



<b>POLICY TITLE</b>	Faculty Personnel Reduction (Interim Policy)	<b>Policy Number</b>	648
<b>Section</b>	Academics	<b>Approval Date</b>	April 15, 2010
<b>Subsection</b>	Faculty	<b>Effective Date</b>	April 15, 2010
<b>Responsible Office</b>	Office of the Senior Vice President of Academic Affairs		

### 1.0 PURPOSE

1.1 UVU Policy 635 *Academic Freedom, Professional Rights, and Responsibilities* has been proposed for revision into three separate policies; namely, Policy 635 *Faculty Rights and Professional Responsibilities* (approved by Board of Trustees April 15, 2010), Policy 646 *Faculty Appeals for Retention, Tenure and Promotion* and Policy 648 *Faculty Discipline* (approved by Board of Trustees April 15, 2010, effective upon passage of revised Policy 637 *Faculty Tenure*). After development of revised policies 635 and 646, the remaining language from the original 635 was assigned Policy 648 *Faculty Personnel Reduction*. This policy (648) shall be redrafted as a faculty discipline policy.

### 2.0 REFERENCES

### 3.0 DEFINITIONS

### 4.0 POLICY

#### 4.1 Personnel Reduction

4.1.1 Termination of faculty services to Utah Valley University may occur for one of the following reasons:

- 1) A faculty member is terminated during the probationary appointment at the end of a contract period by administrative action in accordance with the academic tenure policies.
- 2) A faculty member with tenure is terminated for cause as determined by the University Board of Trustees on recommendation of the President. Confidentiality is to be observed.



- 3) A faculty member initiates the termination by resigning from the position.
- 4) A faculty member exercises retirement.

**4.1.2** Appointment to a tenured position is considered permanent and not subject to termination or substantial reduction in status, except under those circumstances discussed herein.

## **4.2 Resignations and Retirement**

**4.2.1** Resignation. The decision to resign shall be submitted in writing by the faculty member to the immediate supervisor at the earliest feasible date.

**4.2.2** Retirement. The decision to retire shall be submitted in accordance with the University retirement policy. In order to facilitate continued operation of the program, written notification of intention to resign or retire shall be considered binding if not rescinded by the faculty member in writing within five working days of the date of submission. The immediate supervisor shall advise the President through normal administrative channels of such a decision.

## **4.3 Discontinuance of Non-Tenured Faculty**

**4.3.1** Any full-time, non-tenured faculty member whose annual appointment the University wishes not to continue, or whose appointment the University wishes to continue with substantially reduced status, shall be given advance notice in writing of such intent by the Senior Vice President of Academic Affairs as follows:

- 1) For a full-time faculty member who has served more than one academic year, notice shall be given not later than December 15 of the current academic year.
- 2) For a full-time faculty member who has served less than one academic year, notice shall be given not later than March 1st of that academic year.

**4.3.2** Procedural due process. If a non-tenured faculty member alleges that discontinuance or reduction in status is based upon discriminatory or prejudicial treatment in violation of his or her constitutional or statutory rights, the faculty member shall be accorded the procedural due process provided in this policy. The petitioning faculty member shall have the burden of introducing competent evidence sufficient to support a decision that the non-renewal or reduction was based on discriminatory, prejudicial facts and reasons. Review on appeal shall be limited to a determination of whether the nonprejudicial, nondiscriminatory requirements have been met.

## **4.4 Termination for Cause**



**4.4.1** Continuation of academic tenure requires maintenance of reasonable care in the faculty member's performance as a teacher and scholar.

**4.4.2** Causes for dismissal. A faculty member may be dismissed for:

- 1) Professional incompetence.
- 2) Unethical behavior.
- 3) Violation of Board of Regents' or university rules.

**4.4.3** Dismissal proceedings. Dismissals for cause shall be made only after proper investigation, after recommendation of the President, and approval by the University Board of Trustees. In any such proceeding, confidentiality is to be observed carefully.

#### **4.5 Termination for Medical Reasons**

**4.5.1** A tenured faculty member may be dismissed or given a contract with substantially reduced status if medical incapacity prevents the faculty member from performing usual duties and responsibilities.

**4.5.2** Allegation. Proceedings to terminate or to give substantially reduced status to a faculty member for medical reasons shall be initiated by a written statement alleging medical incapacity made to the President or designee, by the faculty member's dean, department chairperson, or supervisor. The faculty member shall be notified in writing of the allegation and informed of the right to a conference.

**4.5.3** Physical examination. In such cases the faculty member shall be informed of the right to be examined (at university expense) by two physicians. One physical shall be chosen by the faculty member and the other physician shall be chosen by the University.

**4.5.4** Examination concurrence. Should both examining physicians concur as to the absence of such medical incapacity, no further action shall be taken.

**4.5.5** Examination refusal. If the faculty member refuses to submit to medical examination, or if the complaint of medical incapacity cannot be resolved by administrative disposition during an informal, conciliatory meeting, a written formal charge shall be prepared and submitted to the president of the Faculty Senate who shall convene an ad hoc committee; and a formal hearing procedure shall be initiated.

