



UTAH VALLEY UNIVERSITY
Policies and Procedures

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| POLICY TITLE | Faculty Sanction and Dismissal for Cause | Policy Number | 649 |
| Section | Academics | Approval Date | April 25, 2024 |
| Subsection | Faculty | Effective Date | April 25, 2024 |
| Responsible Office | Office of the Provost/Senior Vice President of Academic Affairs | | |

1.0 PURPOSE

1.1 The University is committed to ensuring that disciplinary reviews or actions that involve faculty members are guided by compassion and fairness and are handled in a manner that preserves faculty members’ due process rights and academic freedom. This policy establishes procedures to assess and impose sanctions for cause on faculty.

2.0 REFERENCES

- 2.1** *Enforcement of Regulations at Institutions*, Utah Code § 53B-3-103(2)(A) (2021)
- 2.2** *Duties and Responsibilities of the President of a Degree-granting Institution of Higher Education—Approval by Board of Trustees*, Utah Code § 53B-2-106.1
- 2.3** *Government Records Access and Management Act*, Utah Code § 63G-2-101 (2008)
- 2.4** *Utah Public Officers’ and Employees’ Ethics Act*, Utah Code § 67-16-1 et seq. (1989)
- 2.5** Utah Board of Higher Education Policy R481 *Academic Freedom, Professional Responsibility, Tenure, Termination, and Post-Tenure Review*
- 2.6** UVU Policy 162 *Title IX Sexual Harassment*
- 2.7** UVU Policy 165 *Discrimination, Harassment, and Affirmative Action*
- 2.8** UVU Policy 168 *Whistleblower Anti-Retaliation*
- 2.9** UVU Policy 326 *Workplace Conduct*
- 2.10** UVU Policy 633 *Faculty Performance Evaluation and Feedback*
- 2.11** UVU Policy 635 *Faculty Rights and Professional Responsibilities*



2.12 UVU Policy 639 *Adjunct Faculty*

2.13 UVU Policy 660 *Research Ethics and Compliance*

2.14 American Association of University Professors (AAUP) *Recommended Institutional Regulations on Academic Freedom and Tenure*

2.15 *AAUP Report on The Use and Abuse of Faculty Suspensions*

2.16 *AAUP Statement on Professional Ethics*

3.0 DEFINITIONS

3.1 Adequate cause: An action for which a faculty member may be sanctioned. Adequate cause does not include causes for which sanctions would violate First Amendment rights or other legal protections. The term refers to

3.1.1 professional incompetence (e.g., as may be documented in accordance with UVU Policy 633 *Faculty Performance Evaluation and Feedback*),

3.1.2 neglect of duty;

3.1.3 serious misconduct or unethical conduct;

3.1.4 legal misconduct substantially related to the performance of duties;

3.1.5 inability or unwillingness to meet institutional expectations, including failure to address deficiencies outlined in a remediation plan following post-tenure review;

3.1.6 the conviction of a crime affecting the fitness of the faculty member to engage in teaching, research, service, outreach, administration, or other assigned duties;

3.1.7 falsified credentials or plagiarism; and

3.1.8 serious violations of Utah Board of Higher Education policy or UVU policy; a pattern of violations may be considered serious.

3.2 Advocate: The person who a party has chosen to assist them in meetings or hearings during proceedings under this policy. This person may be an attorney or could be a family member, colleague, friend, or professional such as a counselor. This role differs from that of support person (see section 3.21).



3.3 Clear and convincing evidence: An intermediate standard that requires more than a preponderance of evidence but does not require proof beyond reasonable doubt. It requires the existence of facts that make a conclusion very highly probable.

3.4 Dismissal: The involuntary termination of a faculty member's employment.

3.5 Extenuating circumstances: Significant emergencies or circumstances that are considered applicable by the Faculty Senate Appeals Committee (FSAC) may include situations such as changes in work schedule, a family death, or significant illness or injury.

3.6 Faculty or faculty member: An employee hired into a faculty position categorized as a full-time, benefits-eligible employee. In this policy, the term "faculty" means a faculty member whether tenured or tenure-track.

3.7 Faculty Senate Appeals Committee (FSAC): A committee comprising five faculty members in good standing who are appointed by the Faculty Senate President, in consultation with the applicable Rank, Tenure, and Promotion (RTP) chair, to oversee investigations and faculty appeals of proposed sanctions.

