

THE ACADEMIC CHARTER

OF



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ACADEMIC CHARTER

PREAMBLE

The Academic Charter of Drake University provides the framework for academic governance within the University. It affirms the centrality of the search for knowledge, and assures that the freedom to teach, to learn, and to conduct inquiry will always be distinguishing features of Drake.

The University's Board of Trustees and administrative officers recognize that freedom of expression and constructive criticism are vital to the preservation of the academic environment of Drake University. Faculty, students, and administrators enjoying such freedoms bear the responsibility to support and enhance a free academic community.

Clearly defined and established channels of communication within the University are essential, and all members of the institution share an obligation to use these channels to ensure a governing structure based on principles rather than upon people. At the same time, it is critical to bear in mind that the structure exists to facilitate communication, not impede it. Our interaction at all levels must be characterized by responsiveness, mutual respect, openness, and trust.

The Academic Charter provides a means to address and respond to the legitimate concerns of students, faculty, administrators, and governing board members. It protects and perpetuates the values and traditions of Drake as a vital independent university of the highest order. It affirms and strengthens the bond of trust among University members in the conduct of academic governance and in the development and implementation of policy.

ACADEMIC CHARTER

PREFACE

Historically, the governing board, the administration, and the faculty of Drake University have cooperatively developed and reached consensus on the policies and procedures required to carry out the mission of the University. Most of the policies and procedures governing the University were included in the Bylaws of Drake University (1970) as amended, the Rules and Regulations of the Bylaws as amended, or the Faculty Manual (1971) as amended.

The revision of the Bylaws of Drake University by the Board of Trustees in October, 1987, the elimination of the Rules and Regulations of the Bylaws from the 1987 Bylaws, and the obsolete nature of the 1971 Faculty Manual, provided an opportunity to reexamine and reconstitute many of the policies and procedures of the University. The Academic Charter is a product of that opportunity.

The Academic Charter is a collection of policies and procedures concerned with academic freedom, tenure, and the role of the faculty in the governance of Drake University. The Academic Charter will be in effect upon approval of the Faculty Senate, the President of the University, and the Board of Trustees.

ACADEMIC CHARTER

I. Faculty

A. Faculty of Instruction. The Faculty of Instruction shall include full-time University personnel engaged in teaching and research having the rank of Instructor, Assistant Professor, Associate Professor or Professor and not primarily engaged in administration.

B. General Faculty. The General Faculty shall include the Faculty of Instruction, Administrative Officers and the Administrative Staff of the University. The President of the University is the Chair of the General Faculty. In the absence of the President, the Provost shall be the presiding officer of the General Faculty.

1. General Faculty Meetings. General Faculty Meetings may be called by the President of the University. The President shall also call a special meeting upon the written petition of 30 members of the General Faculty, specifying the agenda to be considered. For all meetings of the General Faculty a quorum shall be one-third of the membership.

2. The agenda of the General Faculty Meetings may include matters specified by the President of the University, a report on the financial affairs and fiscal condition of the University at the end of the academic year last concluded, the budget for the current academic year and financial plans projected for the following academic year, and matters referred to the General Faculty by the Faculty Senate or by the Board of Trustees.

3. Meetings of the General Faculty shall be conducted according to Robert's Rules of Order, Newly Revised, or such rules as may be established by the General Faculty. Matters not included in the agenda shall be considered with the provision that the Chair may order such matters postponed until the next meeting of the General Faculty. If the Chair of the General Faculty shall order a new matter postponed, the Chair shall call a special meeting of the General Faculty to consider the matter within thirty days, unless the period is extended by a two-thirds vote.

4. An individual designated by the President of the University keeps and retains minutes of the General Faculty meeting. Copies of the minutes shall be sent to the members of the General Faculty and the Board of Trustees.

5. The General Faculty may refer matters concerning academic policy to the Faculty Senate, and such matters shall be placed on the Senate agenda for its next meeting.

II. Academic Rank, Appointment and Title

A. Ranks. The regular faculty ranks at Drake University are: Instructor, Assistant Professor, Associate Professor, and Professor.

B. Full-Time Appointments: Full-time appointment to the rank of instructor or higher will be (1) appointment with continuous tenure; (2) probationary (tenure-track) appointment; during the probationary period the appointment notification will contain a statement of the year in which the faculty member will be eligible for tenure; (3) consecutive term appointment; appointed with no restriction on the number of terms that may be served; faculty on consecutive term appointment are not eligible for tenure, (4)

defined term appointment; appointed for no more than three years and will carry the title of "visiting," or (5) reappointment of retired faculty on special conditions.

C. Other Appointments and Titles

1. Professors Emeriti. The title "Emeritus" will be accorded automatically to faculty members who retire after ten or more years of service to the University. The Faculty Senate may recommend the conferral of "Emeritus" upon any retired member of the faculty.

2. University Fellows. Nationally prominent scholars who contemplate a continuing relationship with Drake may be honored with the title "University Fellow." This relationship will normally be consultative and without compensation, although it is possible that a Fellow might also be asked to teach part-time for compensation. The candidate for this position must bring distinction to the department and to the college of appointment; must have demonstrated specialized competence which would enrich both students and faculty in the department of appointment; and should be available for intermittent residence on the campus, sharing research, teaching, and consultative competence.

a. The appointment shall be renewed annually, subject to continuation by mutual agreement. This title will be granted upon the request of a college faculty, conveyed by the Dean, approved by the Provost, and subsequently by the President and the Board of Trustees. The number of Fellows in each college will be flexible according to the desires of the approving bodies. There shall be no stipend incidental to the appointment.

b. University Fellows will be entitled to faculty discounts on tickets for concerts, plays, athletic contests, and other special events.

3. Distinguished Lecturers. Outstanding individuals in the community who agree to teach may be considered for appointment as "Distinguished Lecturer". This title will be granted upon the request of a college faculty and approved by the Dean, the Provost, and subsequently by the President and the Board of Trustees. Distinguished Lecturers will not be eligible for tenure. Distinguished Lecturers and University Fellows shall be governed by the same principles with the following exceptions:

a. Distinguished Lecturers will normally be assigned a specific task for a specific period of time.

b. Distinguished Lecturers may receive compensation for the completion of a specific assignment.

4. Adjunct Professors. Individuals who teach part-time may be considered for appointment to the appropriate rank of "Adjunct Instructor," "Adjunct Assistant," "Adjunct Associate," or "Adjunct Professor." This title will be granted upon the request of a department, school or college faculty and approved by the Dean.

a. Adjunct Professors will normally be assigned a specific task for a specific period of time.

b. Adjunct Professors will not be eligible for tenure.

c. Adjunct Professors may receive compensation for the completion of a specific assignment.

5. Except for administrative officers in positions normally carrying academic rank, full-time employees who teach part-time will be appointed *University* Lecturers and be ineligible for promotion or tenure. Part-time is here defined as being involved less than half-time in teaching and/or scholarly investigation.

6. Full-time employees who have been in the past appointed to an academic rank may be eligible for promotion in accord with normal procedures of their Department and College.

D. No persons shall be appointed to a college or departmental faculty without the express recommendations of the faculty governing body or bodies having jurisdiction over appointment, retention and tenure.

E. The terms and conditions of every appointment to the faculty will be stated in writing to the faculty member.

III. Academic Freedom

A. Faculty members are free to conduct their classes in their own manner, commensurate with the highest standards of the teaching profession. Every effort should, of course, be made to keep uppermost the learning goals of the course and the general objectives of the Mission of the University as articulated in its mission documents. Faculty members are free to engage in research and publication of their own choosing, subject to fulfillment of their University commitments.

B. Faculty members writing or speaking as citizens are free to express themselves without censorship by the University. As educational representatives of the University, however, they have the positive duty of being accurate, exercising appropriate restraint, showing respect for the opinions of others, and making every effort to clarify that they are not speaking for the University.

C. Nothing contained in the Bylaws or the Academic Charter shall relieve a member of the teaching faculty of primary responsibility for the academic quality of educational offerings of the colleges of Drake University nor diminish faculty authority in that connection.

D. No faculty member will be suspended from performance of duties except for grave cause. See Section VII Dismissal of Tenured Faculty Members.

IV. Academic Tenure

A. Academic freedom is essential to establish and maintain the University as a center of learning. Tenure providing a reasonable degree of social and economic security is essential to protect academic freedom. Continuing the established tradition of Drake University affirmed by the Bylaws adopted May 24, 1952, and again by the Bylaws adopted May 23, 1970, the 1982 (with a footnote added in 1990) Recommended Institutional Regulations of Academic Freedom and Tenure of the American Association of University Professors are adopted as the minimum standards of Drake University. Other tenure and faculty personnel regulations that have been recommended as standards by the American Association of University Professors and which were adopted by these Bylaws in 1970 remain in effect. Any change in these standards which may be approved by the American Association of University Professors after 1990 shall become effective only upon adoption

by the Board of Trustees of Drake University. Subject to these standards, changes in policies and procedures relating to faculty personnel may be provided in the Academic Charter or Faculty Manual. See appendices A, B, C, D, E, and F.

B. The appointment and reappointment of and the granting of continuing tenure to members of the Faculty of Instruction in their discipline shall be based on the candidate's merit and the educational needs and resources of the University. The faculty of each college shall establish procedures for faculty participation in faculty appointment, reappointment, and the granting of continuing tenure. Pursuant to such procedures, the Dean of each college shall make faculty personnel recommendations to the Provost, who shall in turn make recommendations to the President of the University for action and submission to the Board of Trustees.

V. Conditions of Academic Tenure

A. The term "Academic Tenure" means employment by the University to the time of retirement except for cause as outlined below.

B. Persons holding faculty rank without a college appointment and not having tenure may be absorbed, if financially feasible, into the Faculty of Instruction upon termination of their administrative or staff appointment, when such opportunity is requested, in a role consistent with competence and the curricular needs of the University. After such appointment, tenure may be acquired in the ordinary course.

C. An administrative officer or administrative staff member having tenure as a member of the faculty may return to the Faculty of Instruction at the termination of the individual's administrative appointment. When tenured faculty/administrators return to the teaching faculty, their compensation should generally be commensurate with the salaries of their faculty peers (but should not be related to their salaries as administrators).

D. Limitations for Academic Tenure. The total period of full-time service prior to the acquisition of continuous tenure will not exceed seven years, including all previous full-time service with the rank of instructor or higher in other institutions of higher learning (except that the probationary period may extend to as much as four years, even if the total full-time service in the profession thereby exceeds seven years; the term of such extension will be stated in writing at the time of initial appointment). Normally, at least four years of service at Drake will be required prior to granting tenure, except with special approval of the Board of Trustees.

E. Time spent on leave of absence will count as probationary period service unless the individual, the department, the Dean, the Provost, and the President of the University agree to the contrary at the time leave is granted.

F. If the condition of employment is changed from "visiting" or "consecutive term" to one of a probationary appointment, up to four years of the time served in a "visiting" or "consecutive term" capacity shall be considered as part of the probationary period.