**4.5.6** Decision. The Faculty Senate ad hoc committee may recommend extended suspension or involuntary early retirement. The committee may also recommend, in those cases where the



duration of medical incapacity is expected to be relatively short, that the faculty member be only temporarily replaced or be given priority for possible rehire.

#### **4.6 Termination of Tenured Faculty for University Reasons**

**4.6.1** Financial exigency. (See UVU Policy 373 *Bona Fide Financial Exigency and Personnel Reduction*.)

**4.6.2** Program or unit discontinuation. A tenured faculty member may be dismissed or given a contract with or without substantially reduced status in the event of a bona fide discontinuance of a program or department of instruction.

#### **4.6.3 Conciliatory Actions**

**4.6.3.1** Notification. When a faculty member with tenure is terminated or given a renewal contract with a substantially reduced status because of bona fide discontinuance of a program, a department of instruction, or other equivalent tenure-granting academic subdivision, he or she shall be notified no later than March 30 of the previous contract year. After that date, his or her contract shall be renewed at a salary rate not less than his or her current contract or he or she shall be given severance pay equal to his or her current contract salary in lieu thereof.

**4.6.3.2** Reassignment. At the time it is preparing and implementing a plan for personnel reduction, the University shall make a good faith effort to reassign any faculty member to be laid off to an existing vacant position within the University for which the faculty or staff member is qualified. A tenured faculty member who is not dismissed and who is appropriately qualified has the right to displace a non-tenured faculty member from his or her position. The reassignment of faculty, including decisions regarding salary, and other rights in the new assignment, shall be negotiated by the dean and the department chairperson with the participation of the faculty of the program to which the proposed reassignment is to be made. Reassigned faculty with tenure carry that tenure to the new program.

**4.6.4** Appeals rights. Unless otherwise required by law or regulation, the University's grievance procedure shall not delay the effective date of the layoff (see UVU Policy 646 *Faculty Appeals for Retention, Tenure, and Promotion*).

#### **4.6.5 Reinstatement Rights**

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



**4.6.5.2** For non-tenured faculty. Except as provided in section 4.6.3.2 (giving a tenured faculty member to be laid off the right to displace a non-tenured faculty member), in the case of a position from which a non-tenured faculty member has been laid off, the position concerned may not be filled by replacement within a period of one year from the effective date of the layoff unless that position has been offered to the following persons who were laid off, who are qualified therefore, and who have not theretofore been rehired: first, tenured faculty members; second, non-tenured faculty members. Each such offer must be accepted within 30 calendar days after the offer is extended before being offered to anyone else.

**4.6.5.3** For reinstated faculty. A faculty member who has been laid off and who accepts reinstatement in the same position shall resume the rank and tenure status held at the time of layoff, be credited with any sick leave accrued prior to the date of layoff, and be paid a salary commensurate with the rank and length of previous service.

**4.6.6** Discipline and termination for cause. The provisions governing termination for cause shall include the following:

1) Dismissal for cause. No faculty member who has achieved tenure shall be dismissed without cause. Dismissals for cause shall be made only after proper investigation by the administrative officers of the University, a hearing by a due process committee (if such is requested), and action by the University Board of Trustees upon recommendation of the President.

2) Due process committee. A recommendation by the President for termination for cause of the services of a faculty member who has achieved tenure shall be considered by a due process committee. A faculty member shall be permitted to choose an advisor who may act as counsel. A record, stenographic or electronic, shall be provided by the University for future reference.

#### **4.7 Due Process**

**4.7.1** In all disciplinary, suspension, or termination proceedings, or proceedings regarding academic freedom, the faculty member shall be subject to the following policy provisions:

1) Notice. Written notice shall be delivered personally, or by certified mail, return receipt requested, to the faculty member under investigation. Such notice shall contain the following:

2) Statement of facts. A concise statement of the facts, conduct, or circumstances reported to constitute failure to comply with the Standards set forth in this policy, including the names of those persons making the charges.

3) Proposed action. A statement of the action proposed to be taken, in the event the allegations of noncompliance are sustained by a due process committee.



4) Statement of rights. A statement informing the faculty member of his or her rights to be heard in conference with the President or designee, and that such conference must be requested in writing to the President or designee by the faculty member, and further, that the faculty member may have an advisor or counsel of his or her own choosing present at such conference, and that such conference must be requested within five days after receipt of the notice by the faculty member, and that such conference must be held within ten days after receipt of such notice by the faculty member. The purpose of the conference is to attempt to reach an agreement or settlement, thereby precluding the necessity of a formal hearing.

5) Schedule for hearing. The time and place of the hearing before a due process committee and, as previously stated, that the faculty member may be represented at such hearing by an advisor or counsel of his or her own choosing.

**4.7.3 Contest of charges.** Within 20 days of the receipt of the notice of hearing, the faculty member, if he or she wishes to contest such charges, shall file in writing with the President or designee, an answer to the charges made; and that failure to do so shall result in the entry of the faculty member's default in the proceedings, and appropriate action shall be taken to refer the matter to a due process committee for its recommendations.

