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# Academic Freedom and Faculty Rights

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## 4.1.1. Freedom and Responsibility of the Faculty Member and of the Administration

### 4.1.2. Academic Freedom

The Board of Trustees of The University of Tennessee recognizes and supports the fundamental concept of academic freedom in the full context of professional responsibility. (See Appendix for the statement, "Principles Governing Freedom, Responsibility and Tenure," adopted by the board on November 4, 1955 and endorsed as amended on June 17, 1971.) Members of the faculty are charged to seek and say honestly and persistently the truth that lies within their respective fields. This is the freedom of the academy, and on this precious foundation rests everything the academy has to offer.

Freedom of thought and of speech as defined for Americans in the Bill of Rights has been hard-won and severely tested. The freedom of the academy is more arduous still and exacts its own stern and constant discipline--to wait patiently for evidence to take shape, to withhold judgment when the majority may know already the judgment it wants or to articulate and defend a surprising or unpopular conclusion. The freedom of the academy includes not only the right of faculty to teach, read and write without prior restraint or censure, but also the obligation to make public what labor and caution and care and the freedom to inquire have enabled them to know. It is a freedom presupposing personal integrity and professional rigor, subject to the scrutiny of evidence by knowledgeable colleagues. The freedom of the academy presupposes a clear understanding between the University and each member of the faculty about the terms of membership, the extent of duties and the principles for evaluation of service. Under no circumstances may such an agreement abrogate a faculty member's freedom of inquiry, nor the basic right of a citizen and private person to pursue ends and interests consistent with the laws governing all members of society.

Every faculty member enjoys an unusual opportunity to know and to influence a number of students, both within the classroom and within the wider context of University life. This opportunity is not open to the average citizen. As a member of the University community, therefore, the faculty member is not simply a private person. A faculty member should claim no more authority than professional competence and the nature of the appointment can support.

Outside the University the distinction must be clear between activities undertaken on behalf of the University and those that are purely personal, for which the University is not responsible. The use of University stationery, telephones and other sources for personal or extramural activities of any extended nature should be avoided, as should the use of the faculty member's University position or title in connection with the expression of purely personal, unofficial views. Only under such conditions can the faculty enjoy mutual confidence within its own ranks or command the respect and support of the larger society.

### 4.1.3. Policies Governing Academic Freedom, Responsibility, and Tenure

#### POLICIES GOVERNING ACADEMIC FREEDOM, RESPONSIBILITY, AND TENURE<sup>1</sup>

Approved by the UT Board of Trustees at its meeting of 18 June 1998

The Board of Trustees is constituted by statute of the State of Tennessee as the governing body of The University of Tennessee, with complete and full authority over the organization and administration of The University<sup>2</sup> and its constituent parts and over the granting of tenure to members of the faculty.

The principal mission of The University is the discovery and dissemination of truth through teaching, research and service.<sup>3</sup> The Board recognizes that freedom

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<sup>1</sup>This is a compilation and restatement of policies and procedures adopted by vote of the Board of Trustees on November 4, 1955; June 17, 1971; October 20, 1978; by periodic approval of Faculty Handbook provisions for each University of Tennessee campus; and by revisions recommended by the Board's AY 1997-98 special Tenure Committee and its Faculty Tenure Advisory Committee, and approved by the Board on 18 June 1998.

<sup>2</sup> Many terms throughout this document are used generically. "The University" refers to The University of Tennessee System. "Campus" refers to the Knoxville campus, the Health Science Center, the UT Institute of Agriculture, the UT Space Institute, UT at Chattanooga, and UT at Martin. "Chancellor" refers to the Chancellor or Vice President of the unit. "Department" refers to the smallest academic unit (in some cases a "college," "school," or "division"); similarly, "department head" refers to "chair," "director," or "Dean" as appropriate. "Faculty Senate" refers to the campus governance body of elected faculty members and "Faculty Senate Executive Committee" refers to that committee or its comparable group of elected Senate officers. "Chief Academic Officer" refers to the campus provost, academic vice chancellor, or, Dean, etc. "Bylaws" includes written policies, procedures, standards, rules, guidelines, etc.

