(a) Upon receipt of a complaint filed by a faculty member, the chair of the Committee shall appoint a subcommittee of two Committee members to investigate the allegations of the complaint, obtain a written

response from the respondent, interview individuals with relevant information, and advise the chair and Committee on the matter. Based upon acquired information from the subcommittee, the Committee shall determine whether a hearing should be held. Every effort shall be made to make this determination within 30 days of appointment of the subcommittee. A faculty member shall be entitled to a formal resolution process if the Committee determines that sufficient grounds may exist to support allegations of violations concerning academic freedom, improper considerations, or substantial procedural violations of the Faculty Handbook. The Committee shall inform the complainant and respondent in writing of the issues warranting proceeding with a formal resolution process. The resolution process may involve mediation, arbitration, or a formal hearing process. If the Committee proceeds with a formal hearing, subcommittee members normally shall not serve as members of the Hearing Panel.

(b) If the Committee determines that the complaint contains allegations that have not been considered previously by the Provost/VPHS, the Committee shall refer the case to the Provost/VPHS for discretionary review before proceeding with any formal resolution process. The Provost/VPHS shall complete any such review within 15 working days of the referral. If the Provost/VPHS decides not to review the case, or if on receipt of the decision of the Provost/VPHS the complainant still wishes to pursue the complaint with the Committee, the Committee may proceed with a formal resolution process.

(c) There will be no preliminary review of cases filed by the President. A formal hearing will be held upon receipt of a complaint from the President.

### **6.3.3 Alternative Resolution Processes**

(a) The Committee may require that the complainant and the respondent(s) enter into mediation or a non-binding arbitration process in an attempt to resolve the dispute. The mediation or non-binding arbitration proceedings shall remain confidential unless all parties involved in the complaint agree to waive the confidentiality of the proceedings in whole or part. If this process does not result in the resolution of the complaint, the Committee may again be petitioned to review the case for the appropriateness of a hearing. The timetable for consideration of a hearing, as set forth in the hearing schedules, will then begin.

(b) In consultation with the Committee, the parties may agree to submit resolution of their dispute to final binding arbitration in lieu of a hearing before the Committee. The binding arbitration procedures will be set up pursuant to agreement of the parties.

(c) The University will assume the cost for mediation and/or arbitration.

## **6.4 TYPES OF HEARINGS AND NORMAL TIME SCHEDULES**

All parties shall make every effort to adhere to the following schedule(s) in order to expedite the review and hearing process. In extraordinary circumstances, the Committee may accept complaints that are at variance with the established schedules. In such proceedings, the schedule of events shall approximate the established time increments as described below.

### **6.4.1 Denial of Tenure or Non-renewal of Probationary Appointment**

(a) A probationary faculty member who is denied tenure, who receives a negative mid-probationary review,

or whose annual contract is not renewed for reasons other than financial exigency and who has exhausted the appeal process through the chair, dean and Provost/VPHS has the right to file a complaint with the Committee by Sept. 1 of the terminal contract year.

(b) The described time schedule (Table 6.4.1) will also apply to faculty members who are denied promotion and have appealed the decision through the chair, dean, and Provost/VPHS.

**Table 6.4.1. Schedule-A for a Hearing Based on a Denial of Tenure or Non-Renewal of Probationary Appointment.**

<b>ACTION</b>	<b>DUE DATE / WORKING DAYS</b>
Notification letter is sent from the Provost to the faculty member.+	June 30*
Faculty member sends request for reconsideration of the decision to Provost.	July 15
Provost responds to the request for reconsideration.	Aug. 1
Faculty member requests a hearing by the Committee.	Sept. 1*
Investigatory subcommittee is appointed by the Committee	Sept. 15
Requested additional documentation is sent to the Committee.	5 days after request
Respondent replies to the complaint.	10 days after request
Investigatory subcommittee reports its findings & makes recommendation to Committee.	Oct. 15
Case referred, if necessary, to Provost/VPHS for discretionary review and response received from Provost/VPHS.	15 days after referral
A Hearing Panel of the Committee, if necessary, is appointed.	Nov. 15*
The hearing is completed by the Committee Hearing Panel.	Feb. 1
The Committee transmits its decision to the Provost.	Mar. 15*
Decision is implemented or appealed.	Apr. 15*

\* Final date for indicated action to have been completed. Dates falling on weekends are extended to the next working day; + Also applies to matters involving the denial of promotion.

(c) By Sept. 15, the chair shall appoint an investigatory subcommittee of two Committee members. The subcommittee shall make every effort to complete the preliminary review within 20 working days, which includes the acquisition of requested information and receipt of the respondent's written reply to the complaint. The subcommittee shall report to the full Committee, and shall recommend whether a hearing should be held.

(d) If the Committee determines that a hearing will occur, a five-member hearing panel shall be appointed by Nov. 1. By no later than Nov. 15, the chair of the panel shall contact all persons involved and set the earliest possible hearing date. All hearings shall be completed by Feb. 1.

(e) The hearing panel shall present its findings to the Committee within 15 working days of receipt of the hearing transcript. The Committee shall review and consider the findings of the hearing, and make a decision that shall be transmitted to the Provost/VPHS on or before Mar. 15.

(f) The faculty member shall have 20 working days from receipt of the decision in which to appeal the decision. Similarly, the Provost/VPHS shall have 20 working days from receipt of the decision in which to appeal the decision or to implement it if it is not appealed. Appeals shall follow the procedures specified in Sec. 6.7 and 6.8.

#### 6.4.2 Other Matters

(a) Allegations of violation of academic freedom, improper considerations, or prejudicial violation of Faculty Handbook policies, outside the context of matters addressed in Sec. 6.4.1 or 6.4.3, shall follow the procedures set forth in this section. The matter should be brought to the Committee within 90 days of the date when the faculty member knew or reasonably should have known about the violation (Table 6.4.2).

**Table 6.4.2. Schedule-B for a Hearing Pertaining to Other Matters.**

ACTION	WORKING DAYS AFTER PRIOR ACTION
There is an alleged violation of a faculty member's academic freedom or of Faculty Handbook policies.*	
Faculty member files a complaint with the Committee.	Within 90 days of knowledge of violation
Investigatory subcommittee is appointed by the Committee.	10 days
Faculty member sends any additional documentation to the Committee.	5 days after request
Respondent replies to the complaint.	10 days after request

Preliminary investigation is completed.	20 days
Case referred, if necessary, to Provost/VPHS for discretionary review and response received from Provost/VPHS.	15 days after referral
Hearing Panel, if necessary, is appointed by the Committee.	5 days after decision
Committee hearing is completed.	Earliest possible date
Transcript of the hearing is received by the Committee.	
Hearing Panel presents its findings to the Committee.	15 days
Committee transmits its decision to the Provost.	20 days
Decision is implemented or appealed.	20 days

\* Matters involving denial of sabbatical leave, dismissal of student assistants, or matters not included in Schedule-A or Schedule-C shall follow this time schedule.

(b) The Committee Chair will appoint an investigatory subcommittee of two Committee members within 10 working days of the receipt of the complaint. The subcommittee shall make every effort to complete the preliminary review within 20 working days, which includes the acquisition of requested information and receipt of the respondent's written reply to the complaint. The subcommittee shall report its findings to the full Committee and make a recommendation as to whether a hearing is appropriate.

(c) If the Committee decides that a hearing is appropriate, the Committee chair shall appoint a five-member hearing panel within five working days of completion of the preliminary investigation. The chair of the hearing panel will contact all persons involved and set the earliest possible hearing date.

(d) The hearing panel shall present its findings to the Committee within 15 working days of receipt of the hearing transcript. The Committee shall transmit its decision to the Provost/VPHS within 20 working days of receipt of the panel's report.

(e) The faculty member shall have 20 working days from receipt of the decision in which to appeal the decision. Similarly, the Provost/VPHS shall have 20 working days from receipt of the decision in which to appeal the decision or to implement it if it is not appealed. Appeals shall follow the procedures specified in Sec. 6.7 and 6.8.

### 6.4.3 Dismissal of Tenured Faculty Member

(a) Reasons for termination of employment for faculty members with tenure are described in Sec. 5.3. In each case, the burden of proof resides with the President and University administration (Table 6.4.3).

**Table 6.4.3. Schedule-C for Dismissal of a Tenured Faculty Member.**

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<b>ACTION</b>	<b>WORKING DAYS AFTER PRIOR ACTION</b>
President files a complaint with the Committee.	
Committee requests a response from the faculty member.	
Faculty member sends a response to the Committee.	10 days after request
Hearing Panel is appointed by the Committee.	
Hearing is scheduled to begin.	20 days
Hearing is completed.	20 days
Transcript of the hearing is received by the Committee.	
Hearing Panel presents its findings to the Committee.	15 days
Committee transmits its decision to President & faculty member.	20 days
President implements the Committee's decision or appeals it to Regents.	20 days

(b) No termination proceeding based on academic incompetence or neglect of duty shall be instituted against a faculty member with tenure unless the faculty member has been informed in writing of the alleged shortcomings and has been given a reasonable period of time in which to remedy them (Sec. 4.9).

(c) When reasons arise to question the fitness of a tenured faculty member, the matter first shall be discussed between the department chair and the faculty member as described for the post-tenure review process (Sec. 4.9). If the matter is not resolved at that level, the complaint may be directed to the next direct authority. If a resolution is still not effected, the issue shall proceed through normal University channels up to and including the President of the University. At every stage, the appropriate University officer shall discuss the matter in a personal conference with the faculty member involved, and notify the faculty member in writing of any proposed action. The matter may be concluded at any point in this process by mutual consent.