G. Tenure Clock Extensions

1. Eligibility for Tenure Clock Extensions

- a. A non-tenured member of the faculty in a tenure track position shall be eligible, upon request, for a one-year extension of the tenure probationary period due to the

occurrence of a life event (as defined below) that can reasonably be expected to markedly delay progress toward tenure. Any such request must be made within a year of the beginning of the life event. Such an extension of the tenure probationary period shall be available whether or not the faculty member applies for or receives a leave of absence due to such a life event.

b. A faculty member ordinarily will not be eligible for more than one, one-year extension. In exceptional and unusual circumstances, a second, one-year extension for a second life event or for the same life event may be considered at the discretion of the Dean of the faculty member's college, but will only be granted with the approval of the Provost.

c. A faculty member who receives such an extension has the right to choose later to waive the tenure extension and come up for tenure at the normal six-year point, not including the tenure clock stoppage.

d. A tenure-track faculty member who has been granted such an extension shall be reviewed for tenure under the same academic standards as candidates for tenure who have not received such extensions.

2. Defining Terms

a. Life events automatically qualifying a faculty member for an extension are:

- 1). the birth of a child into the faculty member's household,
- 2). the adoption or fostering of a child under the age of five into the faculty member's household, and
- 3) active duty military service or obligations expected to extend for a substantial portion of a semester

b. A faculty member also will qualify for an extension upon a finding by the Dean of the faculty member's college that a life event not specified in B(1) can reasonably be expected to markedly delay progress toward tenure. Such other life events include, but are not limited to:

- 1) the adoption or fostering of a child, requiring special care, who is over the age of five.
- 2) the faculty member who has suffered a serious health condition that is expected to persist for a substantial portion of a semester,
- 3) the faculty member who is required to act as the primary caregiver for a substantial portion of a semester for a parent, child, spouse, or domestic partner suffering serious health conditions,
- 4) the faculty member has suffered catastrophic residential property loss.

3. Application Process

Application for such extensions shall be made to the Dean of the college in which the faculty member is appointed. To supply supporting information, the faculty member may refer the Dean to the Office of Human Resources to access information already on file in that office or the faculty member may choose to supply such information directly to the Dean. The Dean may request additional information for life events as outlined in Section B(2) above and a statement of the anticipated effect on progress toward tenure. Decisions about whether a life event, as outlined in Section B (2) above, qualifies a faculty member for an extension shall be made by the Provost, upon recommendation of the Dean.

VI. Recommendation for Academic Tenure

A. The faculty of each college shall form a faculty committee on tenure from among its tenured faculty to serve as advisors to the dean on these matters.

B. Recommendations shall be based on the candidate's merit and the educational needs and resources of the University. Teaching effectiveness, research and scholarly activities, publications and other creative works, recognized leadership in the field, service and contribution to the University, and service to the community are the criteria for determining the candidate's merit for academic tenure.

C. Based on recommendations from the appropriate committee and his/her own evaluations, the dean of each academic unit shall arrive at a decision to recommend or to deny tenure. If the dean determines that the candidate does merit tenure, s/he shall forward the recommendation and support materials to the Provost who shall in turn make a recommendation to the President of the University. The President shall then submit recommendations to the Board of Trustees for action. If the dean determines that the candidate does not merit tenure the dean shall inform the candidate of that decision.

D. A faculty member receiving a negative tenure recommendation from the recommending committee within his/her academic unit shall have recourse to appeal procedures as defined in the academic unit's tenure guidelines.

A faculty member may appeal a dean's negative tenure decision to the provost. That appeal must be submitted within two (2) weeks of notification of the decision by the dean. The provost's review will focus on issues such as violation of stated procedures, inadequate consideration, and violation of fundamental fairness. The provost will not reevaluate the quality of the faculty member's work. In case of tenure denial at the university level the faculty member may pursue university appeals procedure as described in Section VIII.

E. A candidate for the office of President, Provost, or Dean of a School or College who has earned and been granted tenure as a faculty member in an academic department of an accredited college or university, may be granted tenure subject to the following conditions:

1. The department and college involved have reviewed the candidate's academic credentials and have recommended acceptance of the candidate as a tenured member of the department.
2. Section V (C) of the Academic Charter shall apply in determining salary upon return to regular faculty status. Salary so determined shall be paid from general university funds and shall not be included in the budget of nor charged against the academic department.
3. The faculty position held by the returning administrator shall be a regular position in the appropriate department but shall not be counted as a factor in determining the size of the department for purposes relating to the release or tenuring of other members of the department.

VII. Dismissal of Tenured Faculty Members

A. Tenured members of the faculty shall be dismissed only for one or more of the following causes:

1. Incompetence;
2. Moral turpitude;
3. Persistent inattention to duties;
4. Intransigent refusal to conform to University processes or policy where such behavior places the University at risk;
5. A declaration of a *bona fide* financial exigency of the University.
6. Discontinuance of a college, school, program or department of instruction.

B. In cases of dismissal of tenured faculty members for cause, as stated above, Drake University adheres to the AAUP procedural standards for dismissal, as described in Appendix C, pages 22 through 26.

C. Dismissal of Tenured Faculty Under Conditions of a Bona Fide Financial Exigency

1. *Bona fide* financial exigency is defined as a critical financial condition of the University as a whole, such that a failure to dismiss tenured faculty members would threaten the welfare of the University.
2. Under the conditions of a *bona fide* financial exigency, preserving the life of the University and protecting the welfare of the students and the remaining faculty shall be the fundamental policy objective in decisions concerning dismissal or retention of faculty. Consistent with this broad policy, decisions concerning the dismissal of tenured faculty will be governed by the following principles:
 - a. Except as essential to maintain programs, nontenured faculty will be released prior to the dismissal of any tenured faculty.
 - b. Except as essential to maintain programs at the highest quality level consistent with the current faculty available at Drake University, tenured faculty will be released in inverse order of seniority defined as length of service to the University.
3. The faculty member concerned will be given written notice no less than one year in advance or salary in lieu thereof.
4. Both prior to initiating dismissal proceedings and thereafter the University will make every reasonable effort to place the faculty member in another suitable position.
5. The released faculty member's place will not be filled by a replacement within a period of three years unless the released faculty member has been offered reappointment and a reasonable time within which to decline it.
6. Educational benefits held by a dismissed faculty member under the Faculty Manual shall continue for the living dependents of a dismissed faculty member unless comparable benefits are acquired as incidents of a subsequent position. Educational benefits shall be acquired in accordance of the Faculty Manual.

7. For purposes of retraining, a dismissed faculty member may pursue without charge a degree program or other approved program of study at Drake University for which he/she enrolls within one year following dismissal.

D. Discontinuance of a College, School, Program, or Department of Instruction. Where termination of an appointment with continuous tenure is based upon discontinuance of a college, school, program, or department of instruction the following standards and procedures will apply:

1. The decision to discontinue a college, school, program, or department of instruction will be based solely upon educational considerations as determined by the faculty, administration, and governing board of the University. "Educational considerations" do not include cyclical or temporary variations in enrollment. They must reflect long-range judgments that the educational mission of the institution as a whole will be enhanced by the discontinuance. A college of the University may be terminated by the concurrent agreement of the Faculty Senate, the President of the University, and the Board of Trustees. Degree programs may be terminated by the concurrent agreement of the faculty concerned, the President of the University, and the Board of Trustees; or, by the concurrent agreement of the Faculty Senate, the President of the University, and the Board of Trustees.

2. Before the administration issues notice to a tenured faculty member of its intention to terminate an appointment because of discontinuance of a college, school, program, or department of instruction, the University will make every effort to place the faculty member concerned 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 institution, with or without retraining, the faculty member's appointment then may be terminated with written notice of termination given not less than one year in advance or salary in lieu thereof.

3. Dismissal of a faculty member who has tenure on the grounds of discontinuance of a college, school, program, or department of instruction shall be initiated by a formal statement in writing to the faculty member by the President of the University. This letter shall contain a statement of the factual data showing the need for discontinuance and the necessary relationship between the discontinuance and the dismissal of the faculty member. In all other respects procedure will be the same as in any other dismissal case.

4. The faculty member concerned will be given written notice no less than one year in advance or salary in lieu thereof.

5. Both prior to initiating dismissal proceedings and thereafter the University will make every reasonable effort to place the faculty member in another suitable position.

6. The released faculty member's place will not be filled by a replacement within a period of three years unless the released faculty member has been offered reappointment and a reasonable time within which to decline it.

7. Educational benefits held by a dismissed faculty member under the Faculty Manual shall continue for the living dependents of a dismissed faculty member unless comparable benefits are acquired as incidents of a subsequent position. Educational benefits shall be acquired in accordance of the Faculty Manual.

8. For purposes of retraining, a dismissed faculty member may pursue without charge a degree program or other approved program of study at Drake University for which he/she enrolls within one year following dismissal.

VIII. Standing Committee on Academic Freedom and Tenure

A. There shall be a Standing Committee of the Faculty Senate on Academic Freedom and Tenure elected by the Executive Committee of the Faculty Senate. The Committee *shall* have seven regular members and seven alternates. Members of the Committee and alternates shall be members of the Faculty of Instruction with tenure. The principle of broad representation shall be honored. The Chair shall be elected by the Committee. Alternates shall be called to serve on the Committee in the order of preference provided by the electing authority. Committee members and alternates, except those elected for short terms to fill vacancies and first elected, shall serve three-year terms. The terms of office shall be staggered on a basis of three-two-two with annual election.

B. The Committee shall function as a standing committee of the Senate in matters pertaining to procedures or policies relating to academic freedom or to tenure, provided the Committee shall make no recommendations or reports to the Senate concerning a matter being heard by the Committee.

C. The Committee shall be the adjudicatory body for cases and controversies relating to academic freedom or to tenure which are not resolved through informal procedures or through regular administrative channels. In cases involving tenured faculty, and in all cases involving allegations of academic freedom violations or dismissal of a faculty member whose term appointment has not expired, subject to review by the Board of Trustees, decisions of the Committee shall be final. In cases involving probationary faculty where allegations of inadequate consideration (as described in the Statement on Procedural Standards in the Renewal or Nonrenewal of Faculty Appointments as stated in the AAUP Policy Documents & Reports, 1984) or violations of fundamental fairness are raised, the Committee shall report its finding to the President, and if the committee finds substantial procedural error or serious questions of fairness, recommend the appropriate remedial action. If the President rejects the Committee's recommendation, he/she shall state the reasons for doing so and his/her subsequent judgment and action in the case, in writing, to the hearing committee and to the faculty member. The President shall also report to the Faculty Senate that he/she has received and rejected a recommendation from the Committee. The Faculty member shall have the right to appeal the President's decision to the Board of Trustees. The Committee shall not participate in preliminary proceedings or in the development or presentation of any case, and members of the committee should exercise caution to avoid sitting in any case in which they have an immediate interest.

D. The Committee may appoint a lawyer to act as its counsel, the cost being borne by the University.

E. Dismissal of Tenured Faculty. See Appendices A, B, C, D, E, F.

IX. Promotion in Rank

A. The faculty of each college shall form a faculty committee on promotion to serve as advisors to the dean on these matters.