<sup>3</sup> The word "teaching" includes the set of instructional activities that normally occurs in classrooms, laboratories, clinical sites, and in directed study, etc; "research" includes both scholarly investigation and the creation of works of art related to a faculty member's academic appointment;

of inquiry and expression is indispensable for this purpose and believes that it and the administration and faculty should cooperate to that end. In The University's program of teaching, research and service, it is essential that the Board, administration and faculty cooperate voluntarily, each contributing freely, according to his or her qualifications, in a mutually beneficial exchange of information and ideas.

The following statement is intended to record the policy and procedures of The University with respect to academic freedom, responsibility, and tenure. The Board considers these principles compatible with its statutory authority and responsibilities and the constitutional guarantee of freedom of speech and inquiry to each citizen of the United States.

#### Academic Freedom and Responsibility of the Faculty Member

A healthy tradition of academic freedom and tenure is essential to the proper functioning of a University. At the same time, membership in a society of scholars enjoins upon a faculty member certain obligations to colleagues, to the University and to the State that guarantees academic freedom.

1. The primary responsibility of a faculty member is to use the freedom of his or her office in an honest, courageous, and persistent effort to search out and communicate the truth that lies in the area of his or her competence.
2. A faculty member is entitled to full freedom in research and in publication of the results, subject to the adequate performance of his or her other academic duties, but research for pecuniary gain either within or beyond the scope of his or her employment must be based upon an understanding with The University administration, according to The University's policies (e.g., Compensated Outside Services, Conflict of Interest).
3. A faculty member should maintain a high level of personal integrity and professional competence, as demonstrated in teaching, research, and service. Academic freedom does not exempt a faculty member from an evaluation by colleagues and administration of his or her qualifications for continued membership in their society.
4. A faculty member is entitled to freedom in the classroom in discussing the subject, but the faculty member should use care in expressing personal views in the classroom and should be careful not to introduce controversial matters that have no relation to the subject taught, and especially matters in which he or she has no special competence or training and in which, therefore, the faculty member's views cannot claim the authority accorded his or her professional statements.

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"service" includes public service, institutional service, and other assigned professional/clinical service responsibilities.

5. A faculty member should recognize that the right of academic freedom is enjoyed by all members of the academic community. He or she should be prepared at all times to support actively the right of the individual to freedom of research and communication as defined herein.

6. In addition to the normal responsibilities of a citizen of the state and nation, including the duty to uphold their Constitutions and obey their laws, a faculty member also should conduct himself or herself professionally with colleagues. He or she should strive to maintain the mutual respect and confidence of his or her colleagues. He or she should endeavor to understand the customs, traditions, and usages of the academic community.

7. When, as a citizen, a faculty member speaks outside the classroom or writes for publication, he or she should be free, as a citizen, to express his or her opinions. Each faculty member should conduct himself or herself professionally, should be accurate, should exercise appropriate restraint, should show respect for the opinions of others, and should make clear that he or she speaks for himself or herself and not for The University.

#### Academic Freedom and Responsibility of the University Administration

1. The University is committed to recruiting, appointing, retaining and promoting faculty members by processes which are thorough, thoughtful, equitable, and in which the professional judgments of faculty members are of major importance.
2. Administrative officers should actively foster within The University a climate favorable to freedom of teaching and research. In its pursuit of excellence, The University should reward its outstanding faculty members.
3. The administration is responsible for enforcing all Board and campus policies applicable to faculty members. It is the duty of the administration--beginning with department heads, deans, and chief academic officers--to remove from the faculty any faculty member who has been found, through proper procedures, seriously derelict in his or her responsibilities as a member of the academic community.
4. The Board requires that each campus and its constituent academic units develop appropriate policies and procedures necessary to implement the Board's tenure policy. These campus and academic unit documents must be approved by the Board of Trustees in time for campus policies and procedures to be effective on 1 July 1999.

#### **4.2.1. Equal Employment Opportunity and Affirmative Action**

The University of Tennessee at Chattanooga does not discriminate on the basis of race, sex, color, religion,

national origin, age, handicap, or veteran status in provision of educational opportunities or employment opportunities and benefits. The University does not discriminate on the basis of sex or handicap in the education programs and activities which it operates, pursuant to the requirements of Title IX of the Education Amendments of 1972, Pub. L. 92-318; and Section 504 of the Rehabilitation Act of 1973, Pub. L. 93-112; and the Americans with Disabilities Act of 1990, Pub. L. 101-336, respectively. This policy extends to both employment by and admission to the University. Inquiries concerning Title IX, Section 504, and the Americans with Disabilities Act should be directed to the Office of the Director for Affirmative Action, 104 Founders Hall, (615) 755-4124. Charges of violation of the above policy should also be directed to the Office of the Director for Affirmative Action.