(d) If the matter is not concluded by agreement after the preliminary proceedings described above, and the President still decides to terminate the faculty member's services, the President shall file a complaint with the Committee and send a copy of the complaint to the faculty member. The procedures established in this

Policy for hearings by the Committee shall be followed.

(e) In addition to materials outlined in Sec. 6.3.1, the complaint should contain:

1. A statement, with reasonable particularity, giving the grounds for the dismissal.
2. A statement that the Committee will conduct a hearing on the charges.
3. A statement referring the faculty member to the pertinent sections of the Faculty Handbook governing the procedural and substantive rights of faculty.

(f) The Chair of the Committee will request from the faculty member a written response to the charges. The faculty member shall submit the response to the chair of the Committee and to the President within 10 working days after receiving the request.

(g) If the faculty member does not submit a written response to the charges, the Committee shall consider whether the stated grounds constitute adequate cause, and it may conclude, without further inquiry, that the dismissal would be proper. At its discretion, however, the Committee may investigate the truth of the charges and request that the President provide supporting evidence. Thirty (30) working days following the faculty member's failure to respond, the Committee shall forward its decision, with the reasons stated, to the President and to the faculty member.

(h) If the faculty member submits a written response to the charges, the hearing procedures set forth shall be followed. References to the complainant shall refer to the President and University administration, and the references to the respondent shall refer to the faculty member. Therefore, the President and administration have the burden of proving their case (Sec. 6.5.1 (c)).

(i) Within 5 working days after receiving the faculty member's written response, the chair of the Committee shall appoint a hearing panel of five members. The panel shall schedule a hearing to begin not more than 20 working days after receipt of the President's complaint. The time and place of the hearing shall be set in consultation with the faculty member and the President. The hearing shall be completed within 20 additional working days and a transcript shall be obtained.

(j) Suspension by the administration of a tenured faculty member during the Committee's proceedings shall be justified only if harm to self, to others, or to University property is threatened by continuance of duty. Should it believe such a suspension to be justified, the administration shall consult with the Academic Freedom and Tenure Committee concerning the propriety and conditions of the suspension. Unless prohibited by law, any such suspension shall be with pay.

(k) If the faculty member's academic competence is questioned, the proof before the Committee shall be insufficient unless it includes testimony of teachers and other scholars, either from the University or from other institutions, and it shows that the faculty member's academic performance (1) has deteriorated since receipt of tenure and (2) is now typically unsatisfactory.

(l) The panel shall present its findings to the Committee within 15 working days of receipt of the transcript

of the hearing. The Committee shall transmit its report to the President and faculty member within 20 working days of receipt of the panel's report.

(m) At the request of either the faculty member or the President, the Regents shall review the case. A request for review by the Regents must be filed with the Secretary of the University within 20 working days after the date that the Committee's decision is sent to the faculty member and the President. The Regents' review will follow the procedures specified in Sec. 6.8 (c).

## **6.5 CONSIDERATION BY A HEARING PANEL**

### **6.5.1 General Considerations**

(a) The purpose of a hearing before the Committee will be to decide a formal, written complaint brought by either a faculty member or the President that was not resolvable by mediation efforts of the Committee. Specific actions for which a hearing by the Committee will be considered are defined (Sec. 6.2).

(b) The Committee shall not be required to follow formal judicial procedures or rules of evidence. Members of the Committee, the complainant, the respondents, and—with the permission of the hearing panel—their advisors or attorneys shall have the right to question all witnesses who testify orally.

(c) In all cases, the burden of proof lies with the complainant.

(d) If appropriate, the hearing panel or the Committee may extend any time limit set forth in Sec. 6.4. For example, the Committee may extend time limits if a dispute is actively being mediated. Notification of a time extension shall be sent in writing to the complainant and respondent along with a new schedule.

### **6.5.2 Appointment of the Panel**

(a) Cases brought before the Committee shall be heard by a panel consisting of no fewer than five (5) members of the Committee (including a panel chair) who are selected by the chair of the Committee, with the approval of the Committee as a whole. If, due to disqualification, there are fewer than five available Committee members, the Committee shall add members drawn from the ranks of former Committee members.

(b) A Committee member shall be disqualified from considering a matter, at any stage, if member:

- is directly involved in the matter being considered;
- has a prior relationship with a party, is a witness, or the situation would interfere with the member's objectivity;
- is otherwise incapable of serving (e.g., sickness or sabbatical leave); or
- if the matter directly involves a departmental colleague.

(c) A Committee member may ask to be recused for these or other conflicts of interest. Alternatively, if any of the principals in a matter to be heard by the Committee believes that one or more members of the Committee should be disqualified, the decision shall be made by the full Committee in the absence of the member whose disqualification is sought.



### **6.5.3 Schedule for a Hearing**

The hearing panel shall schedule a hearing to take place according to the timetables above. This panel in consultation with the complainant and respondent shall set the time and place of the hearing.

### **6.5.4 Public or Private Hearing**

The hearing shall be private, unless both parties agree that it should be public, subject to any requirements of the New Mexico Open Meetings Act. If the hearing is private, the proceeding of the hearing shall be confidential to the extent allowed by law.

### **6.5.5 Pre-hearing Meetings**

At any time prior to the hearing, the chair of the panel may, with fair notice to the parties, hold meetings or discussions with the parties in order to:

- ascertain and simplify the issues that are involved;
- ascertain which facts are disputed and which are not;
- facilitate the exchange of documentary and other information;
- answer procedural questions; and
- achieve such other objectives as will make the hearing fair, effective, and expeditious.

### **6.5.6 Fair Notice**

(a) At least five working days before the hearing, each party shall provide the panel and the other party with the following information:

1. List of intended witnesses, or a statement that no witnesses will be called. The panel may place reasonable limitations on the number of witnesses. No witnesses other than those on the list may testify without the written consent of the panel.
2. Any statement of an absent witness (Sec. 6.5.9 (b)).
3. Copies of documents the party plans to introduce into evidence, unless it has been determined at a pre-hearing conference that such documents are already before the panel for consideration. No other documents may be introduced into evidence without the written consent of the panel.
4. Brief from the parties (not to exceed 10 pp) detailing their position on the written complaint.

(b) Acceptance of late testimony or evidence after the hearing shall depend on the panel's judgment of the importance of the testimony or evidence and must represent information that could not reasonably have been received before or during the hearing. In all cases, copies of any communication between the hearing panel or the Committee and either party shall be immediately transmitted to all other parties.

### **6.5.7 Order of Proceedings**

(a) The panel may determine the order in which the parties present their arguments and evidence. Otherwise, the order used shall be the following:

1. complainant's presentation of case;
2. respondent's presentation of case;
3. rebuttal by complainant, if any;
4. rebuttal by respondent, if any;

5. closing arguments by complainant; and
6. closing arguments by respondent.

(b) With permission of the panel, evidence may be introduced out of order and additional evidence may be introduced.

#### **6.5.8 Evidence**

(a) If any material facts are in dispute, the parties may testify, present testimony of witnesses, and introduce documents and other evidence at the hearing. The panel may exclude unfair and irrelevant evidence and will not be bound by judicial rules of evidence.

(b) The panel may independently secure evidence or witnesses for presentation at the hearing, and may postpone the hearing until such evidence is available. The panel may not consider evidence that is not presented at the hearing or otherwise provided to the parties for their response.

(c) All members of the University community shall cooperate with the parties' reasonable requests to provide evidence and to appear at the hearing as witnesses. The parties, when needed, shall have the aid of the University Administration and the Committee in securing the attendance of witnesses and in obtaining necessary evidence.

#### **6.5.9 Witnesses**

(a) Parties shall have the right, within reasonable limits set by the panel, to question all witnesses.

(b) When a witness is unable to attend a hearing, arrangements shall be made to have the witness participate by conference telephone. If this is not possible, the Committee upon advance request may permit a signed statement by that witness to be introduced at the hearing, but only if it is provided to the other party in sufficient time to permit the other party to contact and question the witness (at least one week before the hearing.) The other party may then submit an additional statement from that witness. All written statements from the witness shall be excluded if the second party is unable to secure the cooperation of the witness.

#### **6.5.10 Rights of Parties to be Present: Advisors**

All parties shall have the right to be present at the hearing and to be accompanied by an advisor, an attorney, or both. No advisor or attorney may question witnesses or address the panel without permission of the panel chairperson.

#### **6.5.11 Briefs**

With the permission of the panel, the parties may submit written briefs (not to exceed 10 pp) after the hearing provided that no new factual information is introduced in the brief.

#### **6.5.12 Transcript**

A verbatim record of the proceeding shall be kept and made available to the parties concerned. The cost of such record shall be borne by the University.

### **6.5.13 Deliberation by Panel after Hearing**

(a) After the hearing, the panel may decide to postpone deliberations until a transcript of the hearing is produced. The panel shall deliberate in closed session. The panel shall present specific written findings of fact, conclusions, and recommendations to the Committee, in the form of a reasoned opinion based upon the evidence presented at the hearing

(b) The panel's recommendation shall be forwarded to the Committee within 15 calendar days after receipt of the transcript. The transcript and all documentary evidence shall also be forwarded to the Committee.

### **6.6 CONSIDERATION BY THE COMMITTEE**

(a) The Committee, in closed session, shall consider only the panel's findings, conclusions and recommendations as well as the transcript and forwarded evidence. The Committee shall not consider new evidence.