B. Recommendations shall be based on the candidate's merit. Teaching effectiveness, research and scholarly activities, publications and other creative works, recognized leadership in the field, service and contribution to the University, and service to the community are the criteria for determining the candidate's merit for promotion.

C. Based on recommendations from the appropriate committee and his/her own evaluations, the dean of each academic unit shall make recommendations for promotion to the Provost who shall in turn make recommendations to the President of the University. The President shall then submit recommendations to the Board of Trustees for action.

D. A candidate for the office of President, Provost, or Dean of a School or College who has earned and been granted academic rank as a faculty member in an academic department of an accredited college or university, may be granted academic rank subject to the following conditions:

1. The department and college involved have reviewed the candidate's academic credentials and have recommended acceptance of the candidate as a ranked member of the department.
2. Section V (C) of the Academic Charter shall apply in determining salary upon return to regular faculty status. Salary so determined shall be paid from general university funds and shall not be included in the budget of nor charged against the academic department.
3. The faculty position held by the returning administrator shall be a regular position in the appropriate department but shall not be counted as a factor in determining the size of the department for purposes relating to the release or tenuring of other members of the department.

X. Governance

The general outlines for the governance structure of Drake University were established by the University's Articles of Incorporation, and the basic structure has undergone periodic changes, the latest of which are incorporated in the University Bylaws. The Officers of the University, the Board of Trustees, are as prescribed by the Bylaws.

XI. The President of the University

A. The President of the University shall be the Chief Executive Officer of the University and the official adviser to and executive agent of the Board of Trustees. The President shall, as educational and administrative head of the University, bring such matters to the attention of the Board of Trustees as are appropriate to keep the Board of Trustees fully informed in meeting its policy-making responsibilities. Furthermore, the President shall have power, on behalf of the Trustees, to perform all acts and execute all documents to make effective the actions of the Board of Trustees or its Executive Committee.

B. The President shall appoint Vice Presidents, Deans and administrative officers responsible for the operation of the University and the conduct of academic programs, student life programs, business and financial affairs, and institutional advancement programs.

C. The President may establish experimental programs, centers, and institutes with the approval of the Board of Trustees. Curricular revision shall be within the discretion of the College or School faculty concerned, with the approval of the President.

D. Selection of a President of the University. The procedure for filling the office of President of the University shall be as follows:

1. Nomination: A Nominating Committee of the Board of Trustees shall be selected by the Board of Trustees according to the rules of the Board.

2. To assist the Board of Trustees there shall be the University Campus Committee which shall be constituted as follows:

a. Three members of the Senior Advisory Council who shall be selected by the Administrative Council, one of whom shall be a vice president of the University and one of whom shall be an Academic Dean.

b. Four members of the Faculty of Instruction who shall be elected by the Faculty of Instruction, one of whom shall be chair of this committee.

c. Two members from the student body who are full-time students of Drake University and who will be elected in a manner determined by the Student Senate.

d. One alumnus or alumna of the University.

3. The University Campus Committee shall seek nominations, compile information concerning all nominees, and consult with and function as an advisory group to the Nominating Committee of the Board of Trustees. The University Campus Committee shall constantly solicit the advice and counsel of the University community and report periodically to that community on the progress without violating confidences of candidates.

4. The University Campus Committee shall submit to the Nominating Committee the names of eminently qualified candidates with accompanying information in full.

5. In consultation with the University Campus Committee, the Nominating Committee shall take appropriate action to invite selected, qualified candidates to the campus for interviews with appropriate segments of the University which shall include meetings with members of the Board of Trustees, administrators, faculty, students, and alumni.

6. The Nominating Committee, after consultation with the University Campus Committee, shall recommend a candidate to the Board of Trustees.

E. Election shall be by the Board of Trustees.

F. Both committees shall be discharged on the election and acceptance of a President of the University.

XII. Selection of Vice Presidents and Provost of the University

A. The Provost & Vice Presidents of the University shall be appointed by the President with the advice and consent of the Board of Trustees upon the recommendation of a screening committee appointed by the President.

B. To the extent that the role of the Provost & Vice President to be selected is of special concern to alumni, students, trustees or faculty, representatives drawn from those groups should be included in the constituency of the screening committee.

XIII. Provost

A. The Provost serves as chief academic officer of the University. The Provost provides leadership to the Deans and Faculty for the quality and vitality of instruction, research, and scholarship in all undergraduate and graduate programs. The Provost also assists the President in coordinating the ongoing administrative operations of the University, and serves as the chief executive officer in the absence of the President.

B. The Provost provides institutional leadership for these actions: academic policymaking and implementation; academic personnel selection and evaluation including the awarding of promotion, tenure, and special professorships; and academic planning and budgeting. The Provost's office oversees the operations of Colleges and Schools, Cowles Library, all Academic Centers, all University-wide academic programs, all academic services and offices under the direction of the Deputy Provost, international programs, Office of Sponsored Programs, Institutional Research and other academic student and faculty support programs. The Provost maintains effective communication with the Faculty Senate and the Student Senate. The Provost participates in the presentation of academic needs and priorities to the governing board and external publics and constituents.

C. In the case of a search for and selection of the Provost, the President of the University will appoint a broadly based advisory search and screening committee, following consultation with the Faculty Senate Executive Committee and Council of Deans.

XIV. Organization of the Academic Staff

A. Colleges, Schools, Divisions, Departments. Drake University is composed of colleges and schools that consist of various departments and/or divisions. While serving as an integral part of the total University, each of these colleges and schools has its own programs and administration, and each has its own dean and faculty.

B. Organization of Colleges and Schools.

1. The several colleges and schools shall have the principal responsibility for execution of the instructional, research and other academic programs of the University.

2. The Dean of each college or school shall be the chief academic and administrative officer thereof. The Dean's appointment and evaluation shall be made with faculty and other participation as provided in Section XV of the Academic Charter. The Dean shall be responsible to the President through the Office of the Provost.

3. The Dean of each college or school shall, with the advice and consent of the college or school faculty, establish a governing body which shall be the chief legislative body of the college or school.
4. The authority of the faculty governing body shall extend to all academic affairs of the college or school, subject to provisions stated in the Bylaws and Academic Charter.
5. The educational purposes of the college or school shall determine student rights and responsibilities.
6. The Dean of each college or school shall publish and maintain a current handbook stating the philosophy, organization, and procedures of the college or school. A copy shall be given to each member of the college or school faculty and to each of the general administrative officers of the University.
7. Department chairs or other administrative college or school officers shall be appointed by the Dean following consultation with members of the department and related departments.
8. The Deans of the colleges or schools shall establish procedures for faculty participation in annual budgetary requests and for dissemination of appropriate financial information. In a manner provided by the colleges or schools, the faculty shall participate in the determination of college or school policies and procedures governing salary increases.

XV. Appointment of Deans

A. Selection of Academic Deans is the responsibility of the Provost, with the advice of and in consultation with the President and appropriate faculty, subject to the approval of the Board of Trustees. Selection of Academic Deans shall be based on the 'Primary Responsibilities of Deans of Drake University's Colleges' (Appendix I).

B. There shall be a search committee to identify and screen candidates that shall nominate qualified persons to the Provost. The committee shall cooperate and consult with the Provost. Interview procedures shall insure the communication of advice from appropriate faculty, students, and administrators.

C. The Search Committee shall consist of at least five members. The Faculty of Instruction of the college shall elect at least two of their number as members of the Search Committee. The Provost shall appoint other members of the Committee, which may include faculty, alumni, friends, students of the college, and faculty of other colleges. The Chair shall be a member of the instructional faculty appointed by the Provost.

D. With the advice of the Search Committee, the Provost shall appoint the Dean of each college, subject to confirmation by the Board of Trustees.

XVI. The Faculty Senate

A. The Faculty Senate shall be the chief legislative body within the University. It shall have the following powers in addition to those elsewhere specified:

1. To establish educational policy affecting the University as a whole.
2. To enact academic regulations of uniform application. The Faculty Senate shall exercise restraint not to intrude into the internal regulation of the Colleges of the University.
3. To recommend special actions to the President and to the Board of Trustees.
4. To establish policies concerning extracurricular activities supported by the University, in full consultation with the Student Senate.
5. To establish standing and ad hoc committees.
6. To establish rules for the Senate; *Robert's Rules of Order Newly Revised* shall govern the proceedings of the Senate unless otherwise provided.

B. The constitution of the Faculty Senate shall be determined as described in the Faculty Senate Rules and Regulations. There may be no more than 30 Senators and each academic unit will be represented by at least one senator. For the purposes of Faculty Senate elections as well as representation on the Senate Executive Committee, the Faculty of Instruction at Cowles Library shall be considered a college.

C. Senators will be elected to two-year terms, with one-half of the faculty representatives being elected each year. Senators can be elected to two consecutive terms, after which they will be ineligible for election for one year. Elected members will assume office the day following Spring Commencement of the year of their election. Vacancies may be filled as provided for by the Rules of the Faculty Senate.

D. The President of the University and the Provost shall be non-voting ex officio members of the Faculty Senate, and shall report to the Senate at each regularly scheduled meeting. If the President of the University suspends action of the Senate, the President shall provide a written statement within sixty days of the action setting forth the reasons and asking the Senate to reconsider. If the President of the University and the Senate do not reach agreement on the matter within forty-five days thereafter, it shall be submitted to the Board of Trustees by mutual agreement.

E. The Faculty Senate shall elect from among its members, a Vice-President who shall serve as President-Elect of the Senate.

F. Standing Committees of the Faculty Senate.

1. Academic Freedom and Tenure. See Article IX of this Academic Charter.

2. Executive Committee. The Committee will determine the constituency of all other committees and regulate the Senate agenda. This Committee will also establish operational procedures for the orderly conduct of the Senate's business and elections. It shall study and recommend to the Senate desired changes or amendments to the Bylaws of the University or to the Academic Charter. The Committee will also function as a faculty advisory board to the President of the University, the Provost and other administrative officers. The Executive Committee shall meet with the President in its advisory capacity once each month during the academic year and at additional times at the request of the President or the Executive Committee. The President of the Senate will serve as Chair of the Executive Committee and the president-elect serves as Vice- Chair. In addition to the president, one Senator from each college will be elected by members of the Senate to serve on the Executive Committee at the annual organizational meeting of the Senate.

3. Intercollegiate Athletics Council. The Council reports to the Senate and makes recommendations regarding policy and program. The Council shall give primary consideration to the educational goals of the University and benefits to students, both participants and spectators. Budgetary and personnel matters shall be the responsibility of the administrative officers of the University. The Council shall have jurisdiction over the scheduling of contests and the granting of awards.

The Council shall consist of six members of the Faculty of Instruction; the Faculty Representative for Intercollegiate Athletics; three students, two of whom may be participants in intercollegiate athletics; a member of the Student Life division, and an alumnus. Faculty members will be appointed to a three-year term renewable for one additional term. Ex-officio, non-voting members include the Director of Intercollegiate Athletics; an Associate Director of Intercollegiate Athletics; and the Director of Compliance. The Chair will be a faculty member who has served for at least two years on the Committee. The Council meets regularly once a month during the academic year and at other times upon the call of the Chair.