The University prohibits any retaliatory action against an employee for opposing a practice which the employee believes to be discriminatory, including the filing of an internal grievance or a charge with a state or federal civil rights enforcement agency. (Personnel Policies and Procedures Manual; Section 220.)

#### 4.2.2. Sexual Harassment Policy

The University of Tennessee at Chattanooga recognizes that harassment in the University on the basis of sex is a violation of Section 703 of Title VII. For this reason, the University is adding this statement and the following guidelines to the *Faculty Handbook*, the University Personnel Policy Manual and the *Student Handbook*.

Sexual advances by any UTC employee (faculty or staff member) toward another employee or student which become a condition of employment or affect the academic relationship constitute an unlawful practice. Unsolicited or unwelcome physical or verbal behavior of a sexual nature which has the purpose or effect of creating an atmosphere of intimidation is a violation of Title VII.

In the case of such harassment, an employee or student has the right to pursue the EEO grievance procedure for redress. The affirmative action officer should be contacted for this procedure.

*Guidelines:* Sexual harassment in the workplace has long been recognized by EEOC as violation of Section 703 of Title VII of the Civil Rights Act of 1964, as amended. Sexual harassment in the workplace is gender-based discrimination which violates Title VII and constitutes an unlawful employment practice. Additional cases involving issues of sexual harassment are being litigated now both by EEOC and private parties.

The question of whether a particular action or incident establishes a purely personal, non-employment related relationship requires a factual determination. In making such a determination, the case record as a whole, as well as the totality of the circumstances, such as the nature of the sexual advances and the context in which the alleged incidents occurred, will be examined. The determination of the legality of a particular action will be made from the

facts, on a case by case basis, because the same behavior may constitute sexual harassment in one context but not in another.

Sexual harassment, like racial harassment, generates a psychologically harmful atmosphere. Employees and students are guaranteed a working and learning environment free of discriminatory intimidation, whether racial or sexual. Therefore, UTC has an affirmative duty to maintain an atmosphere free of sexual harassment and intimidation. The best way to achieve such an environment is to prevent sexual harassment from occurring at all, by utilizing all possible methods to alert the employees and students to the problem and to stress that sexual harassment, in any form, will not be tolerated.

#### 4.2.3. Policy on Sexist Language

It is the policy at UTC to avoid the use of sexist words and terms in all official correspondence and publications. Every reasonable attempt should be made to comply with this policy and to assist in making UTC a model for real as well as perceived equal treatment in organizational communications. The following serves as a guideline for all written materials:

Avoid sexist words and terms. Do not avoid them, however, at the expense of correct grammar. Almost all sexist language problems--especially "he or she" constructions--can be eliminated by careful writing or rewriting.

Non-sexist and grammatically wrong:

*After a student applies, they are admitted...*

Correct but awkward:

*After a student applies, he or she is admitted...*

Rewritten, problem avoided:

*After students apply, they are admitted...*

OR

*After applying, a student is admitted...*

When possible, use chair instead of chairman, chairwoman, chairperson, etc.

The use of non-academic titles (Ms., Mr., Miss, etc.) should be avoided, if possible, and replaced with Professor or Dr.

For a female, if such a title is necessary, use Ms. When marital status is known and the individual in question has expressed a preference, use the appropriate designation.

#### 4.2.4. Drug-Free Campus and Workplace

It is the policy of The University of Tennessee to maintain a safe and healthful environment for its students and employees. Therefore, University policy prohibits the unlawful use, manufacture, possession, distribution, or dispensing of drugs ("controlled substances" as defined in the Controlled Substances Act, 21 U.S.C. 812) and alcohol on University property or during University activities.

Violation of this policy is grounds for disciplinary action--up to and including immediate discharge for an employee and permanent dismissal for a student. Federal and state laws provide additional penalties for such unlawful activities, including fines and imprisonment (21 U.S.C. 841 et seq.; T.C.A. 39-6-401 et seq.). Local ordinances also provide various penalties for drug- and alcohol-related offenses. The University is bound to take all appropriate actions against violators, which may include referral for legal prosecution or requiring the individual to participate satisfactorily in an approved drug use/alcohol abuse assistance or rehabilitation program.