(b) Normally, within 15 calendar days of receipt of the panel's report, the Committee shall issue a written decision to the parties. However, the Committee may refer the matter back to the panel for further examination of specified issues. Any such referral shall be accompanied by written instructions, which shall include deadlines for the further proceedings. No case may be referred back to the panel more than once. The Committee's decision shall include specific written findings of fact, conclusions, and remedies, in the form of a reasoned opinion based upon the evidence at the hearing.

(c) The Committee shall notify, in writing, the parties concerned and the Provost/VPHS, if Provost/VPHS is not a party, of its decision and shall provide each with copies of the findings, conclusions, and opinions.

(d) If the Committee finds academic freedom violations or improper considerations occurred, it shall identify in its decision the violation(s) found and the necessary corrective measures. In a case where the matter concerns a personnel decision resulting from a formal review process, such as a mid-probationary review or tenure review, the corrective measures may require carrying out the review process leading up to the personnel decision a second time, and making a decision based on the second review. If so, only one such repetition of a review shall be permitted, and if appropriate, the faculty member shall be granted an additional contract for one year. In other cases, the Committee may conclude that the appropriate corrective measure is to reverse the original personnel decision; in such a case, the Committee shall enter a reasoned decision to that effect.

(e) Procedural errors alone shall not be the basis for granting tenure, promotion, or other change in a faculty member's employment status. However, if the Committee finds that procedural errors prejudiced a personnel decision regarding a faculty member, this shall normally lead to a Committee decision to require that the review process leading up to the personnel decision be carried out a second time, and a decision be made based on the second review. Only one such repetition of a review shall be permitted. In such a case, the Committee's decision shall identify the procedural error(s) found and the necessary corrective measures. If these corrective measures require, the faculty member shall be granted an additional contract for one year. If the Committee concludes that despite the procedural errors the review process should not be repeated, it shall enter a reasoned decision to that effect.

## **6.7 APPEAL OF COMMITTEE DECISION TO THE PRESIDENT**

Appeals of a decision of the Committee shall be taken to the President, except as noted below in Sec. 6.8 (a). The appeal shall be filed within 20 working days of receipt of the Committee's decision. The appeal shall include a summary of the facts, the process, and the grounds for the appeal. The statement shall be filed with the President whose office shall furnish copies to the parties. Within 20 working days of receiving an appeal, the President will provide, in writing, a reasoned decision to the involved parties and the Committee. The decision by the President is final, subject to discretionary review by the Board of Regents. Requests for such review shall be made within 20 working days of receipt of the President's decision and shall follow the provision set forth in Sec. 6.8 (b)-(d) below.

## **6.8 REVIEW BY THE BOARD OF REGENTS**

(a) In case of a University-initiated dismissal of a tenured faculty member, or in other cases where the Committee has made a finding of violation of academic freedom or improper considerations (in either case, whether or not specific violations of Faculty Handbook procedures were found to have occurred), there shall be no right of appeal to the President, but a request for review by the Board of Regents may be filed. Requests for such review shall be made within 20 working days of receipt of the Committee's decision and shall follow the provisions set forth below. In the case of a University-initiated dismissal of a faculty member as noted in Sec. 6.4.3 (m), the review of the Board of Regents, if requested, is mandatory; in all other cases, the review of the Board is discretionary. In cases where the Committee does not make a finding of violation of academic freedom or improper considerations, either the complainant or respondent shall have the right of appeal to the President, and as noted in Sec. 6.7, the President's decision in turn may be appealed for discretionary review by the Board of Regents. The provisions set forth below shall govern such request for review.

(b) Requests for discretionary review shall include a summary of the facts, the process, and the reasons justifying extraordinary review. The statement shall be filed with the President whose office shall furnish copies to the parties and the Board of Regents. If the Board accepts review of the case, notice shall be provided to the principals, President, and the Committee.

(c) In its review, the Board of Regents may call upon the Chair of the Academic Freedom and Tenure Committee and/or a designee, to discuss the Committee decision and/or to consult in interpreting relevant Faculty Handbook or American Assn. of University Professors (AAUP) policies. Review shall be on the record, with opportunity for the parties to submit additional written and oral arguments, pursuant to procedures established by the Regents for the case. Consistent with the independent nature of the review, the Regents will be represented by non-University counsel. Within 40 working days of receipt of the request for review, the Regents shall issue a decision. The Regents may affirm the case or remand it to the Committee for further proceedings. Any remand shall be accompanied by instructions to the Committee, which shall include a deadline of no more than 20 working days for the further proceedings. The Committee shall reconsider the case taking account of the stated objections and receiving new evidence if necessary.

(d) After reconsideration, the Committee shall frame its decision and communicate it to the parties involved

and to the Board. After study of the Committee's reconsideration, accompanied by the opportunity for final oral and written arguments by the principals or their representatives, the Board of Regents shall make a decision that may not be appealed further within the University.

\*Approved by Regents: January 11, 1964; January 18, 1969; March 15, 1969; November 8, 1969; January 9, 1971; April 16, 1971; December 20, 1974; February 1, 1975; September 27, 1975; June 13, 1977; August 29, 1978; June 1, 1979; August 12, 1983, August 6, 1985; December 8, 1998.

\*\*Approved by Faculty: February 11, 1964; December 10, 1968; March 11, 1969; September 23, 1969; December 8, 1970; April 20, 1971; December 10, 1974; September 9, 1975; May 11, 1977; May 11, 1978; May 9, 1979; October 14, 1980; March 8, 1983; January 18, 1985; December 7, 1998.

# 1940 Statement of Principles on Academic Freedom and Tenure with 1970 Interpretive Comments

(as revised 1990)

The purpose of this statement is to promote public understanding and support of academic freedom and tenure and agreement upon procedures to assure them in colleges and universities. Institutions of higher education are conducted for the common good and not to further the interest of either the individual teacher or the institution as a whole. The common good depends upon the free search for truth and its free exposition.

Academic freedom is essential to these purposes and applies to both teaching and research. Freedom in research is fundamental to the advancement of truth. Academic freedom in its teaching aspect is fundamental for the protection of the rights of the teacher in teaching and of the student to freedom in learning. It carries with it duties correlative with rights. [1]

Tenure is a means to certain ends, specifically: (1) freedom of teaching and of extramural activities, and (2) a sufficient degree of economic security to make the profession attractive to men and women of ability. Freedom and economic security, hence tenure, are indispensable to the success of an institution in fulfilling its obligations to its students and to society.

## **Academic Freedom**

(a) Teachers are entitled to full freedom in research and in the publication of the results, subject to the adequate performance of their other academic duties; but research for pecuniary return should be based upon an understanding with the authorities of the institution.

(b) Teachers are entitled to freedom in the classroom in discussing their subject, but they should be careful not to introduce into their teaching controversial matter which has no relation to their subject. [2] Limitations of academic freedom because of religious or other aims of the institution should be clearly stated in writing at the time of the appointment. [3]

(c) College or university teachers are citizens, members of a learned profession, and officers of an educational institution. When they speak or write as citizens, they should be free from Institutional censorship or discipline, but their special position in the community imposes special obligations. As scholars and educational officers, they should remember that the public may judge their profession and their institution by their utterances. Hence they should at all times be accurate, should exercise appropriate restraint, should show respect for the opinions of others, and should make every effort to indicate that they are not speaking for the institution. [4]

(d) At the University of New Mexico teachers recognize that they are responsible for the maintenance of appropriate standards of scholarship and teaching performance, aimed at the goal of training the students

to think for themselves. While the students have a right to know the teacher's point of view on relevant controversial subjects, the teacher has an obligation to set forth fairly and clearly the divergent opinions of other scholars, so that the students may reach rational and independent conclusions.

(e) The efficient operation of any institution requires cooperation among its personnel. Teachers agree, therefore, to abide by all regulations of the University, consistent with this policy, and to perform to the best of their ability such reasonable duties as are assigned to them by authorized University officials.

### **Academic Tenure**

(a) After the expiration of a probationary period teachers or investigators should have permanent or continuous tenure, and their services should be terminated only for adequate cause, except in the case of retirement for age, or under extraordinary circumstances because of financial exigencies. In the interpretation of this principle it is understood that the following represents acceptable academic practice:

1. The precise terms and conditions of every appointment should be stated in writing and be in the possession of both institution and teacher before the appointment is consummated.
2. Beginning with appointment to the rank of full-time instructor or a higher rank, [5] the probationary period should not exceed seven years, including within this period full-time service in all institutions of higher education; but subject to the proviso that when, after a term of probationary service of more than three years in one or more institutions, a teacher is called to another institution it may be agreed in writing that his new appointment is for a probationary period of not more than four years, even though thereby the person's total probationary period in the academic profession is extended beyond the normal maximum of seven years. [6] Notice should be given at least one year prior to the expiration of the probationary period if the teacher is not to be continued in service after the expiration of that period. [7]
3. During the probationary period a teacher should have the academic freedom that all other members of the faculty have. [8]
4. Termination for cause of a continuous appointment, or the dismissal for cause of a teacher previous to the expiration of a term appointment, should, if possible, be considered by both a faculty committee and the governing board of the institution. In all cases where the facts are in dispute the accused teacher should be informed before the hearing in writing of the charges and should have the opportunity to be heard in his or her own defense by all bodies that pass judgment upon the case. The teacher should be permitted to be accompanied by an advisor of his or her own choosing who may act as counsel. There should be a full stenographic record of the hearing available to the parties concerned. In the hearing of charges of incompetence the testimony should include that of teachers and other scholars, either from the teacher's own or from other institutions. Teachers on continuous appointment who are dismissed for reasons not involving moral turpitude should receive their salaries for at least a year from the date of notification of dismissal whether or not they are continued in their duties at the institution. [9]
5. Termination of a continuous appointment because of financial exigency should be demonstrably

bona fide.