#### **4.7.4 Procedures Subsequent to Notice**

**4.7.4.1 Timeline.** The hearing shall be held not less than 30 nor more than 45 days after the faculty member has received written notice of the hearing, provided, however, that the faculty member's written answer has been duly filed. The President or designee shall convene a due process committee within the period of time aforesaid.

**4.7.4.2 Pre-hearing conference.** Prior to the date set for the hearing, a pre-hearing conference shall be held before the President or designee and a faculty member elected by the Faculty Senate or the faculty at large. The pre-hearing examiners shall delineate the issue to be examined at the hearing. At this pre-hearing conference, the administration and the faculty member shall make available to each other, upon request, a list of their witnesses to be called and the documentary evidence to be introduced at the hearing.

**4.7.4.3 Hearing.** The hearing before a committee may be continued upon good cause shown by either the administration or the faculty member.

**4.7.4.4 Witnesses.** The due process committee may require the attendance of witnesses, and shall do so at the request of the complainant, of the administration, or of the faculty member. All witnesses called by either side may be examined and cross-examined.

**4.7.5 Emergencies.** Emergencies may be grounds for a reasonable extension of the time within which an answer must be filed, but such emergencies must be of a serious and compelling nature.



**4.7.6** Composition of the due process committee. The due process committee shall be composed of five, seven, or nine members. Said committee, appointed by the executive committee of the Faculty Senate, shall consist of faculty and administrators with the majority of the committee being faculty members. A majority vote shall control the action of the committee.

**4.7.7** Appeals. An appeal may be taken from the decision of the due process committee to the President, whose decision shall be final, unless the University Board of Trustees chooses, at its sole discretion, to review a final decision. Any review by the University Board of Trustees shall be a review of the record only for the purpose of determining if procedural due process has been granted. All appeals shall be made within 15 days of receipt of written notice of the decision to be appealed.

**4.7.8** Suspension pending action. In the event that a faculty member is charged with a serious offense affecting the public interest, the President may suspend the faculty member from professional duties upon written notification to the faculty member and the University Board of Trustees. This suspension may remain in effect until such time as the faculty member has resigned, been acquitted, or been dismissed.

#### **4.7.9 Sanctions**

**4.7.9.1** Permissible sanctions. The following sanctions are permissible:

- 1) Verbal censure
- 2) Written reprimand
- 3) Probation
- 4) Suspension without pay (not exceeding one year)
- 5) Dismissal
- 6) Fines

**4.7.9.2** Combinations of sanctions. Combinations of sanctions may be imposed where appropriate and consistent with the provisions of this policy. When a sanction less than dismissal is imposed, the terms of imposition may include a requirement that the faculty member take reasonable action to make restitution or remedy a situation created by a violation of a Standard of Behavior.

**4.7.9.3** Purpose of Sanctions. Sanctions may be imposed on a faculty member when it has been determined by proceedings pursuant to this policy that he or she has violated a Standard of Behavior, if the imposition of the sanctions shall serve one or more of the following purposes:

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- 1) To induce self-improvement and reform by a faculty member whose conduct demonstrates the need of self-improvement and reform.
- 2) To indicate to the faculty member the seriousness of his or her violation and thereby deter him or her from future violations.
- 3) To reassure the university community that violations of the standards of behavior which the faculty member has broken shall not be tolerated, thereby serving to maintain respect for and commitment to the standards of behavior by other members of the university community.
- 4) To remove from university employment faculty members whose inability to continue in beneficial service to the University has been clearly demonstrated.

**4.7.9.4** Conditions for sanctions. Since sanctions are at best a painful necessity, the decision to impose them shall be guided by mercy and restraint. Sanctions shall be imposed under the following conditions:

- 1) When the purposes set forth in section 4.7.3 above cannot be adequately served by less severe actions.
- 2) When the sanction is not disproportionately severe in relationship to the violation of the Standard of Behavior for which it is imposed.
- 3) When the imposition of such sanction is fair and just to the faculty member involved, giving due consideration to his or her situation, to prior service to the University, and to any relevant matters tending to mitigate the seriousness of the violation.

**4.7.10** Use of non-punitive measures. When non-punitive measures such as guidance, counseling, therapy, leave of absence, voluntary resignation, or early retirement are available and will provide reasonable assurance that the faculty member will not repeat the violation of the standards of behavior, if the faculty member consents thereto, such measures shall be taken in lieu of disciplinary sanctions under this policy, unless substantial university interests would thereby be undermined.

**4.7.11** Rehearing. No faculty member shall be twice subjected to proceedings under this policy for the same violation. A rehearing at the direction of the President following an appeal by the faculty member is not a second proceeding.

**4.7.12** Court conviction. When a faculty member has been tried and convicted in the courts, he or she shall not be subjected to proceedings under this policy for the same acts unless the acts alleged raise serious questions about the faculty member's ability to perform as a faculty member. When a faculty member has been tried and acquitted, such acquittal shall be





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conclusively presumed to establish his or her innocence of the acts charged in the criminal case. As used herein, acquittal includes dismissal of charges for insufficient evidence, after trial has commenced.

### 5.0 PROCEDURES

POLICY HISTORY		
Date of Last Action	Action Taken	Authorizing Entity