4. The Faculty Senate shall create other committees as it deems necessary.

G. An individual designated by the Provost of the University shall keep a record of the proceedings of the Faculty Senate and cause an abstract of the same to be transcribed and circulated in a manner prescribed by the Senate.

H. General files of the Faculty Senate and its officers shall be housed in an office designated for the purpose by the Provost.

I. No action taken by the Faculty Senate, the several faculties, or the General Faculty shall establish or modify the budget of the University. Fiscal implications should be considered in deliberations by the Faculty Senate of matters within its jurisdiction. The President and Board of Trustees shall determine budgetary action in light of established policies.

XVII. The Student Senate

A. The purpose of the Student Senate shall be to serve as the representative organization of the Drake University student body and to formulate and express the opinions, recommendations, and suggestions of the student body. The Student Senate shall

strive to develop a more desirable relationship among students and encourage quality student involvement in academic and extracurricular activities.

B. The Student Senate shall be constituted as follows:

1. The student body president who shall serve as chair.
2. At least 20 other members of the student body as specified in the Rules and Regulations of the Student Senate.

C. Elections for the Student Senate shall be held in the spring term in accordance with the Rules and Regulations of the Student Senate. Elected members shall serve one-year terms. Vacancies may be filled as provided in the Rules and Regulations of the Student Senate.

D. The powers committed herein to the Student Senate shall be exercised in conformity with the policies expressed in the Articles of Incorporation, the Bylaws of the University, and the Academic Charter. The Student Senate shall have the following powers in addition to those specified elsewhere:

1. To establish policies concerning student life consistent with the rules of Drake University.
2. To recommend special actions to the President and to the Board of Trustees.
3. To make recommendations to the Faculty Senate or to the appropriate administrative officials regarding educational policies or other student concerns.
4. To act as an ombudsman on behalf of the student body.
5. To recognize student organizations in accordance with procedures outlined in Appendix A of the Student Handbook.
6. To establish standing and *ad hoc* committees.
7. To establish rules for the Student Senate.

E. A quorum of the Student Senate shall be a majority of the membership.

F. No action taken by the Student Senate shall establish or modify the budget of the University. Fiscal implications should be considered in deliberations by the Student Senate of matters within their jurisdiction. The President and the Board of Trustees shall determine budgetary action in light of established policies.

G. The Secretary of the Student Senate shall keep a record of the proceedings of the Student Senate and cause an abstract of the same to be transcribed and circulated in a manner prescribed by the Senate.

H. General files of the Student Senate and its officers shall be housed in the office of the student body president.

XIII. Review and Amendment of the Academic Charter

Changes in The Academic Charter other than those relating to the Student Senate shall be enacted jointly by the Faculty Senate, the President of the University, and the Board of Trustees or by the Board of Trustees alone in the manner provided for amendment of the Bylaws of the University. When initiated by the Faculty Senate, a two-thirds majority of those present is required.

Changes in the Student Senate article of the Academic Charter may only be initiated by the Student Senate or by the Board of Trustees and approved by the Board of Trustees.

The *Academic Charter* was approved by the Faculty Senate on April 19, 1989, revised on March 11, 1992, April 16, 1997, February 21, 2001, December 12, 2001, May 8, 2002, May 3, 2006, March 11, 2009, October 20, 2010, March 9, 2011 and September 21, 2011. The Board of Trustees approved the language change for the April 16, 1997 Faculty Senate action on September 5, 1997, and the current document, which includes previous Senate and Board actions (e.g., Mission and Vision Statements, reporting structure in the provost's area, and dropping of the Graduate Coordinating Board) on November 1, 1997. Additional revisions were approved on June 24, 2006, April 25, 2009, April 29, 2011 and October 1, 2011.

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

In 1940, following a series of joint conferences begun in 1934, representatives of the American Association of University Professors and of the Association of American Colleges (now the Association of American Colleges and Universities) agreed upon a restatement of principles set forth in the 1925 Conference Statement on Academic Freedom and Tenure. This restatement is known to the profession as the 1940 Statement of Principles on Academic Freedom and Tenure.

The 1940 Statement is printed below followed by Interpretive Comments as developed by representatives of the American Association of University Professors and the Association of American Colleges in 1969. The governing bodies of the two associations, meeting respectively in November 1989 and January 1990, adapted several changes in language in order to remove gender-specific references from the original text.

The purpose of this statement is to promote public understanding and support of academic freedom and tenure and agreement upon procedures to ensure 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.¹ 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}²

Tenure is a means to certain ends; specifically: (1) freedom of teaching and research 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

1. 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.
2. 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]
3. College and 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

1. The word "teacher" as used in this document is understood to include the investigator who is attached to an academic institution without teaching duties.

2. Boldface numbers in brackets refer to Interpretive Comments that follow.



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]

Academic Tenure

After the expiration of a probationary period, teachers or investigators should have permanent or continuous tenure, and their service 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 ten-year 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 the 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.

1940 Interpretations

At the conference of representatives of the American Association of University Professors and of the Association of American Colleges on November 7-8, 1940, the following interpretations of the 1940 *Statement of Principles on Academic Freedom and Tenure* were agreed upon:

1. That its operation should not be retroactive.
2. That all tenure claims of teachers appointed prior to the endorsement should be determined in accordance with the principles set forth in the 1925 *Conference Statement on Academic Freedom and Tenure*.
3. If the administration of a college or university feels that a teacher has not observed the admonitions of paragraph 3 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 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.

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, may be found in AAUP, *Policy Documents and Reports*, 10th ed. [Washington, D.C., 2006], 171-72.)
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 3 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 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 3 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*, 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 5 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 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.

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.³
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.'
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.

3. For a discussion of this question, see the "Report of the Special Committee on Academic Personnel Ineligible for Tenure," *Policy Documents and Reports*, 9th ed. (Washington, D.C., 2001), 88-91.

4. For a more detailed statement on this question, see "On Crediting Prior Service Elsewhere as Part of the Probationary Period," *Policy Documents and Reports*, 10th ed. (Washington, D.C., 2006), 55-56.



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.

Endorsers

Association of American Colleges and Universities	.....	1941
American Association of University Professors	.....	1941
American Library Association (adapted for librarians)	.....	1946
Association of American Law Schools	.....	1946
American Political Science Association	.....	1947
American Association of Colleges for Teacher Education	.....	1950
American Association for Higher Education	.....	1950
Eastern Psychological Association	.....	1950
Southern Society for Philosophy and Psychology	.....	1953





American Psychological Association	1961
American Historical Association	1961
Modern Language Association of America	1962
American Economic Association	1962
American Agricultural Economics Association	1962
Midwest Sociological Society	1963
Organization of American Historians ..	1963
American Philological Association	1963
American Council of Learned Societies	1963
Speech Communication Association	1963
American Sociological Association	1963
Southern Historical Association	1963
American Studies Association	1963
Association of American Geographers ..	1963
Southern Economic Association	1963
Classical Association of the Middle West and South	1964
Southwestern Social Science Association	1964
Archaeological Institute of America	1964
Southern Management Association	1964
American Theatre Association	1964
South Central Modern Language Association	1964
Southwestern Philosophical Society	1964
Council of Independent Colleges	1965
Mathematical Association of America	1965
Arizona-Nevada Academy of Science	1965
American Risk and Insurance Association	1965
Academy of Management	1965
American Catholic Historical Association	1966
American Catholic Philosophical Association	1966
Association for Education in Journalism and Mass Communication	1966
Western History Association	1966
Mountain-Plains Philosophical Conference	1966
Society of American Archivists	1966
Southeastern Psychological Association	1966
Southern Speech Communication Association	1966
American Association for the Advancement of Slavic Studies	1967
American Mathematical Society	1967
College Theology Society	1967
Council on Social Work Education	1967
American Association of Colleges of Pharmacy	1967
American Academy of Religion	1967
Association for the Sociology of Religion	1967
American Society of Journalism School Administrators	1967
John Dewey Society	1967
South Atlantic Modern Language Association	1967
American Finance Association	1967
Association for Social Economics	1967
Phi Beta Kappa Society	1968
American Society of Christian Ethics	1968
American Association of Teachers of French	1968
Eastern Finance Association	1968
American Association for Chinese Studies	1968
American Society of Plant Physiologists	1968
University Film and Video Association ..	1968
American Dialect Society ..	1968



American Speech-Language-Hearing Association	1968
Association of Social and Behavioral Scientists	1968
College English Association	1968
National College Physical Education Association for Men	1969
American Real Estate and Urban Economics Association	1969
History of Education Society	1969
Council for Philosophical Studies	1969
American Musicological Society	1969
American Association of Teachers of Spanish and Portuguese	1969
Texas Community College Teachers Association	1970
College Art Association of America	1970
Society of Professors of Education	1970
American Anthropological Association	1970
Association of Theological Schools	1970
Association of Schools of Journalism and Mass Communication	1971
American Business Law Association	1971
American Council for the Arts	1972
New York State Mathematics Association of Two-Year Colleges	1972
College Language Association	1973
Pennsylvania Historical Association	1973
Massachusetts Regional Community College Faculty Association	1973
American Philosophical Association ⁵	1974
American Classical League	1974
American Comparative Literature Association	1974
Rocky Mountain Modern Language Association	1974
Society of Architectural Historians	1975
American Statistical Association	1975
American Folklore Society	1975
Association for Asian Studies	1975
Linguistic Society of America	1975
African Studies Association	1975
American Institute of Biological Sciences	1975
North American Conference on British Studies	1975
Sixteenth-Century Studies Conference	1975
Texas Association of College Teachers	1976
Society for Spanish and Portuguese Historical Studies	1976
Association for Jewish Studies	1976
Western Speech Communication Association	1976
Texas Association of Colleges for Teacher Education	1977
Metaphysical Society of America	1977
American Chemical Society	1977
Texas Library Association	1977
American Society for Legal History	1977
Iowa Higher Education Association	1977
American Physical Therapy Association	1979
North Central Sociological Association	1980
Dante Society of America	1980
National Communication Association	1981
American Association of Physics Teachers	1982
Middle East Studies Association	1982

5. Endorsed by the association's Western Division in 1952, Eastern Division in 1953, and Pacific Division in 1962.

National Education Association	1985
American Institute of Chemists	1985
American Association of Teachers of German	1985
American Association of Teachers of Italian	1985
American Association for Applied Linguistics	1986
American Association of Teachers of Slavic and East European Languages	1986
American Association for Cancer Education	1986
American Society of Church History	1986
Oral History Association	1987
Society for French Historical Studies	1987
History of Science Society	1987
American Association of Pharmaceutical Scientists	1988
American Association for Clinical Chemistry	1988
Council for Chemical Research	1988
Association for the Study of Higher Education	1988
Association for Psychological Science	1989
University and College Labor Education Association	1989
Society for Neuroscience	1989
Renaissance Society of America	1989
Society of Biblical Literature	1989
National Science Teachers Association	1989
Medieval Academy of America	1990
American Society of Agronomy	1990
Crop Science Society of America	1990
Soil Science Society of America	1990
International Society of Prosthetologists	1990
Society for Ethnomusicology	1990
American Association of Physicists in Medicine	1990
Animal Behavior Society	1990
Illinois Community College Faculty Association	1990
American Society for Theatre Research	1990
National Council of Teachers of English	1991
Latin American Studies Association	1992
Society for Cinema and Media Studies	1992
American Society for Eighteenth-Century Studies	1992
Council of Colleges of Arts and Sciences	1992
American Society for Aesthetics	1992
Association for the Advancement of Baltic Studies	1994
American Council of Teachers of Russian	1994
Council of Teachers of Southeast Asian Languages	1994
American Association of Teachers of Arabic	1994
Association of Teachers of Japanese	1994
Academic Senate for California Community Colleges	1996
Council of Graduate Programs in Communication Sciences and Disorders	1996
Association for Women in Mathematics	1997
National Council for the Social Studies	1997
Philosophy of Time Society	1998
World Communication Association	1999
The Historical Society	1999
Association for Theatre in Higher Education	1999
National Association for Ethnic Studies	1999
Association of Ancient Historians	1999
American Culture Association	1999
American Conference for Irish Studies	1999
Society for Philosophy in the Contemporary World	1999
Eastern Communication Association	1999