### **1970 Interpretive Comments**

*Following extensive discussions on the 1940 Statement of Principles on Academic Freedom and Tenure with leading educational associations and with individual faculty members and administrators, a joint committee of the AAUP and the Association of American Colleges met during 1969 to reevaluate this key policy statement. On the basis of the comments received, and the discussions that ensued, the joint committee felt the preferable approach was to formulate interpretations of the Statement in terms of the experience gained in implementing and applying the Statement for over thirty years and of adapting it to current needs.*

*The committee submitted to the two associations for their consideration the following "Interpretive Comments." These interpretations were adopted by the Council of the American Association of University Professors in April 1970 and endorsed by the fifty-sixth Annual Meeting as Association policy.*

In the thirty years since their promulgation, the principles of the 1940 *Statement of Principles on Academic Freedom and Tenure* have undergone a substantial amount of refinement. This has evolved through a variety of processes, including customary acceptance, understandings mutually arrived at between institutions and professors or their representatives, investigations and reports by the American Association of University Professors, and formulations of statements by that association either alone or in conjunction with the Association of American Colleges. These comments represent the attempt of the two associations, as the original sponsors of the 1940 *Statement*, to formulate the most important of these refinements. Their incorporation here as Interpretive Comments is based upon the premise that the 1940 *Statement* is not a static code but a fundamental document designed to set a framework of norms to guide adaptations to changing times and circumstances.

Also, there have been relevant developments in the law itself reflecting a growing insistence by the courts on due process within the academic community which parallels the essential concepts of the 1940 *Statement*; particularly relevant is the identification by the Supreme Court of academic freedom as a right protected by the First Amendment. As the Supreme Court said in *Keyishian v. Board of Regents* 385 U.S. 589 (1967), "Our Nation is deeply committed to safeguarding academic freedom, which is of transcendent value to all of us and not merely to the teachers concerned. That freedom is therefore a special concern of the First Amendment, which does not tolerate laws that cast a pall of orthodoxy over the classroom."

The numbers refer to the designated portion of the 1940 Statement on which interpretive comment is made.

1. The Association of American Colleges and the American Association of University Professors have long recognized that membership in the academic profession carries with it special responsibilities. Both associations either separately or jointly have consistently affirmed these responsibilities in major policy statements, providing guidance to professors in their utterances as citizens, in the exercise of their responsibilities to the institution and to students, and in their conduct when resigning from their institution or



when undertaking government-sponsored research. Of particular relevance is the *Statement on Professional Ethics*, adopted in 1966 as Association policy. (A revision, adopted in 1987, was published in *Academe: Bulletin of the AAUP* 73 [July-August 1987]: 49.)

2. The intent of this statement is not to discourage what is "controversial." Controversy is at the heart of the free academic inquiry which the entire statement is designed to foster. The passage serves to underscore the need for teachers to avoid persistently intruding material which has no relation to their subject.

3. Most church-related institutions no longer need or desire the departure from the principle of academic freedom implied in the 1940 *Statement*, and we do not now endorse such a departure.

4. This paragraph is the subject of an interpretation adopted by the sponsors of the 1940 *Statement* immediately following its endorsement which reads as follows:

If the administration of a college or university feels that a teacher has not observed the admonitions of paragraph (c) of the section on Academic Freedom and believes that the extramural utterances of the teacher have been such as to raise grave doubts concerning the teacher's fitness for his or her position, it may proceed to file charges under paragraph (a)(4) of the section on Academic Tenure. In pressing such charges the administration should remember that teachers are citizens and should be accorded the freedom of citizens. In such cases the administration must assume full responsibility, and the American Association of University Professors and the Association of American Colleges are free to make an investigation.

Paragraph (c) of the section on Academic Freedom in the 1940 *Statement* should also be interpreted in keeping with the 1964 "Committee A Statement on Extramural Utterances" (*AAUP Bulletin* 51 [1965]: 29), which states *inter alia*: "The controlling principle is that a faculty member's expression of opinion as a citizen cannot constitute grounds for dismissal unless it clearly demonstrates the faculty member's unfitness for his or her position. Extramural utterances rarely bear upon the faculty member's fitness for the position. Moreover, a final decision should take into account the faculty member's entire record as a teacher and scholar."

Paragraph V of the *Statement on Professional Ethics* also deals with the nature of the "special obligations" of the teacher. The paragraph reads as follows:

As members of their community, professors have the rights and obligations of other citizens. Professors measure the urgency of other obligations in the light of their responsibilities to their subject, to their students, to their profession, and to their institution. When they speak or act as private persons they avoid creating the impression of speaking or acting for their college or university. As citizens engaged in a profession that depends upon freedom for its health and integrity, professors have a particular obligation to promote conditions of free inquiry and to further public understanding of academic freedom.

Both the protection of academic freedom and the requirements of academic responsibility apply not only to the full-time probationary and the tenured teacher, but also to all others, such as part-time faculty and teaching assistants, who exercise teaching responsibilities.

5. The concept of "rank of full-time instructor or a higher rank" is intended to include any person who teaches a full-time load regardless of the teacher's specific title.<sup>5</sup>

6. In calling for an agreement "in writing" on the amount of credit given for a faculty member's prior service at other institutions, the *Statement* furthers the general policy of full understanding by the professor of the terms and conditions of the appointment. It does not necessarily follow that a professor's tenure rights have been violated because of the absence of a written agreement on this matter. Nonetheless, especially because of the variation in permissible institutional practices, a written understanding concerning these matters at the time of appointment is particularly appropriate and advantageous to both the individual and the institution.<sup>6</sup>

7. The effect of this subparagraph is that a decision on tenure, favorable or unfavorable, must be made at least twelve months prior to the completion of the probationary period. If the decision is negative, the appointment for the following year becomes a terminal one. If the decision is affirmative, the provisions in the 1940 Statement with respect to the termination of service of teachers or investigators after the expiration of a probationary period should apply from the date when the favorable decision is made.

The general principle of notice contained in this paragraph is developed with greater specificity in the *Standards for Notice of Nonreappointment*, endorsed by the Fiftieth Annual Meeting of the American Association of University Professors (1964). These standards are: Notice of nonreappointment, or of intention not to recommend reappointment to the governing board, should be given in writing in accordance with the following standards:

1. *Not later than March 1 of the first academic year of service*, if the appointment expires at the end of that year; or, if a one-year appointment terminates during an academic year, at least three months in advance of its termination.
2. *Not later than December 15 of the second academic year of service*, if the appointment expires at the end of that year; or, if an initial two-year appointment terminates during an academic year, at least six months in advance of its termination.
3. At least twelve months before the expiration of an appointment after two or more years in the institution.

Other obligations, both of institutions and of individuals, are described in the *Statement on Recruitment and Resignation of Faculty Members*, as endorsed by the Association of American Colleges and the American Association of University Professors in 1961.

8. The freedom of probationary teachers is enhanced by the establishment of a regular procedure for the periodic evaluation and assessment of the teacher's academic performance during probationary status. Provision should be made for regularized procedures for the consideration of complaints by probationary teachers that their academic freedom has been violated. One suggested procedure to serve these purposes is contained in the *Recommended Institutional Regulations on Academic Freedom and Tenure*,

prepared by the American Association of University Professors.

9. A further specification of the academic due process to which the teacher is entitled under this paragraph is contained in the *Statement on Procedural Standards in Faculty Dismissal Proceedings*, jointly approved by the American Association of University Professors and the Association of American Colleges in 1958. This interpretive document deals with the issue of suspension, about which the 1940 *Statement* is silent.

The 1958 *Statement* provides: "Suspension of the faculty member during the proceedings is justified only if immediate harm to the faculty member or others is threatened by the faculty member's continuance. Unless legal considerations forbid, any such suspension should be with pay. " A suspension which is not followed by either reinstatement or the opportunity for a hearing is in effect a summary dismissal in violation of academic due process.

The concept of "moral turpitude" identifies the exceptional case in which the professor may be denied a year's teaching or pay in whole or in part. The statement applies to that kind of behavior which goes beyond simply warranting discharge and is so utterly blameworthy as to make it inappropriate to require the offering of a year's teaching or pay. The standard is not that the moral sensibilities of persons in the particular community have been affronted. The standard is behavior that would evoke condemnation by the academic community generally.

# 1958 Statement on Procedural Standards in Faculty Dismissal Proceedings

*The following statement was prepared by a joint committee representing the Association of American Colleges and the American Association of University Professors and was approved by these two associations at their annual meetings in 1958. It supplements the 1940 Statement of Principles on Academic Freedom and Tenure by providing a formulation of the "academic due process" that should be observed in dismissal proceedings. The exact procedural standards here set forth, however, "are not intended to establish a norm in the same manner as the 1940 Statement of Principles on Academic Freedom and Tenure, but are presented rather as a guide...."*

*The governing bodies of the American Association of University Professors and the Association of American Colleges, meeting respectively in November 1989 and January 1990, adopted several changes in language in order to remove gender-specific references from the original text.*

## **Introductory Comments**

Any approach toward settling the difficulties which have beset dismissal proceedings on many American campuses must look beyond procedure into setting and cause. A dismissal proceeding is a symptom of failure; no amount of use of removal process will help strengthen higher education as much as will the cultivation of conditions in which dismissals rarely if ever need occur.

Just as the board of control or other governing body is the legal and fiscal corporation of the college, the faculty is the academic entity. Historically, the academic corporation is the older. Faculties were formed in the Middle Ages, with managerial affairs either self-arranged or handled in course by the parent church. Modern college faculties, on the other hand, are part of a complex and extensive structure requiring legal incorporation, with stewards and managers specifically appointed to discharge certain functions.