3.8 Good standing: For purposes of this policy, a faculty member is considered in good standing if the following criterion is verified by People and Culture and Academic Affairs: (1) the faculty member has not received a rating of "sometimes meets expectations" or "does not meet expectations" in the review categories of service, teaching, or scholarship within the last two annual review cycles; and (2) the faculty member has no impending, imposed, or agreed upon sanctions or remedies per UVU Policies 162, 165, 326, 371, 635, or other applicable university policies in the last two years.

3.9 Immediate harm: This concept is directly related to the gravity of the charges. The threat of harm to oneself or others or a reasonable probability of future harm to the University or its community that could occur before the matter can be heard may require immediate action by the UVU President in advance of an investigation by the Faculty Senate Appeals Committee (FSAC).

3.10 Incompetence: The inability, unwillingness, or refusal to adequately perform academic duties, including dishonesty and misrepresentation in fulfillment of duties.

3.11 Institutional expectations: Clearly communicated directives from a faculty member's administrative authority (chair, dean, provost, president) that are critically related to UVU's educational mission and consistent with law and UVU, UBHE, and statewide policy, including principles of academic freedom described in UVU Policy 635 *Faculty Rights and Professional Responsibilities*.

3.12 Neglect of duty: Intentional or grossly negligent failure to exercise due diligence in the performance of a known official duty or a failure to act with the prudence that a reasonable person would exercise under the same circumstances.



3.13 Probation: A sanction constituting a period of time, not to exceed two years, during which the affected faculty member remains paid with benefits and able to work, although some restrictions may be put in place (see section 4.2.3).

3.14 Protected activity: Opposing or reporting any violation of law or UVU policy, including this policy, or participating in any manner in an investigation, hearing, or any proceeding to resolve an alleged violation of law or UVU policy. Examples of protected activities include reporting or assisting others in making a good-faith complaint (internally or externally) of policy violation; and participating in good faith as an investigator, witness, decision maker, or otherwise assisting in any UVU fact-finding, dispute resolution, or proceeding related to an alleged policy violation.

3.15 Reduction in rank: A sanction constituting a one-step reduction in faculty rank, not to include revocation of tenure.

3.16 Restitution: A sanction aimed at remedying the situation created by a violation of UVU or Utah Board of Higher Education policy.

3.17 Retaliation: An action, performed directly or through others, which is aimed to dissuade a reasonable person from engaging in a protected activity or is done in retribution for engaging in a protected activity. Action in response to a protected activity is not retaliatory unless (1) it has a materially adverse effect on the working, academic, or other university-related environment of an individual; and (2) it would not have occurred in the absence of (but for) the protected activity (see UVU Policy 326 *Workplace Conduct*).

3.18 Sanction: Disciplinary action or penalty imposed by the University on a faculty member who has demonstrated adequate cause (see section 4.3 for specific sanctions).

3.19 Substantial impairment: When a faculty member's personal conduct significantly hinders their ability to fulfill their institutional responsibilities, it is adequate cause for sanction as stated in section 3.1 of this policy. Substantial impairment can manifest as imminent, ongoing, or recently concluded. Both on-campus and off-campus conduct, including criminal activity, may indicate an impending substantial impairment of the faculty member's responsibilities at UVU. The determination of substantial impairment will consider the following factors: (1) the extent to which the conduct undermines the faculty member's fitness in their professional roles as teachers, colleagues, or scholars (e.g., off-campus criminal involvement in manufacturing illicit drugs by chemistry faculty member; acts of violence or harassment posing a safety threat to the campus); (2) impact of non-UVU sanctions on their ability to perform their responsibilities (e.g., incarceration preventing teaching duties or participation in required meetings); or (3) the effect on their credibility or reliability as a teacher or scholar (e.g., conviction for financial fraud by an accounting professor).

3.20 Supervisor(s): A person with authority to initiate a sanction; for example, the chair of the faculty member's department, the dean of the faculty member's college or school, the Provost, or the President.