Association for Canadian Studies in the United States	1999
American Association for the History of Medicine	2000
Missouri Association of Faculty Senates	2000
Association for Symbolic Logic	2000
American Society of Criminology	2001
New England Historical Association	2001
American Jewish Historical Society	2001
Group for the Use of Psychology in History	2001
Society for the Scientific Study of Religion	2001
Society for German-American Studies	2001
Society for Historians of the Gilded Age and Progressive Era	2001
Eastern Sociological Society	2001
Chinese Historians in the United States	2001
Community College Humanities Association	2002
Immigration and Ethnic History Society	2002
Agricultural History Society	2004
National Council for Accreditation of Teacher Education	2005
American Council on the Teaching of Foreign Languages	2005
Society for the Study of Social Biology	2005
Association of Black Sociologists	2005
Society for the Study of Social Problems	2005
Dictionary Society of North America	2005
Society for Buddhist-Christian Studies	2005
National Women's Studies Association	2006
National Coalition for History	2006
Society for Armenian Studies	2006
Society for the Advancement of Scandinavian Study	2006
American Physiological Society	2006
College Forum of the National Council of Teachers of English	2006
Society for Military History	2006
Society for Industrial and Applied Mathematics	2006
Association for Research on Ethnicity and Nationalism in the Americas	2006
Society of Dance History Scholars	2006
Association of Literary Scholars and Critics	2006
Society for Applied Anthropology	2006
Society for Music Theory	2006
Society for Historians of American Foreign Relations	2006
American Society of Plant Taxonomists	2006
Law and Society Association	2006

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

The statement that follows, a revision of a statement originally adopted in 1971, was approved by the Association's 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*.¹

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 has 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 situation 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 that might 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 that 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 that 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 body or individual that made the decision.

Written Reasons

Having been given or clearly the reasons that 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 other reasons that 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 might 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 that 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:²

If a faculty member on probationary or other nontenured appointment alleges that a decision against reappointment was based significantly on considerations that violate (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 method. The allegation will be accompanied by a statement that the faculty member agrees to the presentation, for the consideration of the faculty committee, 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:

S. *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.³ 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 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 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 body or individual that made the decision;
 - 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); and
 - c. to provide copies of its report and recommendation to the faculty member, the body or individual that made the decision, and the president or other appropriate administrative officer.

Notes

1. The "Standards for Notice" are as follows:

- a. *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;
- b. *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;
- c. At least twelve months before the expiration of an appointment after two or more years in the institution. (AAUP, *Policy Documents and Reports*, 10th ed. [Washington, D.C., 2006], 54.)

2. Faculties processing complaints under Regulations 10 and 15 may wish to secure the further advice of the Association's Washington office.

3. As used here, "department" may refer to any institutional body or individual responsible for making a recommendation or decision on reappointment.

1958 Statement on Procedural Standards in Faculty Dismissal Proceedings

The following statement was prepared by a joint committee representing the Association of American Colleges (now the Association of American Colleges and Universities) 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 way 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 that 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 that 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 also informing the faculty member that, at the faculty member's request, a hearing will be conducted by a faculty committee at a specified time and place to determine whether he or she should be removed from the faculty position on the grounds stated. 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 be either 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 matters 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.

Recommended Institutional Regulations on Academic Freedom and Tenure

(2013 REVISION)

The Recommended Institutional Regulations on Academic Freedom and Tenure set forth, in language suitable for use by an institution of higher education, rules that derive from the chief provisions and interpretations of the 1940 Statement of Principles on Academic Freedom and Tenure and of the 1958 Statement on Procedural Standards in Faculty Dismissal Proceedings. The Recommended Institutional Regulations were first formulated by Committee A on Academic Freedom and Tenure in 1957. A revised and expanded text, approved by Committee A in 1968, reflected the development of Association standards and procedures. Texts with further revisions were approved by Committee A in 1972, in 1976, in 1982, in 1990, in 1999, in 2005, in 2006, in 2009, and in 2013.

The current text, adopted by the Council as AAUP policy, is based upon the Association's continuing experience in evaluating regulations actually in force at particular institutions. It is also based upon "further definition of the standards and procedures of the Association over the years. The Association will be glad to assist in interpretation of the regulations or to consult about their incorporation in, or adaptation to, the rules of a particular college or university.

Foreword

These regulations are designed to enable the [named institution] to protect academic freedom and tenure and to ensure academic due process. The principles implicit in these regulations are for the benefit of all who are involved with or are affected by the policies and programs of the institution. A college or university is a marketplace of ideas, and it cannot fulfill its purposes of transmitting, evaluating, and extending knowledge if it requires conformity with any orthodoxy of content and method. In the words of the United States Supreme Court, "Teachers and students must always remain free to inquire, to study and to evaluate, to gain new maturity and understanding; otherwise our civilization will stagnate and die."

1. STATEMENT OF TERMS OF APPOINTMENT

- a. The terms and conditions of every appointment to the faculty will be stated or confirmed in writing, and a copy of the appointment document

will be supplied to the faculty member. Any subsequent extensions or modifications of an appointment, and any special understandings or any notices incumbent upon either party to provide, will be stated or confirmed in writing, and a copy will be given to the faculty member.

- b. With the exception of special appointments clearly limited to a brief association with the institution, and reappointments of retired faculty members on special conditions, all full-time faculty appointments are of two kinds: (1) probationary appointments; (2) appointments with continuous tenure.
- c. Except for faculty members who have tenure status, every person with a teaching or research appointment of any kind will be informed each year in writing of the renewal of the appointment and of all matters relative to eligibility for the acquisition of tenure.

2. PROBATIONARY APPOINTMENTS

- a. Probationary appointments may be for one year, or for other stated periods, subject to renewal. The total period of full-time service prior to the acquisition of continuous tenure will not exceed _____ years,¹ including all previous full-time service with the rank of instructor or higher in other institutions of higher learning, except that the probationary period may extend to as much as four years, even if the total full-time service in the profession thereby exceeds seven years; the terms of such extension will be stated in writing at the time of initial appointment.² Scholarly leave of absence for one year or less will count as part of the probationary period as if it were prior service at another institution, unless the individual and the institution agree in writing to an exception to this provision at the time the leave is granted.
- b. The faculty member will be advised, at the time of initial appointment, of the substantive standards and procedures generally employed in decisions affecting renewal and tenure. Any special standards adopted by the faculty member's department or school will also be transmitted. The faculty member will be advised of the time when decisions affecting renewal or tenure are ordinarily made and will be given the opportunity to submit material believed to be helpful to an adequate consideration of the faculty member's circumstances.
- c. Regardless of the stated term or other provisions of any appointments, written notice that a probationary appointment is not to be renewed will be given to the faculty member in advance of the expiration of the appointment as follows: (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 of service at the institution.
- d. The institution will normally notify faculty members whose appointments are being renewed of the terms and conditions of their renewals by March 15, but in no case will such information be given later than _____.³
- e. When a decision not to renew an appointment has been reached, the faculty member involved will be informed of that decision in writing by the body or individual making the decision; the faculty member will be advised upon request of the reasons which contributed to that decision. The faculty member may request a reconsideration by the body or individual making the decision.
- f. If the faculty member so requests, the reasons given in explanation of the nonrenewal will be confirmed in writing.
- g. Insofar as the faculty member alleges that the decision against renewal was based on inadequate consideration, the committee⁴ that reviews the faculty member's allegation will determine whether the decision was the result of adequate consideration in terms of the relevant standards of the institution. The review committee will not substitute its judgment on the merits for that of the body or individual that made the decision. If the review committee believes that adequate consideration was not given to the faculty member's qualifications, it will recommend reconsideration by the body or individual that made the decision, indicating the respects in which it believes the consideration may have been inadequate. It will provide copies of its findings to the faculty member, the body or individual that made the decision, and the president or other appropriate administrative officer.

3. TERMINATION OF APPOINTMENT BY FACULTY MEMBERS

Faculty members may terminate their appointments effective at the end of an academic year, provided that they give notice in writing at the earliest possible opportunity, but not later than May 15, or thirty days after receiving notification of the terms of appointment for the coming year, whichever date occurs later. 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.

4. TERMINATION OF APPOINTMENTS BY THE INSTITUTION

- a. Termination of an appointment with continuous tenure, or of a probationary or special appointment before the end of the specified term, may be effected by the institution only for adequate cause.
- b. Termination takes the form of a dismissal for cause, it will be pursuant to the provisions specified in Regulation 5.

Financial Exigency⁵

- c. (1) Termination of an appointment with continuous tenure, or of a probationary or special appointment before the end of the specified term, may occur under extraordinary circumstances because of a demonstrably bona fide financial exigency, i.e., a severe financial crisis that fundamentally compromises the academic integrity of the institution as a whole and that cannot be alleviated by less drastic means.

[Note: Each institution in adopting regulations on financial exigency will need to decide how to share and allocate the hard judgments and decisions that are necessary in such a crisis.

As a first step, there should be an elected faculty governance body, or a body designated by a collective bargaining agreement, that participates in the decision that a condition of financial exigency exists or is imminent and that all feasible alternatives to termination of appointments have been pursued, including expenditure of one-time money or reserves as bridge funding, furloughs, pay cuts, deferred-compensation plans, early-retirement packages, deferral of nonessential capital expenditures, and cuts to noneducational programs and services, including expenses for administration.⁶

Judgments determining where within the overall academic program termination of appointments may occur involve considerations of educational policy, including affirmative action, as well as of faculty status, and should therefore be the primary responsibility of the faculty or of an

appropriate faculty body.⁷ The faculty or an appropriate faculty body should also exercise primary responsibility in determining the criteria for identifying the individuals whose appointments are to be terminated. These criteria may appropriately include considerations of length of service.

The responsibility for identifying individuals whose appointments are to be terminated should be committed to a person or group designated or approved by the faculty. The allocation of this responsibility may vary according to the size and character of the institution, the extent of the terminations to be made, or other considerations of fairness in judgment. The case of a faculty member given notice of proposed termination of appointment will be governed by the following provisions.)