Nonetheless, the faculty of a modern college constitutes an entity as real as that of the faculties of medieval times, in terms of collective purpose and function. A necessary precondition of a strong faculty is that it have first-hand concern with its own membership. This is properly reflected both in appointments to and in separations from the faculty body.

A well-organized institution will reflect sympathetic understanding by trustees and teachers alike of their respective and complementary roles. These should be spelled out carefully in writing and made available to all. Trustees and faculty should understand and agree on their several functions in determining who shall join and who shall remain on the faculty. One of the prime duties of the administrator is to help preserve understanding of those functions. It seems clear on the American college scene that a close positive relationship exists between the excellence of colleges, the strength of their faculties, and the extent of faculty responsibility in determining faculty membership. Such a condition is in no wise inconsistent with full faculty awareness of institutional factors with which governing boards must be primarily concerned.

In the effective college, a dismissal proceeding involving a faculty member on tenure, or one occurring

during the term of an appointment, will be a rare exception, caused by individual human weakness and not by an unhealthful setting.

When it does come, however, the college should be prepared for it, so that both institutional integrity and individual human rights may be preserved during the process of resolving the trouble. The faculty must be willing to recommend the dismissal of a colleague when necessary. By the same token, presidents and governing boards must be willing to give full weight to a faculty judgment favorable to a colleague.

One persistent source of difficulty is the definition of adequate cause for the dismissal of a faculty member. Despite the 1940 Statement of Principles on Academic Freedom and Tenure and subsequent attempts to build upon it, considerable ambiguity and misunderstanding persist throughout higher education, especially in the respective conceptions of governing boards, administrative officers, and faculties concerning this matter. The present statement assumes that individual institutions will have formulated their own definitions of adequate cause for dismissal, bearing in mind the 1940 Statement and standards which have developed in the experience of academic institutions.

This statement deals with procedural standards. Those recommended are not intended to establish a norm in the same manner as the 1940 Statement of Principles on Academic Freedom and Tenure, but are presented rather as a guide to be used according to the nature and traditions of particular institutions in giving effect to both faculty tenure rights and the obligations of faculty members in the academic community.

## **Procedural Recommendations**

### **1. Preliminary Proceedings Concerning the Fitness of a Faculty Member**

When reasons arise to question the fitness of a college or university faculty member who has tenure or whose term appointment has not expired, the appropriate administrative officers should ordinarily discuss the matter with the faculty member in personal conference. The matter may be terminated by mutual consent at this point; but if an adjustment does not result, a standing or ad hoc committee elected by the faculty and charged with the function of rendering confidential advice in such situations should informally inquire into the situation, to effect an adjustment if possible, and, if none is effected, to determine whether in its view formal proceedings to consider the faculty member's dismissal should be instituted. If the committee recommends that such proceedings should be begun, or if the president of the institution, even after considering a recommendation of the committee favorable to the faculty member, expresses the conviction that a proceeding should be undertaken, action should be commenced under the procedures which follow. Except where there is disagreement, a statement with reasonable particularity of the grounds proposed for the dismissal should then be jointly formulated by the president and the faculty committee; if there is disagreement, the president or the president's representative should formulate the statement.

### **2. Commencement of Formal Proceedings**

The formal proceedings should be commenced by a communication addressed to the faculty member by the president of the institution, informing the faculty member of the statement formulated, and informing the faculty member that, at the faculty member's request, a hearing to determine whether he or she should be removed from the faculty position on the grounds stated will be conducted by a faculty committee at a

specified time and place. In setting the date of the hearing, sufficient time should be allowed the faculty member to prepare a defense. The faculty member should be informed, in detail or by reference to published regulations, of the procedural rights that will be accorded. The faculty member should state in reply whether he or she wishes a hearing, and, if so, should answer in writing, not less than one week before the date set for the hearing, the statements in the president's letter.

### **3. Suspension of the Faculty Member**

Suspension of the faculty member during the proceedings is justified only if immediate harm to the faculty member or others is threatened by the faculty member's continuance. Unless legal considerations forbid, any such suspension should be with pay.

### **4. Hearing Committee**

The committee of faculty members to conduct the hearing and reach a decision should either be an elected standing committee not previously concerned with the case or a committee established as soon as possible after the president's letter to the faculty member has been sent. The choice of members of the hearing committee should be on the basis of their objectivity and competence and of the regard in which they are held in the academic community. The committee should elect its own chair.

### **5. Committee Proceeding**

The committee should proceed by considering the statement of grounds for dismissal already formulated, and the faculty member's response written before the time of the hearing. If the faculty member has not requested a hearing, the committee should consider the case on the basis of the obtainable information and decide whether the faculty member should be removed; otherwise the hearing should go forward. The committee, in consultation with the president and the faculty member, should exercise its judgment as to whether the hearing should be public or private. If any facts are in dispute, the testimony of witnesses and other evidence concerning the matter set forth in the president's letter to the faculty member should be received.

The president should have the option of attendance during the hearing. The president may designate an appropriate representative to assist in developing the case; but the committee should determine the order of proof, should normally conduct the questioning of witnesses, and, if necessary, should secure the presentation of evidence important to the case.

The faculty member should have the option of assistance by counsel, whose functions should be similar to those of the representative chosen by the president. The faculty member should have the additional procedural rights set forth in the 1940 Statement of Principles on Academic Freedom and Tenure, and should have the aid of the committee, when needed, in securing the attendance of witnesses. The faculty member or the faculty member's counsel and the representative designated by the president should have the right, within reasonable limits, to question all witnesses who testify orally. The faculty member should have the opportunity to be confronted by all adverse witnesses. Where unusual and urgent reasons move the hearing committee to withhold this right, or where the witness cannot appear, the identity of the witness, as well as the statements of the witness, should nevertheless be disclosed to the faculty member. Subject to these safeguards, statements may when necessary be taken outside the hearing and reported

to it. All of the evidence should be duly recorded. Unless special circumstances warrant, it should not be necessary to follow formal rules of court procedure.

## **6. Consideration by Hearing Committee**

The committee should reach its decision in conference, on the basis of the hearing. Before doing so, it should give opportunity to the faculty member or the faculty member's counsel and the representative designated by the president to argue orally before it. If written briefs would be helpful, the committee may request them. The committee may proceed to decision promptly, without having the record of the hearing transcribed, where it feels that a just decision can be reached by this means; or it may await the availability of a transcript of the hearing if its decision would be aided thereby. It should make explicit findings with respect to each of the grounds of removal presented, and a reasoned opinion may be desirable. Publicity concerning the committee's decision may properly be withheld until consideration has been given to the case by the governing body of the institution. The president and the faculty member should be notified of the decision in writing and should be given a copy of the record of the hearing. Any release to the public should be made through the president's office.

## **7. Consideration by Governing Body**

The president should transmit to the governing body the full report of the hearing committee, stating its action. On the assumption that the governing board has accepted the principle of the faculty hearing committee, acceptance of the committee's decision would normally be expected. If the governing body chooses to review the case, its review should be based on the record of the previous hearing, accompanied by opportunity for argument, oral or written or both, by the principals at the hearing or their representatives. The decision of the hearing committee should either be sustained or the proceeding be returned to the committee with objections specified. In such a case the committee should reconsider, taking account of the stated objections and receiving new evidence if necessary. It should frame its decision and communicate it in the same manner as before. Only after study of the committee's reconsideration should the governing body make a final decision overruling the committee.

## **8. Publicity**

Except for such simple announcements as may be required, covering the time of the hearing and similar matters, public statements about the case by either the faculty member or administrative officers should be avoided so far as possible until the proceedings have been completed. Announcement of the final decision should include a statement of the hearing committee's original action, if this has not previously been made known.

# 1989 Statement on Procedural Standards in the Renewal or Nonrenewal of Faculty Appointments

*The statement which follows, a revision of a statement originally adopted in 1971, was approved by the American Association of University Professors' Committee A on Academic Freedom and Tenure, adopted by the Association's Council in November 1989, and endorsed by the Seventy-sixth Annual Meeting.*

Except for special appointments clearly designated at the outset as involving only a brief association with the institution, all full-time faculty appointments are either with continuous tenure or probationary for tenure. Procedures bearing on the renewal or nonrenewal of probationary appointments are this statement's concern.

## **The Probationary Period: Standards and Criteria**

The 1940 *Statement of Principles on Academic Freedom and Tenure* prescribes that "during the probationary period a teacher should have the academic freedom that all other members of the faculty have." The Association's *Recommended Institutional Regulations on Academic Freedom and Tenure* prescribe further that all members of the faculty, whether tenured or not, are entitled to protection against illegal or unconstitutional discrimination by the institution, or discrimination on a basis not demonstrably related to the faculty member's professional performance...." A number of the rights of nontenured faculty members provide support for their academic freedom and protection against improper discrimination. They cannot, for example, be dismissed before the end of a term appointment except for adequate cause that has been demonstrated through academic due process—a right they share with tenured members of the faculty. If they assert that they have been given notice of nonreappointment in violation of academic freedom or because of improper discrimination, they are entitled to an opportunity to establish their claim in accordance with Regulation 10 of the Recommended Institutional Regulations. They are entitled to timely notice of nonreappointment in accordance with the schedule prescribed in the statement on *Standards for Notice of Nonreappointment*.<sup>7</sup>

Lacking the reinforcement of tenure, however, academic freedom and protection against improper discrimination for probationary faculty members have depended primarily upon the understanding and support of their tenured colleagues, the administration, and professional organizations, especially the American Association of University Professors. In the *Statement on Government of Colleges and Universities*, the Association and the other sponsoring organizations have asserted that "faculty status and related matters are primarily a faculty responsibility; this area includes appointments, reappointments, decisions not to reappoint, promotions, the granting of tenure, and dismissal." Collegial deliberation of the kind envisioned by the *Statement on Government* will minimize the risk of a violation of academic freedom, of improper discrimination, and of a decision that is arbitrary or based on inadequate consideration.