3.21 Support person: The person whom a party has chosen to accompany them in meetings or hearings for emotional support. Examples of possible support persons include a family member, colleague, friend, or professional. A support person must not be an individual who is, or may become, a participant in any part of the complaint process, including an investigation, hearing, appeal, or imposition of sanctions or remedies. This includes any person who is or may participate as a party, witness, hearing FSAC member, official designated to hear an appeal, party's direct manager or administrator, person within a party's managerial reporting line (e.g., a more senior employee who is not in the complainant's chain of command), and/or any person who may participate in any recommendation and/or decision regarding sanctions or remedies for any party.

3.22 Suspension: A sanction that involves temporarily relieving a faculty member from the full or partial performance of their duties for a specified duration, which should not exceed one year. During the suspension, the faculty member may receive full pay, partial pay, or no pay.

3.23 Unethical conduct: Significant noncompliance with AAUP's *Statement on Professional Ethics* or the *Utah Ethics Act*.

4.0 POLICY

4.1 Policy Statement

4.1.1 Faculty members are entitled to due process when they are accused of any action that would lead to disciplinary sanction.

4.1.2 This policy governs imposing sanctions for adequate cause on full-time faculty. It is limited in its use and is not to be used for arbitrary decision-making or in a way that violates an individual's constitutional rights. Adjunct faculty employment is governed by UVU Policy 639 *Adjunct Faculty*. This policy establishes fair procedures to ensure that (1) there is adequate cause to sanction a faculty member; (2) there has been impartial fact-finding; (3) a proposed sanction is reasonably proportionate to the cause; and (4) the sanction serves a permissible purpose.

4.1.3 This policy does not apply to conduct that is separately defined and prohibited in other UVU policies, including UVU Policy 162 *Title IX Sexual Harassment*; UVU Policy 165 *Discrimination, Harassment, and Affirmative Action*; Policy 168 *Whistleblower Anti-Retaliation*; UVU Policy 326 *Workplace Conduct*; and UVU Policy 660 *Research Ethics and Compliance*.

4.1.4 For performance-related actions other than sanctions for adequate cause under this policy, see UVU Policy 633 *Faculty Performance Evaluation and Feedback*.

4.2 Faculty Senate Appeals Committee (FSAC)

4.2.1 The Faculty Senate President appoints members of the FSAC, an advisory body, on an ad hoc basis.



4.2.2 The FSAC will be trained by the Office of General Counsel (OGC) on appropriate administrative concepts and processes consistent with the law.

4.2.3 In executing their duties, the FSAC must consult with OGC before taking any action.

4.3 Sanction of Faculty

4.3.1 A faculty member may be sanctioned for adequate cause.

4.3.2 Under this policy, authorized sanctions for faculty are probation, restitution, reduction in rank, suspension with reduced pay or without pay, and dismissal.

4.3.3 Probation may include restrictions such as ineligibility for merit pay increases, university awards, promotions, and positions (such as department chair) during the period of probation. Sanctioned probation is unrelated to the tenure-track probationary period and distinct from a non-punitive performance improvement plan.

4.3.4 A sanction imposed under this policy shall serve at least one of the following purposes:

4.3.4.1 Encourage self-improvement and reform in the faculty member;

4.3.4.2 To deter future violations;

4.3.4.3 To assure the UVU community that policy violations will not be tolerated, thereby upholding the integrity of UVU's policies within the community; and

4.3.4.4 To protect the UVU community from threatened harm.

4.3.5 The following nonpunitive measures must be considered and documented in lieu of sanction when available and lawful and when such measures will adequately serve the purposes listed in section 4.3.4. These nonpunitive measures include

4.3.5.1 informal guidance training,

4.3.5.2 written warning,

4.3.5.3 temporary leave of absence,

4.3.5.4 voluntary resignation, and

4.3.5.5 early retirement.

4.3.6 The severity of a sanction shall be reasonably proportionate to the severity and frequency of the alleged cause for sanction. The question of proportionality shall consider



4.3.6.1 whether the purposes cannot be adequately served by less severe measures;

4.3.6.2 whether the sanction is consistent in severity with sanctions imposed on other full-time faculty for the same or similar violation(s); and

4.3.6.3 whether there are any mitigating or aggravating circumstances regarding the faculty member or University and its units, faculty, staff, or students.