- (2) Before any proposals for program discontinuance on grounds of financial exigency are made, the faculty or an appropriate faculty body will have opportunity to render an assessment in writing of the institution's financial condition.

[Note: Academic programs cannot be defined ad hoc, at any size; programs should be recognized academic units that existed prior to the declaration of financial exigency. The term "program" should designate a related cluster of credit-bearing courses that constitute a coherent body of study within a discipline or set of related disciplines. When feasible, the term should designate a department or similar administrative unit that offers majors and minors.]

- (i) The faculty or an appropriate faculty body will have access to at least five years of audited financial statements, current and following-year budgets, and detailed cash-flow estimates for future years.
- (ii) In order to make informed recommendations about the financial impact of program closures, the faculty or an appropriate faculty body will have access to detailed program, department, and administrative-unit budgets.

- (iii) Faculty members in a program being considered for discontinuance because of financial exigency will promptly be informed of this activity in writing and provided at least thirty days in which to respond to it. Tenured, tenure-track, and contingent faculty members will be informed and invited to respond.
- (3) If the administration issues notice to a particular faculty member of an intention to terminate the appointment because of financial exigency, the faculty member will have the right to a full hearing before a faculty committee. The hearing need not conform in all respects with a proceeding conducted pursuant to Regulation 5, but the essentials of an on-the-record adjudicative hearing will be observed. The issues in this hearing may include the following:
- (i) The existence and extent of the condition of financial exigency. The burden will rest on the administration to prove the existence and extent of the condition. The findings of a faculty committee in a previous proceeding involving the same issue may be introduced.
- (ii) The validity of the educational judgments and the criteria for identification for termination; but the recommendations of a faculty body on these matters will be considered presumptively valid.
- (iii) Whether the criteria are being properly applied in the individual case.
- (4) If the institution, because of financial exigency, terminates appointments, it will not at the same time make new appointments, except in extraordinary circumstances where a serious distortion in the academic program would otherwise result. The appointment of a faculty member with tenure will not be terminated in favor of retaining a faculty member without tenure, except in extraordinary circumstances where a serious distortion of the academic program would otherwise result.
- (5) Before terminating an appointment because of financial exigency, the institution, with faculty participation, will make every effort to place the faculty member concerned in another suitable position within the institution.
- (6) In all cases of termination of appointment because of financial exigency, the faculty member concerned will be given notice or severance salary not less than as prescribed in Regulation 8.
- (7) In all cases of termination of appointment because of financial exigency, the place of the faculty member concerned will not be filled by a replacement within a period of three years, unless the released faculty member has been offered reinstatement and at least thirty days in which to accept or decline it.

Discontinuance of Program or Department for Educational Reasons⁸

- d. Termination of an appointment with continuous tenure, or of a probationary or special appointment before the end of the specified term, may occur as a result of bona fide formal discontinuance of a program or department of instruction. The following standards and procedures will apply.
- (1) The decision to discontinue formally a program or department of instruction will be based essentially upon educational considerations, as determined primarily by the faculty as a whole or an appropriate committee thereof.
- [Note: "Educational considerations" do not include cyclical or temporary variations in enrollment. They must reflect long-range judgments that the educational mission of the institution as a whole will be enhanced by the discontinuance.]
- (2) Faculty members in a program being considered for discontinuance for educational considerations will promptly be informed of this activity in writing and provided at least thirty days in which to respond to it. Tenured, tenure-track, and contingent faculty members will be invited to participate in these deliberations.
- [Note: Academic programs cannot be defined ad hoc, at any size; programs must be recognized academic units that existed

prior to the decision to discontinue them. The term "program" should designate a related cluster of credit-bearing courses that constitute a coherent body of study

within a discipline or set of related disciplines. When feasible, the term should designate a department or similar administrative unit that offers majors and minors.]

- (3) Before the administration issues notice to a faculty member of its intention to terminate an appointment because of formal discontinuance of a program or department of instruction, the institution will make every effort to place the faculty member concerned 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 proffered. If no position is available within the institution, 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, an amount which may well exceed but not be less than the amount prescribed in Regulation 8.

[Note: When an institution proposes to discontinue a program or department of instruction based essentially on educational considerations, it should plan to bear the costs of relocating, training, or otherwise compensating faculty members adversely affected.]

- (4) A faculty member who contests a proposed relocation or termination resulting from a discontinuance has a right to a full hearing before a faculty committee. The hearing

need not conform in all respects with a proceeding conducted pursuant to Regulation 5, but the essentials of an on-the-record adjudicative hearing will be observed. The issues in such a hearing may include the institution's failure to satisfy any of the conditions specified in Regulation 4d. In the hearing, a faculty determination that a program or department is to be discontinued will be considered presumptively valid,

but the burden of proof on other issues will rest on the administration.

Review

- e. In cases of termination of appointment, the governing board will be available for ultimate review.

5. DISMISSAL PROCEDURES

- a. Adequate cause for a dismissal will be related, directly and substantially, to the fitness of faculty members in their professional capacities as teachers or researchers. Dismissal will not be used to restrain faculty members in their exercise of academic freedom or other rights of American citizens.⁹
- b. Dismissal of a faculty member with continuous tenure, or with a special or probationary appointment before the end of the specified term, will be preceded by (1) discussions between the faculty member and appropriate administrative officers looking toward a mutual settlement; (2) informal inquiry by the duly elected faculty committee [insert name of committee], which may, if it fails to effect an adjustment, determine whether in its opinion dismissal proceedings should be undertaken, without its opinion being binding upon the president; (3) a statement of charges, framed with reasonable particularity by the president or the president's delegate.
- c. A dismissal, as defined in Regulation 5a, will be preceded by a statement of charges, and the individual concerned will have the right to be heard initially by the elected faculty hearing committee [insert name of committee].^b Members deeming themselves disqualified for bias or interest will remove themselves from the case, either at the request of a party or on their own initiative. Each party will have a maximum

of two challenges without stated cause.

- (1) Pending a final decision by the hearing committee, the faculty member will be suspended, or assigned to other duties in lieu of suspension, only if immediate harm to the faculty member or others is threatened by continuance. Before suspending a faculty member, pending an ultimate determination of the faculty member's status through the institution's hearing

- procedures, the administration will consult with the Faculty Committee on Academic Freedom and Tenure [or whatever other title it may have] concerning the propriety, the length, and the other conditions of the suspension. A suspension that is intended to be final is a dismissal and will be treated as such. Salary will continue during the period of the suspension.
- (2) The hearing committee may, with the consent of the parties concerned, hold joint prehearing meetings with the parties in order to (i) simplify the issues, (ii) effect stipulations of facts, (iii) provide for the exchange of documentary or other information, and (iv) achieve such other appropriate prehearing objectives as will make the hearing fair, effective, and expeditious.
 - (3) Service of notice of hearing with specific charges in writing will be made at least twenty days prior to the hearing. The faculty member may waive a hearing or may respond to the charges in writing at any time before the hearing. If the faculty member waives a hearing, but denies the charges or asserts that the charges do not support a finding of adequate cause, the hearing tribunal will evaluate all available evidence and rest its recommendation upon the evidence in the record.
 - (4) The committee, in consultation with the president and the faculty member, will exercise its judgment as to whether the hearing should be public or private.
 - (5) During the proceedings the faculty member will be permitted to have an academic adviser and counsel of the faculty member's choice.
 - (6) At the request of either party or the hearing committee, a representative of a responsible educational association will be permitted to attend the proceedings as an observer.
 - (7) A verbatim record of the hearing or hearings will be taken, and a copy will be made available to the faculty member without cost, at the faculty member's request.
 - (8) The burden of proof that adequate cause exists rests with the institution and will be satisfied only by clear and convincing evidence in the record considered as a whole.
 - (9) The hearing committee will grant adjournments to enable either party to investigate evidence as to which a valid claim of surprise is made.
 - (10) The faculty member will be afforded an opportunity to obtain necessary witnesses and documentary or other evidence. The administration will cooperate with the hearing committee in securing witnesses and in making available documentary and other evidence.
 - (11) The faculty member and the administration will have the right to confront and cross-examine all witnesses. Where the witnesses cannot or will not appear, but the committee determines that the interests of justice require admission of their statements, the committee will identify the witnesses, disclose their statements, and, if possible, provide for interrogatories.
 - (12) In the hearing of charges of incompetence, the testimony will include that of qualified faculty members from this or other institutions of higher education.
 - (13) The hearing committee will not be bound by strict rules of legal evidence and may admit any evidence which is of probative value in determining the issues involved. Every possible effort will be made to obtain the most reliable evidence available.
 - (14) The findings of fact and the decision will be based solely on the hearing record.
 - (15) Except for such simple announcements as may be required, covering the time of the hearing and similar matters, public statements and publicity about the case by either the faculty member or administrative officers will be avoided so far as possible until the proceedings have been completed, including consideration by the governing board of the institution. The president and the faculty member will be notified of the decision in writing and

will be given a copy of the record of the hearing.

- { 16) If the hearing committee concludes that adequate cause for dismissal has not been established by the evidence in the record it will so report to the president. If the president rejects the report, the president will state the reasons for doing so, in writing, to the hearing committee and to the faculty member and provide an opportunity for response before transmitting the case to the governing board. If the hearing committee concludes that adequate cause for a dismissal has been established, but that an academic penalty less than dismissal would be more appropriate, it will so recommend, with supporting reasons.

6. ACTION BY THE GOVERNING BOARD

If dismissal or other severe sanction is recommended the president will, on request of the faculty member, transmit to the governing board the record of the case. The governing board's review will be based on the record of the committee hearing, and it will provide opportunity for argument, oral or written or both, by the principals at the hearing or by their representatives. The decision of the hearing committee will either be sustained or the proceedings returned to the committee with specific objections. The committee will then reconsider, taking into account the stated objections and receiving new evidence, if necessary. The governing board will make a final decision only after study of the committee's reconsideration.

7. PROCEDURES FOR IMPOSITION OF SANCTIONS OTHER THAN DISMISSAL

- a. If the administration believes that the conduct of a faculty member, although not constituting adequate cause for dismissal, is sufficiently grave to justify imposition of a severe sanction such as suspension from service for a stated period, the administration may institute a proceeding to impose such a severe sanction; the procedures outlined in Regulation 5 will govern such a proceeding.
- b. If the administration believes that the conduct of a faculty member justifies imposition of a minor sanction, such as a reprimand, it will notify the faculty member of the basis of the proposed

sanction and provide the faculty member with an opportunity to persuade the administration that the proposed sanction should not be imposed.

A faculty member who believes that a major sanction has been incorrectly imposed under this paragraph, or that a minor sanction has been unjustly imposed, may, pursuant to Regulation 16, petition the faculty grievance committee for such action as may be appropriate.

8. TERMINAL SALARY OR NOTICE

If the appointment is terminated, the faculty member will receive salary or notice in accordance with the following schedule: at least three months, if the final decision is reached by March 1 (or three months prior to the expiration) of the first year of probationary service; at least six months, if the decision is reached by December 15 of the second year (or after nine months but prior to eighteen months) of probationary service; at least one year, if the decision is reached after eighteen months of probationary service or if the faculty member has tenure.