Frequently, young faculty members have had no training or experience in teaching, and their first major research endeavor may still be uncompleted at the time they start their careers as college teachers. Under



these circumstances, it is particularly important that there be a probationary period—a maximum of seven years under the 1940 *Statement of Principles on Academic Freedom and Tenure*—before tenure is granted. Such a period gives probationary faculty members time to prove themselves, and their colleagues' time to observe and evaluate them on the basis of their performance in the position rather than on the basis only of their education, training, and recommendations.

Good practice requires that the institution (department, college, or university) define its criteria for reappointment and tenure and its procedures for reaching decisions on these matters. The 1940 *Statement of Principles* prescribes that "the precise terms and conditions of every appointment should be stated in writing and be in the possession of both institution and teacher before the appointment is consummated." Moreover, fairness to probationary faculty members prescribes that they be informed, early in their appointments, of the substantive and procedural standards that will be followed in determining whether or not their appointments will be renewed or tenure will be granted.

The Association accordingly recommends:

1. *Criteria and Notice of Standards.* Probationary faculty members should be advised, early in their appointment, of the substantive and procedural standards generally accepted in decisions affecting renewal and tenure. Any special standards adopted by their particular departments or schools should also be brought to their attention.

### **The Probationary Period: Evaluation and Decision**

The relationship of the senior and junior faculty should be one of collegiality, even though nontenured faculty members know that in time they will be judged by their senior colleagues. Thus the procedures adopted for evaluation and possible notification of nonrenewal should not endanger this relationship where it exists, and should encourage it where it does not. Nontenured faculty members should have available to them the advice and assistance of their senior colleagues; and the ability of senior colleagues to make a sound decision on renewal or tenure will be enhanced if an opportunity is provided for a regular review of the candidate's qualifications. A conjunction of the roles in counseling and evaluation may be productive: for example, an evaluation, whether interim or at the time of final determination of renewal or tenure, should be presented in such a manner as to assist nontenured faculty members as they strive to improve their performance.

Any recommendation regarding renewal or tenure should be reached by an appropriate faculty group in accordance with procedures approved by the faculty. Because it is important to both the faculty member and the decision-making body that all significant information be considered, the candidate should be notified that a decision is to be made regarding renewal of appointment or the granting of tenure and should be afforded an opportunity to submit material that the candidate believes to be relevant to the decision.

The Association accordingly recommends:

2. (a) *Periodic Review.* There should be provision for periodic review of a faculty member's situation during the probationary service.

(b) *Opportunity to Submit Material.* Probationary faculty members should be advised of the time when decisions affecting renewal and tenure are ordinarily made, and they should be given the opportunity to submit material that they believe will be helpful to an adequate consideration of their circumstances. Observance of the practices and procedures outlined above should minimize the likelihood of reasonable complaint if nontenured faculty members are given notice of nonreappointment. They will have been informed of the criteria and procedures for renewal and tenure; they will have been counseled by faculty colleagues; they will have been given an opportunity to have all material relevant to their evaluation considered; and they will have a timely decision representing the views of faculty colleagues.

### **Notice of Reasons**

Since 1971 it has been the Association's position, reached after careful examination of advantages and disadvantages, that nontenured faculty members notified of nonreappointment should, upon request, receive a statement of the reasons for the decision. In reaching this position, the Association considered the needs both of the institution and of the individual faculty member.

A major responsibility of the institution is to recruit and retain the best qualified faculty within its goals and means. In a matter of such fundamental importance, the institution, through the appropriate faculty agencies, must be accorded the widest latitude consistent with academic freedom, equal opportunity, and the standards of fairness. The Association recognized that the requirement of giving reasons could lead, however erroneously, to an expectation that the decision-making body must justify its decision. A notice of nonreappointment could thus become confused with dismissal for cause, and under these circumstances the decision-making body could become reluctant to reach adverse decisions which could culminate in grievance procedures. As a result there was some risk that the important distinction between tenure and probation would be eroded.

Weighed against these important institutional concerns, however, were the interests of the individual faculty members. They could be honestly unaware of the reasons for a negative decision, and the decision could be based on a judgment of shortcomings which they could easily remedy if informed of them. A decision not to renew an appointment could be based on erroneous information which the faculty member could readily correct if informed of the basis for the decision. Again, the decision could be based on considerations of institutional policy or program development which have nothing to do with the faculty member's professional competence, and if not informed of the reasons the faculty member could mistakenly assume that a judgment of inadequate performance has been made. In the face of a persistent refusal to supply the reasons, a faculty member may be more inclined to attribute improper motivations to the decision-making body or to conclude that its evaluation has been based upon inadequate consideration. If the faculty member wished to request a reconsideration of the decision, or a review by another body, ignorance of the reasons for the decision would create difficulties both in reaching a decision whether to initiate such a request and in presenting a case for reconsideration or review.

The Association's extensive experience with specific cases since 1971 has confirmed its conclusion that the reasons in support of the faculty member's right to be informed outweigh the countervailing risks. Every notice of nonreappointment, however, need not be accompanied by a written statement of the reasons for nonreappointment. It may not always be to the advantage of the faculty member to be informed of the

reasons for nonreappointment, particularly in writing. The faculty member may be placed under obligation to divulge them to the appointing body of another institution if it inquired. Similarly, a written record is likely to become the basis for continuing responses by the faculty member's former institution to prospective appointing bodies.

At many institutions, moreover, the procedures of evaluation and decision may make it difficult, if not impossible, to compile a statement of reasons which precisely reflects the basis of the decision. When a number of faculty members participate in the decision, they may oppose a reappointment for a variety of reasons, few or none of which may represent a majority view. To include every reason, no matter how few have held it, in a written statement to the faculty member may misrepresent the general view and damage unnecessarily both the morale and the professional future of the faculty member.

In many situations, of course, a decision not to reappoint will not reflect adversely upon the faculty member. An institution may, for example, find it necessary for financial or other reasons to restrict its offerings in a given department. The acquisition of tenure may depend not only upon satisfactory performance but also upon a long-term opening. Nonrenewal in these cases does not suggest a serious adverse judgment. In these situations, providing a statement of reasons, either written or oral, should pose no difficulty, and such a statement may in fact assist the faculty member in searching for a new position. Should the faculty member, after weighing the considerations cited above, decide to request the reasons for the decision against reappointment, the reasons should be given. The faculty member also should have the opportunity to request a reconsideration by the decision-making body.

The Association accordingly recommends:

3. *Notice of Reasons.* In the event of a decision not to renew an appointment, the faculty member should be informed of the decision in writing, and, upon request, be advised of the reasons which contributed to that decision. The faculty member should also have the opportunity to request a reconsideration by the decision-making body.

### **Written Reasons**

Having been given orally the reasons which contributed to the decision against reappointment, the faculty member, to avoid misunderstanding, may request that they be confirmed in writing. The faculty member may wish to petition the appropriate faculty committee, in accordance with Regulation 10 of the Association's Recommended Institutional Regulations, to consider an allegation that the reasons given, or that other reasons which were not stated, constitute a violation of academic freedom or improper discrimination. The faculty member may wish to petition a committee, in accordance with Regulation 15 of the Recommended Institutional Regulations, to consider a complaint that the decision resulted from inadequate consideration and was therefore unfair. The faculty member may believe that a written statement of reasons may be useful in pursuing a professional career. If the department chair or other appropriate institutional officer to whom the request is made believes that confirming the oral statement in writing may be damaging to the faculty member on grounds such as those cited earlier in this statement, it would be desirable for that officer to explain the possible adverse consequences of confirming the oral statement in writing. If in spite of this explanation the faculty member continues to request a written

statement, the request should be honored.

The Association accordingly recommends:

4. *Written Reasons*. If the faculty member expresses a desire to petition the grievance committee (such as is described in Regulations 10 and 15 of the Association's *Recommended Institutional Regulations*), or any other appropriate committee, to use its good offices of inquiry, recommendation, and report, or if the request is made for any other reason satisfactory to the faculty member alone, the reasons given in explanation of the nonrenewal should be confirmed in writing.

#### **Review Procedures: Allegations of Violation of Academic Freedom or of Discrimination**

The best safeguard against a proliferation of grievance petitions on a given campus is the observance of sound principles and procedures of academic freedom and tenure and of institutional government. Observance of the procedures recommended in this statement-procedures which would provide guidance to nontenured faculty members, help assure them of a fair professional evaluation, and enlighten them concerning the reasons contributing to key decisions of their colleagues-should contribute to the achievement of harmonious faculty relationships and the development of well-qualified faculties.

Even with the best practices and procedures, however, faculty members will at times think that they have been improperly or unjustly treated and may wish another faculty group to review a decision of the faculty body immediately involved. The Association believes that fairness to both the individual and the institution requires that the institution provide for such a review when it is requested. The possibility of a violation of academic freedom or of improper discrimination is of vital concern to the institution as a whole, and where either is alleged it is of cardinal importance to the faculty and the administration to determine whether substantial grounds for the allegation exist. The institution should also be concerned to see that decisions respecting reappointment are based upon adequate consideration, and provision should thus be made for a review of allegations by affected faculty members that the consideration has been inadequate.