4.3.7 No faculty member shall be twice subject to proceedings under this policy for the same instance of a violation of UVU policy or Utah Board of Higher Education policy. However, the conduct investigated under this policy may trigger proceedings under separate policies or local, state, or federal law.

4.3.8 Dismissal or other sanctions of a full-time faculty member for adequate cause shall be made only after a sufficient and impartial record of information has been gathered, either by an investigation or otherwise, a hearing, a recommendation by the FSAC, and a final decision by the President.

5.0 PROCEDURES

5.1 Performance Improvement

5.1.1 The University encourages performance improvement steps pursuant to UVU Policy 633 *Faculty Performance Evaluation and Feedback* before a sanction notice is issued. As outlined in UVU Policy 633 *Faculty Performance Evaluation and Feedback*, the chair or dean shall document any attempts at performance improvement.

5.2 Removal for Safety Reasons

5.2.1 A dean or the Provost may, in consultation with the UVU Behavioral Assessment Team, place a faculty member on non-disciplinary leave or establish restrictions on workplace locations or duties to mitigate identified risks of immediate harm during the ensuing process. The restrictions on workplace locations and duties must be as limited in scope (particular buildings, offices, or contact from specific persons) as practicable to sufficiently mitigate the identified risks.

5.2.2 Any decision to put a faculty member on leave or impose restrictions shall be based on an individualized, case-by-case determination in consideration of the best available evidence that the employee (1) poses a credible, substantial risk of harm to individuals within the University or to the university community as a whole or (2) poses a credible, substantial risk of impeding the lawful activities, the educational processes, or the proper activities or functions of other members of the university community.

5.3 Minimum Due Process



5.3.1 Minimum due process requirements for formal disciplinary sanctions are

5.3.1.1 timely notice of the cause(s) of the proposed sanction in sufficient detail (including any evidence) to enable the faculty member to understand and rebut them;

5.3.1.2 notice of the name(s) of the supervisor(s);

5.3.1.3 notice of the factual evidence;

5.3.1.4 reasonable time and opportunity for the faculty member to respond;

5.3.1.5 a hearing before an independent board of faculty peers, including an opportunity to question witnesses, within the law, and evidence against the faculty member (unless there are credible, substantial risk of intimidation or violence); if the faculty member is tenured and dismissed, the hearing must be before an independent board of tenured faculty peers;

5.3.1.6 a reasonable opportunity for the faculty member to present evidence and a defense;

5.3.1.7 an investigation (if deemed necessary by the FSAC and the Provost) and a hearing by an impartial FSAC of faculty peers;

5.3.1.8 a written determination on the issue, including a determination of termination or continued employment; and

5.3.1.9 for tenured faculty dismissals, an appeals process ending with the final decision of the President of the University in consultation with the Board of Trustees.

5.4 Initiating a Sanction

5.4.1 A written notice from the faculty member's supervisor initiates a proposed sanction after consultation with the next level supervisor. The notice must include

5.4.1.1 the specific sanction

5.4.1.2 the allegation potentially supporting a finding of adequate cause, including sufficient details known at the time and with sufficient time to prepare a response; sufficient details include the identities of the parties involved, if known, the conduct allegedly constituting adequate cause, and the date and location of the alleged incident(s)

5.4.1.3 the purposes served by the sanction consistent with section 4.3.4

5.4.1.4 the detailed information in section 5.5.1 for appealing the proposed sanction

5.5 Initiating an Appeal



5.5.1 Filing an Appeal

5.5.1.1 The faculty member may appeal the proposed sanction within 10 business days of receiving the sanction notice described in section 5.4.1. The proposed sanction will become final if the faculty member does not file an appeal within the deadline.

5.5.1.2 The supervisor may file a response within 10 business days of receiving notice of the appeal.

5.5.1.3 The faculty member's written appeal, the supervisor's written response, and all supporting documentation and communication must be filed with the chair of the FSAC.

5.5.1.4 Within 10 business days of receiving both the faculty member's written appeal and the supervisor's response (or expiration of the deadline, whichever comes first), the FSAC shall either schedule a hearing or initiate the process for gathering additional information through a selected investigator as determined by section 5.6.2.

5.5.1.5 The FSAC may grant extensions to deadlines only for extenuating circumstances.

5.5.1.6 The appealing faculty member may, in writing and at any point, waive the hearing and request instead that the FSAC render their recommendations based solely on the materials currently available to the FSAC.