This provision for terminal notice or salary need not apply in the event that there has been a finding that the conduct which justified dismissal involved moral turpitude. On the recommendation of the faculty hearing committee or the president, the governing board, in determining what, if any, payments will be made beyond the effective date of dismissal, may take into account the length and quality of service of the faculty member.

9. ACADEMIC FREEDOM AND PROTECTION AGAINST DISCRIMINATION

- a. All members of the faculty, whether tenured or not, are entitled to academic freedom as set forth in the 1940 *Statement of Principles on Academic Freedom and Tenure*, formulated by the Association of American Colleges and Universities and the American Association of University Professors.
- b. 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, including but not limited to race, sex, religion, national origin, age, disability, marital status, or sexual orientation.

10. COMPLAINTS OF VIOLATION OF ACADEMIC FREEDOM OR OF DISCRIMINATION AND NONREAPPOINTMENT

If a faculty member on probationary or other non-tenured appointment alleges that a decision against reappointment was based significantly on considerations that violate (a) academic freedom or (b) 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 committee, 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.

11. ADMINISTRATIVE PERSONNEL

The foregoing regulations apply to administrative personnel who hold academic rank, but only in their capacity as faculty members. Administrators who allege that a consideration that violates academic freedom or governing policies against improper discrimination, as stated in Regulation 10, significantly contributed to a decision to terminate their appointment to an administrative post or not to reappoint them are entitled to the procedures set forth in Regulation 10.

12. POLITICAL ACTIVITIES OF FACULTY MEMBERS

Faculty members, as citizens, are free to engage in political activities. Where necessary, leaves of absence may be given for the duration of an election campaign or a term of office, on timely application, and for a reasonable period of time. The terms of such leave of absence will be set forth in writing, and the leave will not affect unfavorably the tenure status of a faculty member, except that time spent on such

leave will not count as probationary service unless otherwise agreed to.¹³

13. PART-TIME FACULTY APPOINTMENTS¹⁴

- a. The terms and conditions of every appointment to a part-time nontenured faculty position will be stated in writing, including the length of service. A copy of the appointment document will be provided to the part-time faculty member.
- b. In a case of dismissal before the end of the period of appointment, the administration will set forth cause for the action, and the faculty member will have the right to a hearing before a faculty committee.¹⁵
- c. In a case of nonreappointment, if a part-time faculty member establishes a prima facie case, to the satisfaction of a duly constituted faculty committee, that considerations that violate academic freedom or governing policies against improper discrimination, as stated in Regulation 10, significantly contributed to his or her non-retention, it is incumbent on those who made the decision to come forward with evidence in support of that decision.
- d. After having been reappointed beyond an initial term, a part-time faculty member who is subsequently notified of nonreappointment will be advised upon request of the reasons that contributed to the decision. Upon the faculty member's further request, the reasons will be confirmed in writing. The faculty member will be afforded opportunity for review of the decision by a faculty committee.
- e. For part-time faculty members who have served for three or more terms within a span of three years, the following additional protections of academic due process apply:
 - (1) Written notice of reappointment or nonreappointment will be issued no later than one month before the end of the existing appointment. If the notice of reappointment is to be conditioned, for example, on sufficiency of student enrollment or on financial considerations, the specific conditions will be stated with the issuance of the notice.
 - (2) If the faculty member notified of nonreappointment alleges that the decision was

based significantly on considerations that violate academic freedom or governing policies against improper discrimination, the allegation will be subject to review in the manner set forth in Regulation 10.

- (3) When the part-time faculty member is denied reappointment to an available assignment (one with substantially identical responsibilities assigned to another part-time faculty member with less service), if the nonreappointed faculty member alleges that the decision was based on inadequate consideration, the allegation will be subject to review by a faculty body. If this body, while not providing judgment on the merits of the decision, finds that the consideration has been inadequate in any substantial respects, it will remand the matter for further consideration accordingly.¹⁶

- f. Prior to consideration of reappointment beyond

a seventh year, part-time faculty members who

have taught at least twelve courses or six terms within those seven years shall be provided a comprehensive review with the potential result of (1) appointment with part-time tenure where such exists, (2) appointment with part-time continuing service, or (3) nonreappointment. Those appointed with tenure shall be afforded the same procedural safeguards as full-time tenured faculty. Those offered additional appointment without tenure shall have continuing appointments and shall not be replaced by part-time appointees with less service who are assigned substantially identical responsibilities without having been afforded the procedural safeguards associated with dismissal as set forth above in section b.

14. GRADUATE STUDENT EMPLOYEES

- a. The length, terms, and conditions of every university appointment of a graduate student employee will be stated in writing at the time of the initial appointment. A copy of the appointment document will be supplied to the appointee.¹⁷
- b. The graduate student employee on recurring appointments will be advised at the time of initial appointment of the substantive standards, expectations, and procedures generally

employed at the institution in decisions affecting renewal and of any special standards adopted by the graduate student employee's department or school. The graduate student employee will be advised of the time when decisions affecting renewals are made and will be given the opportunity to submit material believed to be helpful to an adequate consideration of his or her circumstances.

- c. In a case of dismissal before the end of the period of an academic or professional appointment, the graduate student employee will be provided with a statement of reasons for the action and will have the right to a pretermination hearing before a duly constituted committee. The hearing need not conform in all respects with a proceeding conducted pursuant to Regulation 5, but the essentials of an on-the-record adjudicative hearing will be observed. In such a hearing, the administration will have the burden of showing

adequate cause for dismissal. Adequate cause

for a dismissal will be related, directly and substantially, to the fitness of the graduate student employee in his or her professional capacity regarding teaching, research, or other academic duties. Dismissal will not be used to restrain graduate student employees in their exercise of academic freedom or constitutional rights.

- d. Written notice of reappointment or nonreappointment will be issued to graduate student academic or professional employees no later than one month before the end of the existing appointment.
- e. Graduate student academic or professional employees who are notified of nonreappointment will be advised upon request of the reasons that contributed to the decision. Upon the employee's further request, the reasons will be confirmed in writing. The employee will be afforded the opportunity for review of the decision by a duly constituted committee.
- f. In a case of nonreappointment, if a graduate student academic or professional employee establishes a prima facie case to the satisfaction of a duly constituted committee that considerations that violate academic freedom or governing policies against improper discrimination based on race, sex, national origin, age, disability, marital status, or sexual orientation

significantly contributed to his or her nonretention, it is incumbent on those who made the decision to come forward with evidence in support of that decision.

- g. If a graduate student employee who is denied reappointment to an available academic or professional position alleges that the decision was based on inadequate consideration, the allegation will be subject to review by a duly constituted body.¹⁹ If this body, while not providing judgment on the merits of the decision, finds that the consideration has been inadequate in any substantial respects, it will remand the matter, recommending to the department that it assess the merits once again, this *time* remedying the inadequacies of its prior consideration.²⁰
- h. Graduate student academic or professional employees will have access to the faculty grievance committee, as specified in Regulation 16.

15. OTHER ACADEMIC STAFF

- a. In no case will a member of the academic staff who is not otherwise protected by the preceding regulations that relate to dismissal proceedings be dismissed without having been provided with a statement of reasons and an opportunity to be heard before a duly constituted committee.²¹ (A dismissal is a termination before the end of the period of appointment.)
- b. With respect to the nonreappointment of a member of such academic staff who establishes a prima facie case to the satisfaction of a duly constituted committee that considerations that violate academic freedom, or of governing policies against improper discrimination as stated in Regulation 10, significantly contributed to the nonreappointment, the academic staff member will be given a statement of reasons by those responsible for the nonreappointment and an opportunity to be heard by the committee.

16. GRIEVANCE PROCEDURE

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 that 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(s) 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 the administration will serve on the committee.

Note on Implementation

The *Recommended Institutional Regulations* here presented will require for their implementation a number of structural arrangements and agencies. For example, the *Regulations* will need support by

1. channels of communication among all the involved components of the institution and between them and a concerned faculty member;
2. definitions of corporate and individual faculty status within the college or university government and of the role of the faculty in decisions relating to academic freedom and tenure; and
3. appropriate procedures for the creation and operation of faculty committees, with particular regard to the principles of faculty authority and responsibility.

The forms which these supporting elements assume will of course vary from one institution to another. Consequently, no detailed description of the elements is attempted in these *Recommended Institutional Regulations*. With respect to the principles involved, guidance will be found in the Association's 1966 *Statement on Government of Colleges and Universities*. :

NOTES

1. Under the 1940 *Statement of Principles on Academic Freedom and Tenure*, this period may not exceed seven years. However, the Association's 2001 *Statement of Principles on Family Responsibilities and Academic Work* (AAUP, *Policy Documents and Reports*, 10th ed., Washington, DC, 2006), 219-26 provides that "a faculty member be entitled to stop the clock or extend the probationary period, with or without taking a full or partial leave of absence, if the faculty member (whether male or female) is a primary caregiver of newborn or newly adopted children," that "institutions allow the tenure clock to be stopped for up to one year for each child, and ... that faculty be allowed to stop the clock only twice, resulting in no more than two one-year extensions of the probationary period."

2. The exception here noted applies only to an institution where the maximum probationary period exceeds four years.

3. April 15 is the recommended date.

4. This committee, which can be the grievance committee noted in Regulation 16, is to be an elected faculty body. Similarly, the members of the committees noted in Regulations 4c3J, 4d(4J), 10, and 13 are to be elected. A committee of faculty members appointed by an elected faculty body can substitute for a committee that is elected directly.

5. See *The Role of the Faculty in Conditions of Financial Exigency*, in *Bulletin of the American Association of University Professors* (special issue of *Academe*), July-August 2013: 120-47. The definition of "financial exigency" offered in that report and adopted here is intended to be more responsive to actual institutional conditions and extends the standard of exigency to situations not covered by Committee A's previous definition.

6. See *The Role of the Faculty in Budgetary and Salary Matters*, in *Policy Documents and Reports*, 149-52, especially the following passages:

The faculty should participate both in the preparation of the total institutional budget and (within the framework of the total budget) in decisions relevant to the further apportioning of its specific fiscal divisions (salaries, academic programs, tuition, physical plant and grounds, and so on). The soundness of resulting decisions should be enhanced if an elected representative committee of the faculty participates in deciding on the overall allocation of institutional resources and the proportion to be devoted directly to the academic program. This committee should be given access to all information that it requires to perform its task effectively, and it should have the opportunity to confer periodically with representatives of the administration and governing board. ...

Circumstances of financial exigency obviously pose special problems. At institutions experiencing major threats to their continued financial support, the faculty should be informed as early and specifically as possible of significant impending financial difficulties. The faculty, with substantial representation from its nontenured as well as tenured members, since it is the former who are likely to bear the brunt of the reduction, should participate at the department, college or professional school, and institution-wide levels in key decisions as to the future of the institution and of specific academic programs

within the institution. The faculty, employing accepted standards of due process, should assume primary responsibility for determining the status of individual faculty members.

7. See *Statement on Government of Colleges and Universities*, in *Policy Documents and Reports*, 135-40, especially the following passage: "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. The primary responsibility of the faculty for such matters is based upon the fact that its judgment is central to general educational policy."