Individuals who are paid by The University of Tennessee from federal grants or contracts must notify the University of any criminal drug statute conviction for a violation occurring in the workplace within five days after such conviction. The University is, in turn, required to inform the granting or contracting agency of such violation within ten days of the University's receipt of notification.

To maintain a safe and drug-free environment, University of Tennessee campuses, institutes, and hospitals may establish procedures to perform screenings for controlled substances and alcohol within areas or positions of employment that affect the public welfare or safety, or where such screenings are required by Federal regulations. Each University of Tennessee unit wishing to conduct such screenings shall develop and document the necessary screening procedures. The procedures shall identify specifically the positions and locations that will require testing, the conditions under which the screenings will be conducted, and the specific plans for conducting the tests. Before implementation, all plans and procedures for such screenings must be approved by the Vice President for Business and Finance and the General Counsel. Costs of all required screenings will be borne by the individual campus or unit of The University of Tennessee. In addition to the above, screenings are permissible where there is reasonable suspicion of drug or alcohol use.

#### **4.2.5. Personnel Files and Release of Information**

The University shall maintain official personnel files on every employee. Under state law, personnel records are considered public records and may be inspected or copied by any citizen of Tennessee during business hours, in accordance with reasonable rules of the office having custody of such records. The Academic Personnel Office can provide information to faculty about records maintained about them and can permit them, upon request, to review the material. (For a list of documents that must be included in personnel files, see [Personnel Policy and Procedures Manual](#); Section 130.)

#### **4.3.1. General and Special Appeals Procedure**

The faculty member is entitled to a fair, impartial and honest resolution of problems which may arise in relation

to employment. Accordingly, the University subscribes to certain principles and follows certain practices which ensure that such resolutions occur judiciously and within a reasonable period of time.

Complaints or grievances should be clarified at the earliest possible time and at the administrative level closest to the locus of the complaint. Every effort should be made to resolve such matters informally by conversation with the department head or dean/director before bringing them into written form.

#### **4.3.2. Appeal through Administrative Channels**

Equitable resolution of most complaints is likely to be achieved through the usual administrative channels. Any faculty member may initiate an appeal in writing with the officer responsible for their administrative unit. If resolution of the problem is not achieved, the faculty member may request review at successively higher administrative levels through the dean/director, Provost, Chancellor, and President.

#### **4.3.3. Appeal through Faculty Administrative Relations Committee and Other Appeals Procedures**

*Purpose:* The Faculty Administrative Relations Committee serves in two capacities: (1) advisory, and (2) investigatory. The committee functions in times of personal or professional difficulties among faculty members and administrators when the normal communications lines are not functioning to the satisfaction of any party involved. Grievances, including matters such as academic freedom, tenure, dismissal, suspension, promotion, salary, teaching duties, employment conditions and failure to meet personal and professional responsibilities may originate from either members of the faculty or administration.

**Procedure: (1) Advisory.** Any member of the faculty or administration may consult with the committee or any of its members at any time to seek advice and/or help with the proper procedure to follow in order to resolve a grievance. The meeting may be on an informal basis at the option of the aggrieved party. Such meetings are strictly between the persons involved, and no notification of such meetings to any other party is necessary. ONLY the regular membership of three faculty members is involved in this advisory capacity and constitutes a quorum. If a member (or members) of the committee has reason to be recused, replacements will be made from past chairs of the committee, starting with the most recent and proceeding in that order until a quorum of three (3) is formed. This will then become the regular membership of the committee for further proceedings in the matter.

**Procedure: (2) Investigatory.** Normal communication channels through department heads, deans/directors and the Provost must be used whenever possible. The campus administrative appeal phase through the Provost level must

be completed before the investigatory phase begins. When such channels have been exhausted and the grievance still exists, the grievance shall be submitted to the committee chair in writing. The committee, having determined that normal channels have indeed been exhausted, will initiate an investigation and will notify the Chancellor and all other parties who may become involved. Deliberations on individual cases are confidential. Reports of the findings of the committee will be given to the person requesting the investigation and to the Chancellor, who may distribute it through the various levels of administration as deemed necessary. Ultimate responsibility for the disposal of all cases of an investigatory nature resides with the Chancellor who shall be provided with recommendations from the Faculty Administrative Relations Committee. The regular membership of three faculty members is involved in this investigatory capacity in all situations *except* academic freedom, tenure or dismissal or suspension of a faculty member with a special or probationary term before the end of the specified term. In those cases, the special membership (as described below) becomes involved. An annual report of the activities of the committee will be given to the Faculty Senate.