Because of the broader significance of a violation of academic freedom or of improper discrimination, the Association believes that the procedures to be followed in these two kinds of complaints should be kept separate from a complaint over adequacy of consideration. Regulation 10 of the Recommended Institutional Regulations provides a specific procedure for the review of complaints of academic freedom violation or of discrimination.<sup>8</sup>

If a faculty member on probationary or other nontenured appointment alleges that a decision against reappointment was based significantly on considerations violative of (1) academic freedom or (2) governing policies on making appointments without prejudice with respect to race, sex, religion, national origin, age, disability, marital status, or sexual orientation, the allegation will be given preliminary consideration by the [insert name of committee], which will seek to settle the matter by informal methods. The allegation will be accompanied by a statement that the faculty member agrees to the presentation, for the consideration of the faculty committees, of such reasons and evidence as the institution may allege in support of its decision. If the difficulty is unresolved at this stage, and if the committee so recommends, the matter will be heard in the manner set forth in Regulations 5 and 6, except that the faculty member making

the complaint is responsible for stating the grounds upon which the allegations are based, and the burden of proof will rest upon the faculty member. If the faculty member succeeds in establishing a *prima facie* case, it is incumbent upon those who made the decision against reappointment to come forward with evidence in support of their decision. Statistical evidence of improper discrimination may be used in establishing a *prima facie* case.

The Association accordingly recommends:

5. *Petition for Review Alleging an Academic Freedom Violation or Improper Discrimination.* Insofar as the petition for review alleges a violation of academic freedom or improper discrimination, the functions of the committee that reviews the faculty member's petition should be the following:

(a) to determine whether or not the notice of nonreappointment constitutes on its face a violation of academic freedom or improper discrimination;

(b) to seek to settle the matter by informal methods;

(c) if the matter remains unresolved, to decide whether or not the evidence submitted in support of the petition warrants a recommendation that a formal proceeding be conducted in accordance with Regulations 5 and 6 of the Recommended Institutional Regulations, with the burden of proof resting upon the complaining faculty member.

### **Review Procedures: Allegations of Inadequate Consideration**

Complaints of inadequate consideration are likely to relate to matters of professional judgment, where the department or departmental agency should have primary authority. For this reason, the basic functions of the review committee should be to determine whether the appropriate faculty body gave adequate consideration to the faculty member's candidacy in reaching its decision and, if the review committee determines otherwise, to request reconsideration by that body.

It is easier to state what the standard "adequate consideration" does not mean than to specify in detail what it does. It does not mean that the review committee should substitute its own judgment for that of members of the department on the merits of whether the candidate should be reappointed or given tenure. The conscientious judgment of the candidate's departmental colleagues must prevail if the invaluable tradition of departmental autonomy in professional judgments is to prevail. The term "adequate consideration" refers essentially to procedural rather than to substantive issues: Was the decision conscientiously arrived at? Was all available evidence bearing on the relevant performance of the candidate sought out and considered? Was there adequate deliberation by the department over the import of the evidence in the light of the relevant standards? Were irrelevant and improper standards excluded from consideration? Was the decision a bona fide exercise of professional academic judgment? These are the kinds of questions suggested by the standard "adequate consideration."

If in applying this standard the review committee concludes that adequate consideration was not given, its appropriate response should be to recommend to the department that it assess the merits once again, this

time remedying the inadequacies of its prior consideration.

An acceptable review procedure, representing one procedural system within which such judgments may be made, is outlined in Regulation 15 of the *Recommended Institutional Regulations*, as follows:

If any faculty member alleges cause for grievance in any matter not covered by the procedures described in the foregoing regulations, the faculty member may petition the elected faculty grievance committee [here name the committee] for redress. The petition will set forth in detail the nature of the grievance and will state against whom the grievance is directed. It will contain any factual or other data which the petitioner deems pertinent to the case. Statistical evidence of improper discrimination, including discrimination in salary, may be used in establishing a prima facie case. The committee will decide whether or not the facts merit a detailed investigation; if the faculty member succeeds in establishing a prima facie case, it is incumbent upon those who made the decision to come forward with evidence in support of their decision. Submission of a petition will not automatically entail investigation or detailed consideration thereof. The committee may seek to bring about a settlement of the issue satisfactory to the parties. If in the opinion of the committee such a settlement is not possible or is not appropriate, the committee will report its findings and recommendations to the petitioner and to the appropriate administrative officer and faculty body, and the petitioner will, upon request, be provided an opportunity to present the grievance to them. The grievance committee will consist of three [or some other number] elected members of the faculty. No officer of administration will serve on the committee.

The Association accordingly recommends:

6. *Petition for Review Alleging Inadequate Consideration.* Insofar as the petition for review alleges inadequate consideration, the functions of the committee which reviews the faculty member's petition should be the following:

(a) to determine whether the decision of the appropriate faculty body was the result of adequate consideration, with the understanding that the review committee should not substitute its judgment on the merits for that of the faculty body;

(b) to request reconsideration by the faculty body when the committee believes that adequate consideration was not given to the faculty member's qualifications (in such instances, the committee should indicate the respects in which it believes that consideration may have been inadequate);

(c) to provide copies of its report and recommendation to the faculty member, the faculty body, and the president or other appropriate administrative officer.

# 1990 Statement on Recruitment and Resignation of Faculty Members

*The statement printed below was adopted by the Association of American Colleges in January 1961 with the following reservations as set forth in a preamble prepared by that Association's Commission on Academic Freedom and Tenure:*

- 1. No set of principles adopted by the Association can do more than suggest and recommend a course of action. Consequently, the present statement in no way interferes with institutional sovereignty.*
- 2. The commission realizes that the diversity of practice and control that exists among institutions of higher learning precludes any set of standards from being universally applicable to every situation.*
- 3. The statement is concerned only with minimum standards and in no way seeks to create a norm for institutions at which "better" practices already are in force.*
- 4. The commission recognizes the fact that "emergency" situations will arise and will have to be dealt with. However, it urges both administration and faculty to do so in ways that will not go counter to the spirit of cooperation, good faith, and responsibility that the statement is seeking to promote.*
- 5. The commission believes that the spirit embodied in the proposed statement is its most important aspect. In view of these reservations, the Council of the American Association of University Professors in April 1961 voted approval of the statement without adopting it as a binding obligation. Endorsement of the statement in this form was voted by the Forty-seventh Annual Meeting.*

*The governing bodies of the Association of American Colleges and the American Association of University Professors, acting respectively in January and April 1990, adopted several changes in language in order to remove gender-specific references from the original text.*

Mobility of faculty members among colleges and universities is rightly recognized as desirable in American higher education. Yet the departure of a faculty member always requires changes within the institution and may entail major adjustments on the part of faculty colleagues, the administration, and students in the faculty member's field. Ordinarily a temporary or permanent successor must be found and appointed to either the vacated position or the position of a colleague who is promoted to replace the faculty member. Clear standards of practice in the recruitment and in the resignations of members of existing faculties should contribute to an orderly interchange of personnel that will be in the interest of all.

The standards set forth below are recommended to administrations and faculties, in the belief that they are sound and should be generally followed. They are predicated on the assumption that proper provision has been made by employing institutions for timely notice to probationary faculty members and those on term appointments, with respect to their subsequent status. In addition to observing applicable requirements for notice of termination to probationary faculty members, institutions should make provision for notice to all

faculty members, not later than March 15 of each year, of their status the following fall, including rank and (unless unavoidable budgetary procedures beyond the institution forbid) prospective salary.

1. Negotiations looking to the possible appointment for the following fall of persons who are already faculty members at other institutions, in active service or on leave of absence and not on terminal appointment, should be begun and completed as early as possible in the academic year. It is desirable that, when feasible, the faculty member who has been approached with regard to another position inform the appropriate officers of his or her institution when such negotiations are in progress. The conclusion of a binding agreement for the faculty member to accept an appointment elsewhere should always be followed by prompt notice to the faculty member's current institution.

2. A faculty member should not resign, in order to accept other employment as of the end of the academic year, later than May 15 or 30 days after receiving notification of the terms of continued employment the following year, whichever date occurs later. It is recognized, however, that this obligation will be in effect only if institutions generally observe the time factor set forth in the following paragraph for new offers. It is also recognized that emergencies will occur. In such an emergency the faculty member may ask the appropriate officials of the institution to waive this requirement; but the faculty member should conform to their decision.

3. To permit a faculty member to give due consideration and timely notice to his or her institution in the circumstances defined in paragraph 1 of these standards, an offer of appointment for the following fall at another institution should not be made after May 1. The offer should be a "firm" one, not subject to contingencies.

4. Institutions deprived of the services of faculty members too late in the academic year to permit their replacement by securing the members of other faculties in conformity to these standards, and institutions otherwise prevented from taking timely action to recruit from other faculties, should accept the necessity of making temporary arrangements or obtaining personnel from other sources, including new entrants to the academic profession and faculty personnel who have retired.

5. Except by agreement with their institution, faculty members should not leave or be solicited to leave their positions during an academic year for which they hold an appointment.



# 1987 Statement of Professional Ethics

*The statement which follows, a revision of a statement originally adopted in 1966, was approved by the American Association of University Professors' Committee B on Professional Ethics, adopted by the Association's Council in June 1987, and endorsed by the Seventy-third Annual Meeting.*

## **Introduction**

From its inception, the American Association of University Professors has recognized that membership in the academic profession carries with it special responsibilities. The Association has consistently affirmed these responsibilities in major policy statements, providing guidance to professors in such matters as their utterances as citizens, the exercise of their responsibilities to students and colleagues, and their conduct when resigning from an institution or when undertaking sponsored research. The Statement on Professional Ethics that follows sets forth those general standards that serve as a reminder of the variety of responsibilities assumed by all members of the profession. In the enforcement of ethical standards, the academic profession differs from those of law and medicine, whose associations act to ensure the integrity of members engaged in private practice.