5.5.2 Contents of Appeal and Response

5.5.2.1 The faculty member's written appeal should contain a written statement explaining why they believe the proposed sanction

- 1) lacks "clear and convincing evidence" of adequate cause;
- 2) is unreasonably disproportionate to the severity of the adequate cause; or
- 3) fails to serve a permissible purpose under section 4.3.4.

5.5.2.2 The supervisor's written response should explain why they believe the proposed sanction

- 1) is supported by "clear and convincing evidence" of adequate cause,
- 2) is reasonably proportionate to the severity of the adequate cause, and
- 3) serves a permissible purpose under section 4.3.4.

5.6 Investigation Procedures



5.6.1 The FSAC may conduct additional fact-finding to verify or supplement the information provided by the faculty member and supervisor. The purpose of any additional fact-finding is to enable the FSAC to make a well-reasoned and fair determination. Additional fact-finding may be informal such as a list of questions to the participants or may involve more formal means such as an investigation through a neutral party as provided in section 5.6.2.

5.6.2 The FSAC and the Provost's Office must mutually agree on the selection of an investigator. This investigator must have no conflicts of interest, have sufficient availability to complete the investigation in a timely manner, and have received bias and investigative best-practice training, including on confidentiality, from a reputable organization.

5.6.3 The faculty member and the supervisor shall be provided equitable rights and opportunities to provide relevant information and respond to questions.

5.6.4 The parties may be accompanied by a support person of their own choosing and legal counsel at every step of the process. The support person and legal counsel may not disrupt meetings, hearings, or other proceedings or speak on behalf of the party unless a reasonable accommodation is approved by the FSAC in consultation with People and Culture.

5.6.5 When the sanction is termination, the parties' legal counsel may participate in the hearing by questioning witnesses and delivering opening and closing statements.

5.6.6 The FSAC and supervisor will treat all documents, investigation reports, and testimony as confidential, sharing only with individuals reasonably necessary to carry out the purposes of this policy or as required by law.

5.6.7 The University will not restrict the ability of the faculty member to discuss the alleged adequate cause or to gather and present relevant evidence.

5.6.8 Retaliation is prohibited. For example, UVU Policy 326 *Workplace Conduct* prohibits attempts to dissuade, alter, or prevent witness testimony, abusive conduct, and other forms of retaliation intended as retribution for a proposed sanction or appeal.

5.6.9 Participant communications remain subject to laws protecting against defamation and tortious invasions of privacy, such as intrusion upon seclusion, publication of private facts, and false light claims.

5.6.10 The FSAC aims to resolve complaints promptly. However, the timeframe for completing an investigation or less formal fact-finding may vary based on the complexity of the matter, the availability of the parties and witnesses, how quickly the necessary information can be obtained, or unforeseen circumstances. All entities involved will be kept informed of delays, reasons for delays, and the ongoing state of the process.

5.6.11 Pending criminal proceedings do not prevent the application of this policy.



5.6.12 At the conclusion of any investigation, the investigator shall draft a report. The report shall contain a written summary of the allegations investigated, a summary of the evidence gathered, an assessment of witness credibility, an assessment of the credibility of the evidence, and a summary of the facts found during the investigation.

5.6.13 No more than five business days after receipt of the investigation report, the chair of the FSAC or their FSAC designee shall provide a copy of the report via email and certified mail to the faculty member and supervisor. The faculty member and supervisor shall have seven business days to respond with any suggested edits or new evidence before the investigation report is finalized. The investigator must vet any suggested edits or new evidence for accuracy and relevance before changes may be made or included as an addenda to the report. The final report will be used as evidence in the hearing.

5.6.14 All drafts and versions of the investigation report and any addenda and exhibits as well as all notes, drafts, emails, or other electronic or physical documents or items received, created, or relied upon by the investigators in the course of the investigation are considered protected, private, or non-public records under the *Government Records Access and Management Act (GRAMA)*, Utah Code Ann. § 63G-2-101, et seq. Information relating to the allegations of adequate cause and sanction may become public under *GRAMA* after the conclusion of these proceedings if the allegations of adequate cause are upheld.