**Membership: 1) Regular.** The committee shall consist of three (3) full-time members of the faculty, one of whom is elected each year for a three-year term. Qualifications include at least one year's service at UTC, rank of assistant professor or higher, and at least three years to retirement. Election is held at the first faculty meeting in the fall. The member serving a third year on the committee serves as chair. If for any reason the third year member is not able to serve, the chair will be filled by a past chair of the committee, first inviting the most recent past chair and proceeding in that order until a replacement is made.

**Membership: 2) Special.** If the grievance concerns academic freedom, tenure, suspension or dismissal, the Faculty Administrative Relations Committee membership will be expanded to include an Associate Provost designated by the Provost, and these four (4) members will constitute its quorum. Such grievances involving tenure would include non-reappointment, dismissal or suspension of a faculty member with a special or probationary term before the end of the specified term, or a notice of non-reappointment that is alleged to constitute a violation of academic freedom.

#### 4.3.4. Special Appeal Procedures

Certain special procedures are provided in cases involving (1) allegations of discrimination due to race, sex, religion, national origin, age, disability or veteran status; (2) termination or suspension of a non-tenured faculty member for adequate cause prior to the expiration of the term of appointment or without the minimum advance notice specified for non-appointment of probationary faculty (see Chapter 3); (3) allegation that the non-renewal of appointment of a probationary faculty member (see

Chapter 3) constitutes a violation of academic freedom; and (4) financial exigency (see Chapter 3).

- 1. Allegations of discrimination** on the basis of race, sex, national origin, religion, age, disability or veteran status are brought and investigated in accord with procedures described in the UTC Affirmative Action Plan. Copies of the plan are available in the office of the Affirmative Action Officer.
- 2. If a probationary faculty member** is suspended or dismissed before the stipulated term of appointment (see "Kinds of Appointment," Chapter 3) has been completed or without the minimum advance notice specified for termination of probationary faculty in Chapter 3, such action will be preceded by a notification by the Chancellor in writing. The faculty member may appeal this decision by following the procedures outlined in 4.3.3. or may elect to follow the appeal procedures outlined in the Tennessee Administrative Procedures Act (Tennessee Code Annotated SS4--5-301). Dismissal or suspension of this kind must be for "adequate cause" and the burden of proof is on the University. The faculty member must notify the Chancellor in writing of the desire to appeal within ten days after receipt of the University's intention to dismiss or suspend.
- 3. Allegations that the non-renewal** of an appointment of a probationary faculty member constitutes a violation of academic freedom are handled through the procedures listed above, except that the Chancellor is obliged to ask the Faculty Administrative Relations Committee to review the matter solely to determine whether the notice of non-renewal establishes a violation of academic freedom. The expanded membership of the Faculty Administrative Relations Committee will participate in such reviews. The burden of proof that non-renewal constitutes a violation of academic freedom is on the faculty member.
- 4. In the event of financial exigency** or a major program discontinuation, a Faculty Hearing Committee shall consist of the Provost, appropriate academic dean or director and five faculty members elected by the faculty. The Provost shall chair the committee. Any faculty member receiving a notice of termination has the right to appeal their selection for termination. The Hearing Committee shall ensure a prompt and expeditious hearing that is fair and unbiased although procedural requirements of formal adjudication shall not be required. The Hearing Committee shall evaluate whether established procedures were followed and appropriate criteria applied in arriving at the decision to terminate. The Hearing Committee shall not review the decision concerning the discontinuance of the major program, the declaration of the financial exigency or the decisions allocating necessary funding reductions. A

recommendation will be sent from the Hearing Committee to the Chancellor to uphold or reverse the action of termination and the Chancellor shall announce a final decision.

Should the special appeals procedure not yield satisfaction, the individual has the right to further appeal through the Faculty Administrative Relations Committee if it has not previously been involved in the case.