In the academic profession the individual institution of higher learning provides this assurance and so should normally handle questions concerning propriety of conduct within its own framework by reference to a faculty group. The Association supports such local action and stands ready, through the general secretary and Committee B, to counsel with members of the academic community concerning questions of professional ethics and to inquire into complaints when local consideration is impossible or inappropriate. If the alleged offense is deemed sufficiently serious to raise the possibility of adverse action, the procedures should be in accordance with the 1940 Statement of Principles on Academic Freedom and Tenure, the 1958 *Statement on Procedural Standards in Faculty Dismissal Proceedings*, or the applicable provisions of the Association's *Recommended Institutional Regulations on Academic Freedom and Tenure*.

## **The Statement**

I. Professors, guided by a deep conviction of the worth and dignity of the advancement of knowledge, recognize the special responsibilities placed upon them. Their primary responsibility to their subject is to seek and to state the truth as they see it. To this end professors devote their energies to developing and improving their scholarly competence. They accept the obligation to exercise critical self-discipline and judgment in using, extending, and transmitting knowledge. They practice intellectual honesty. Although professors may follow subsidiary interests, these interests must never seriously hamper or compromise their freedom of inquiry.

II. As teachers, professors encourage the free pursuit of learning in their students. They hold before them the best scholarly and ethical standards of their discipline. Professors demonstrate respect for students as individuals and adhere to their proper roles as intellectual guides and counselors. Professors make every reasonable effort to foster honest academic conduct and to ensure that their evaluations of students reflect each student's true merit. They respect the confidential nature of the relationship between professor and student. They avoid any exploitation, harassment, or discriminatory treatment of students. They

acknowledge significant academic or scholarly assistance from them. They protect their academic freedom.

III. As colleagues, professors have obligations that derive from common membership in the community of scholars. Professors do not discriminate against or harass colleagues. They respect and defend the free inquiry of associates. In the exchange of criticism and ideas professors show due respect for the opinions of others. Professors acknowledge academic debt and strive to be objective in their professional judgment of colleagues. Professors accept their share of faculty responsibilities for the governance of their institution.

IV. As members of an academic institution, professors seek above all to be effective teachers and scholars. Although professors observe the stated regulations of the institution, provided the regulations do not contravene academic freedom, they maintain their right to criticize and seek revision. Professors give due regard to their paramount responsibilities within their institution in determining the amount and character of work done outside it. When considering the interruption or termination of their service, professors recognize the effect of their decision upon the program of the institution and give due notice of their intentions.

V. As members of their community, professors have the rights and obligations of other citizens. Professors measure the urgency of these obligations in the light of their responsibilities to their subject, to their students, to their profession, and to their institution. When they speak or act as private persons they avoid creating the impression of speaking or acting for their college or university. As citizens engaged in a profession that depends upon freedom for its health and integrity, professors have a particular obligation to promote conditions of free inquiry and to further public understanding of academic freedom.

# 1971 Committee "W" Statement on Faculty Appointment and Family Relationship

*The following statement, prepared initially by the American Association of University Professors' Committee W on the Status of Women in the Academic Profession, was approved by that committee and by Committee A on Academic Freedom and Tenure. The statement was adopted by the Association's Council in April 1971 and endorsed by the Fifty-seventh Annual Meeting. It was endorsed in June 1971 by the board of directors of the Association of American Colleges.*

In recent years, and particularly in relation to efforts to define and safeguard the rights of women in academic life, members of the profession have evidenced increasing concern over policies and practices which prohibit in blanket fashion the appointment, retention, or the holding of tenure of more than one member of the same family on the faculty of an institution of higher education or of a school or department within an institution (so-called "anti-nepotism regulations"). Such policies and practices subject faculty members to an automatic decision on a basis wholly unrelated to academic qualifications and limit them unfairly in their opportunity to practice their profession. In addition, they are contrary to the best interests of the institution, which is deprived of qualified faculty members on the basis of an inappropriate criterion, and of the community, which is denied a sufficient utilization of its resources.

The Association recognizes the propriety of institutional regulations which would set reasonable restrictions on an individual's capacity to function as judge or advocate in specific situations involving members of his or her immediate family. Faculty members should neither initiate nor participate in institutional decisions involving a direct benefit (initial appointment, retention, promotion, salary, leave of absence, etc.) to members of their immediate families.

The Association does not believe, however, that the proscription of the opportunity of members of an immediate family to serve as colleagues is a sound method of avoiding the occasional abuses resulting from nepotism. Inasmuch as they constitute a continuing abuse to a significant number of individual members of the profession and to the profession as a body, the Association urges the discontinuance of these policies and practices, and the rescinding of laws and institutional regulations which perpetuate them.

# Committee A Statement on Extramural Utterances

*The statement which follows was approved by the American Association of University Professors' Committee A on Academic Freedom and Tenure in October 1964. Its purpose is to clarify those sections of the 1940 Statement of Principles on Academic Freedom and Tenure relating to the faculty member's exercise of freedom of speech as a citizen. In 1989, Committee A approved several changes in language in order to remove gender-specific references from the original text.*

The 1940 *Statement of Principles* asserts the right of faculty members to speak or write as citizens, free from institutional censorship or discipline. At the same time it calls attention to the special obligations of faculty members arising from their position in the community: to be accurate, to exercise appropriate restraint, to show respect for the opinions of others, and to make every effort to indicate that they are not speaking for the institution. An interpretation of the 1940 *Statement*, agreed to at a conference of the Association of American Colleges and the AAUP held on November 8, 1940, states that an administration may file charges in accordance with procedures outlined in the Statement if it feels that a faculty member has failed to observe the above admonitions and believes that the professor's extramural utterances raise grave doubts concerning the professor's fitness for continuing service.

In cases involving such charges, it is essential that the hearing should be conducted by an appropriate-preferably elected-faculty committee, as provided in Section 4 of the 1958 *Statement on Procedural Standards in Faculty Dismissal Proceedings*.<sup>1</sup> The controlling principle is that a faculty member's expression of opinion as a citizen cannot constitute grounds for dismissal unless it clearly demonstrates the faculty member's unfitness to serve. Extramural utterances rarely bear upon the faculty member's fitness for continuing service. Moreover, a final decision should take into account the faculty member's entire record as a teacher and scholar. In the absence of weighty evidence of unfitness, the administration should not prefer charges; and if it is not clearly proved in the hearing that the faculty member is unfit to continue, the faculty committee should make a finding in favor of the faculty member concerned. Committee A asserts that it will view with particular gravity an administrative or board reversal of a favorable faculty committee hearing judgment in a case involving extramural utterances. In the words of the 1940 *Statement of Principles*, "the administration should remember that teachers are citizens and should be accorded the freedom of citizens." In a democratic society freedom of speech is an indispensable right of the citizen. Committee A will vigorously uphold that right.

# Faculty Ethics and Advisory Committee

The Faculty Ethics and Advisory Committee shall consist of seven faculty members nominated by the Faculty Senate. Members of the committee shall serve for overlapping two-year terms. The chairperson shall be elected each year and shall be a tenured faculty member. In the event that a graduate student is accused of unethical behavior, as defined by the Statement on Professional Ethics, with the concurrence of the accused, a graduate student, appointed by the Graduate Student Association, shall serve on the committee, but only for those meetings or parts of meetings during which a graduate student's behavior is being considered.

(a) The Faculty Ethics and Advisory Committee's (hereinafter referred to as Committee) function is to informally investigate the facts and make recommendations when a faculty member has been accused of conduct inconsistent with the Statement on Professional Ethics (Appendix IV). When a faculty member has been so accused he or she must first seek resolution of the problem from the chairperson, if any, and if still unresolved the dean, and on up through each authority in turn the same as provided for termination cases by Sec. 9 (a) of the Policy on Academic Freedom and Tenure. When the matter is still unresolved, the Committee may be called into action in either of two ways:

- (i) By the President of the University, the Vice President for Academic Affairs of the University, or the Committee on Academic Freedom and Tenure, when the assistance of the Committee's informal investigatory function on issues of professional ethics is desired. When a reference to the Committee has been made under this subsection (i), the Committee shall report its recommendations, and the reasons therefore, to the Administrator or Committee making the reference, and to any other parties deemed appropriate by the Committee.
- (ii) By a faculty member, graduate, teaching, research, or project assistant who believes that she or he has been accused of unethical conduct. The Committee may, at its discretion, refuse to respond to requests for investigation made by individuals under this subsection (ii), and this discretion may be exercised by the chairperson when it is not convenient to call a meeting of the Committee. It is intended that the Committee investigate only serious accusations which have or may have done damage to the accused's reputation. It is not intended that the Committee be used as a weapon in personal conflicts. When a reference to the Committee has been made under this subsection (ii), the Committee may confer with and report to the President of the University, the Vice President for Academic Affairs, the applicable dean or chairperson, or department at the discretion of the investigating panel.

(b) Investigations by the Committee shall be conducted by panels of three members. Panels shall be selected by the chairperson.

(c) The Committee may informally investigate a situation even though it is also being heard by the Committee on Academic Freedom and Tenure. In such a case the Committee should normally confer with the Committee on Academic Freedom and Tenure about the matter.

(d) The Committee's recommendations and reports, if any, may be made in any form the panel chooses. The panel should confer with the person or Committee requesting informal investigation about the appropriate form of report.