5.7 Pre-Hearing Procedures

5.7.1 The hearing shall be scheduled as soon as reasonably possible, allowing enough time to permit the pre-hearing exchanges of information set forth below. Hearings may be postponed at the FSAC's discretion in extenuating circumstances such as unavailability of evidence or witnesses. In case of postponement, all participants shall be notified in writing by the chair of the appointed committee or their designee.

5.7.2 Ten business days before the hearing date, the faculty member and supervisor shall provide each other and the FSAC with a prehearing packet in digital format containing the anticipated witness testimony and copies of all documents, emails, images, or other evidence to be presented at the hearing. It will be at the discretion of the FSAC to permit additional information after this point.

5.7.3 Upon agreement by both parties, the FSAC may direct all witness testimony to be submitted in writing in lieu of appearing at the hearing.

5.8 Scope of Hearing

5.8.1 The scope of a hearing is to review whether the sanction is (1) supported by "clear and convincing evidence" of adequate cause; (2) is reasonably proportionate to the severity of the cause; and (3) serves one or more permissible purposes under section 4.3.4.

5.9 Hearing Procedures



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5.9.1 The hearing is an internal administrative proceeding governed by the discretion of the FSAC. It is not a trial. Neither the Rules of Civil Procedure nor the Rules of Evidence govern these hearings.

5.9.2 A hearing under this policy is not open to the public and will be held in a secure hearing room or confidential digital space.

5.9.3 The hearing may be conducted with participants physically present in the same geographical location or virtually, at the FSAC's discretion, as long as participants can simultaneously see and hear each other.

5.9.4 Each party may be accompanied by an advocate and a support person of their choosing at every step of the process. The advocate and support person may not disrupt meetings, hearings, or other proceedings or speak on behalf of the party unless designated due to extenuating circumstances. The advocate or support person can aid the party in preparation of or during the hearing.

5.9.5 The supervisor bears the burden of proving by clear and convincing evidence that the recommended sanction meets the claimed grounds for review in section 5.5.2.2.

5.9.6 The FSAC shall have discretion to regulate how the parties present evidence, to determine whether the evidence is relevant to the grounds for review, to exclude evidence the FSAC deems irrelevant or unduly duplicative, and to determine whether any new evidence may be introduced at this point.

5.10 Post-Hearing Procedures

5.10.1 The FSAC shall deliberate in a closed session. Within fifteen business days, the FSAC will make written findings and recommendation(s) to the President regarding whether and how to uphold or modify the recommended sanction and regarding any other relevant issues. The FSAC may recommend imposition of non-punitive alternative outcomes, such as completion of a performance improvement plan or mediation.

5.10.2 The FSAC will base its recommendations on the facts and evidence submitted to the FSAC or presented at the hearing related to the scope of the hearing. The FSAC shall not base its recommendations on evidence unavailable to either party.

5.10.3 The FSAC shall create a detailed written report that contains the reasons for its recommendations, the evidence relied on, and a summary of the FSAC's votes. The FSAC will submit its recommendations to the UVU President, the Provost, the supervisor, and the faculty member.

5.10.4 Within fifteen business days of the FSAC's recommendation, the President shall, in consultation with the Provost, make the final decision and shall convey that final decision in writing



by electronic and certified mail to the Provost, FSAC, supervisor, and faculty member. If announcing a decision contrary to the FSAC’s recommendation, the President will give viable reasons that sufficiently justify departing from the FSAC’s recommendations. The Board of Trustees will also be notified of the President’s final decision.

5.10.5 The President’s final decision will specify the effective date of any sanction.

5.11 Retention of Disciplinary Records

5.11.1 The faculty member’s personnel files will hold all records associated with the appeal for a period of time pursuant to current law.

| POLICY HISTORY | | |
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| Date of Last Action | Action Taken | Authorizing Entity |
| March 28, 2024 | New policy created and approved. | UVU Board of Trustees |
| April 25, 2024 | Compliance change, mandated by HB 438, Utah Legislature, approved. | UVU President’s Council |
| May 6, 2024 | Compliance change ratified. | UVU Board of Trustees |
| August 28, 2024 | Non-substantive change: Reference to section 4.2 in section 3.18 was corrected to section 4.3. | UVU Policy Office |