8. When discontinuance of a program or department is mandated by financial exigency of the institution, the standards of Regulation 4c above will apply.

9. For cause relating to physical or mental disability, see *Accommodating Faculty Members Who Have Disabilities*, in *Bulletin of the American Association of University Professors* (special issue of *Academe*), July-August 2012: 30-43.

10. This committee should not be the same as the committee referred to in Regulation 5b(2).

11. Regulations of the institution should provide for alternates or for some other method of filling vacancies on the hearing committee resulting from disqualification, challenge without stated cause, illness, resignation, or other reason.

12. For renewable term appointments not specifically designated as probationary for tenure, see "The Applicability of the 'Standards for Notice of Nonreappointment' to All Full-Time Faculty on Renewable Term Appointments," in "Report of Committee A, 1994-95," *Academe*, September-October 1995: 51-54.

13. See *Statement on Professors and Political Activity*, in *Policy Documents and Reports*, 33-34.

14. This regulation does not apply to faculty members with reduced loads who are tenured or probationary for tenure and who have the protections of academic due process that are provided in Regulations 2, 4, 5, 6, 7, and B. It does apply to all other faculty members whose appointments are less than full time, whatever their rank or title and whether they are paid on a pro-rate, a per-course, or any other basis.

15. As stated in Regulation 5a, "Adequate cause for a dismissal will be related, directly and substantially, to the fitness of faculty members in their professional capacities as teachers or researchers. Dismissal will not be used to restrain faculty members in their exercise of academic freedom or other rights of American citizens."

16. See *Statement on Procedural Standards in the Renewal or Nonrenewal of Faculty Appointments* (*Policy Documents and Reports*, 16-21), especially the following passages:

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.

17. Universities assume responsibilities when they accept graduate students with a promise of financial support. Graduate student employees have a legitimate expectation of fulfillment of the promise unless legitimate cause to terminate support is shown. If the cause relates to the graduate student employee's work and/or academic performance or progress, the employee should be given sufficient time and opportunity to redress the concern.

18. According to the Association's *Statement on Collective Bargaining (Policy Documents and Reports, 25-30)*, "Participation in a strike or other work action does not by itself constitute grounds for dismissal or nonreappointment or for imposing other sanctions against faculty members."

19. For comment on the term "adequate consideration" see footnote 16, supra.

20. Nonreappointment conditioned on inadequate academic performance as a graduate student may be reviewed in the manner provided in Committee 1's statement *The Assignment of Course Grades and Student Appeals*, in *Policy Documents and Reports*, 127-28.

21. Each institution should define with particularity who are members of the academic staff.

Standards for Notice of Nonreappointment

The statement that follows was adopted by the Association's Council in October 1963 and endorsed by the Fiftieth Annual Meeting in 1964. In 1989 and 1990, the appropriate Association bodies adopted several changes in language in order to remove gender-specific references from the original text.

Because a probationary appointment, even though for a fixed or stated term, carries an expectation of renewal, the faculty member should be explicitly informed of a decision not to renew an appointment, in order that the faculty member may seek a position at another college or university.¹ Such notice should be given at an early date, since a failure to secure another position for the ensuing academic year will deny the faculty member the opportunity to continue in the profession. The purpose of this statement is to set forth in detail, for the use of the academic profession, those standards for notice of nonreappointment which the Association over a period of years has actively supported and which are expressed as a general principle in the 1940 *Statement of Principles on Academic Freedom and Tenure*.

The Standards for Notice

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.

Note

1. For renewable term appointments not specifically designated as probationary for tenure, see "The Applicability of the 'Standards for Notice of Nonreappointment' to All Full-Time Faculty on Renewable Term Appointments," *Academe: Bulletin of the AAUP* 81 (September–October 1995): 51–54.

Statement on Government of Colleges and Universities

The statement that follows is directed to governing board members, administrators, faculty members, students, and other persons in the belief that the colleges and universities of the United States have reached a stage calling for appropriately shared responsibility and cooperative action among the components of the academic institution. The statement is intended to foster constructive joint thought and action, both within the institutional structure and in protection of its integrity against improper intrusions.

It is not intended that the statement serve as a blueprint for governance on a specific campus or as a manual for the regulation of controversy among the components of an academic institution, although it is to be hoped that the principles asserted will lead to the correction of existing weaknesses and assist in the establishment of sound structures and procedures. The statement does not attempt to cover relations with those outside agencies that increasingly are controlling the resources and influencing the patterns of education in our institutions of higher learning: for example, the United States government, state legislatures, state commissions, interstate associations or compacts, and other interinstitutional arrangements. However, it is hoped that the statement will be helpful to these agencies in their consideration of educational matters.

Students are referred to in this statement as an institutional component coordinate in importance with trustees, administrators, and faculty. There is, however, no main section on students. The omission has two causes: (1) the changes now occurring in the status of American students have plainly outdistanced the analysis by the educational community, and an attempt to define the situation without thorough study might prove unfair to student interests, and (2) students do not in fact at present have a significant voice in the government of colleges and universities; it would be unseemly to obscure, by superficial equality of length of statement, what may be a serious lag entitled to separate and full confrontation. The concern for student status felt by the organizations issuing this statement is embodied in a note, "On Student Status," intended to stimulate the educational community to turn its attention to an important need.

This statement was jointly formulated by the American Association of University Professors, the American Council on Education (ACE), and the Association of Governing Boards of Universities and Colleges (AGB). In October 1966, the board of directors of the ACE took action by which its council "recognizes the statement as a significant step forward in the clarification of the respective roles of governing boards, faculties, and administrations," and "commends it to the institutions which are members of the Council." The Council of the AAUP adapted the statement in October 1966, and the Fifty-third Annual Meeting endorsed it in April 1967. In November 1966, the executive committee of the AGB took action by which that organization also "recognizes the statement as a significant step forward in the clarification of the respective roles of governing boards, faculties, and administrations," and "commends it to the governing boards which are members of the Association." (In April 1990, the Council of the AAUP adopted several changes in language in order to remove gender-specific references from the original text.)

1. Introduction

This statement is a call to mutual understanding regarding the government of colleges and universities. Understanding, based on community of interest and producing joint effort, is essential for at least three reasons. First, the academic institution, public or private, often has become less autonomous; buildings, research, and student tuition are supported by funds over which the college or university exercises a diminishing control. Legislative and executive governmental authorities, at all levels, play a part in the making of important decisions in academic policy. If these voices and forces are to be successfully heard and integrated, the academic institution must be in a position to meet them with its own generally unified view. Second, regard

for the welfare of the institution remains important despite the mobility and interchange of scholars. Third, a college or university in which all the components are aware of their interdependence, of the usefulness of communication among themselves; and of the force of joint action will enjoy increased capacity to solve educational problems.

2. The Academic Institution: Joint Effort

- a. *Preliminary Considerations.* The variety and complexity of the tasks performed by institutions of higher education produce an inescapable interdependence among governing board, administration, faculty, students, and others. The relationship calls for adequate communication among these components, and full opportunity for appropriate joint planning and effort.

Joint effort in an academic institution will take a variety of forms appropriate to the kinds of situations encountered. In some instances, an initial exploration or recommendation will be made by the president with consideration by the faculty at a later stage; in other instances, a first and essentially definitive recommendation will be made by the faculty, subject to the endorsement of the president and the governing board. In still others, a substantive contribution can be made when student leaders are responsibly involved in the process. Although the variety of such approaches may be wide, at least two general conclusions regarding joint effort seem clearly warranted: (1) important areas of action involve at one time or another the initiating capacity and decision-making participation of all the institutional components, and (2) differences in the weight of each voice, from one point to the next, should be determined by reference to the responsibility of each component for the particular matter at hand, as developed hereinafter.

- b. *Determination of General Educational Policy.* The general educational policy, i.e., the objectives of an institution and the nature, range, and pace of its efforts, is shaped by the institutional charter or by law, by tradition and historical development, by the present needs of the community of the institution, and by the professional aspirations and standards of those directly involved in its work. Every board will wish to go beyond its formal trustee obligation to conserve the accomplishment of the past and to engage seriously with the future; every faculty will seek to conduct an operation worthy of scholarly standards of learning; every administrative officer will strive to meet his or her charge and to attain the goals of the institution. The interests of all are coordinate and related, and unilateral effort can lead to confusion or conflict. Essential to a solution is a reasonably explicit statement on general educational policy. Operating responsibility and authority, and procedures for continuing review, should be clearly defined in official regulations.

When an educational goal has been established, it becomes the responsibility primarily of the faculty to determine the appropriate curriculum and procedures of student instruction.

Special considerations may require particular accommodations: (1) a publicly supported institution may be regulated by statutory provisions, and (2) a church-controlled institution may be limited by its charter or bylaws. When such external requirements influence course content and the manner of instruction or research, they impair the educational effectiveness of the institution.

Such matters as major changes in the size or composition of the student body and the relative emphasis to be given to the various elements of the educational and research program should involve participation of governing board, administration, and faculty prior to final decision.

- c. *Internal Operations of the Institution.* The framing and execution of long-range plans, one of the most important aspects of institutional responsibility, should be a central and continuing concern in the academic community.

Effective planning demands that the broadest possible exchange of information and opinion should be the rule for communication among the components of a college or uni-

versity. The channels of communication should be established and maintained by joint endeavor. Distinction should be observed between the institutional system of communication and the system of responsibility for the making of decisions.

A second area calling for joint effort in internal operation is that of decisions regarding existing or prospective physical resources. The board, president, and faculty should all seek agreement on basic decisions regarding buildings and other facilities to be used in the educational work of the institution.

A third area is budgeting. The allocation of resources among competing demands is central in the formal responsibility of the governing board, in the administrative authority of the president, and in the educational function of the faculty. Each component should therefore have a voice in the determination of short- and long-range priorities, and each should receive appropriate analyses of past budgetary experience, reports on current budgets and expenditures, and short- and long-range budgetary projections. The function of each component in budgetary matters should be understood by all; the allocation of authority will determine the flow of information and the scope of participation in decisions.

Joint effort of a most critical kind must be taken when an institution chooses a new president. The selection of a chief administrative officer should follow upon a cooperative search by the governing board and the faculty, taking into consideration the opinions of others who are appropriately interested. The president should be equally qualified to serve both as the executive officer of the governing board and as the chief academic officer of the institution and the faculty. The president's dual role requires an ability to interpret to board and faculty the educational views and concepts of institutional government of the other. The president should have the confidence of the board and the faculty.

The selection of academic deans and other chief academic officers should be the responsibility of the president with the advice of, and in consultation with, the appropriate faculty.

Determinations of faculty status, normally based on the recommendations of the faculty groups involved, are discussed in Part 5 of this statement; but it should here be noted that the building of a strong faculty requires careful joint effort in such actions as staff selection and promotion and the granting of tenure. Joint action should also govern dismissals; the applicable principles and procedures in these matters are well established.¹

- d. *External Relations of the Institution.* Anyone—a member of the governing board, the president or other member of the administration, a member of the faculty, or a member of the student body or the alumni—affects the institution when speaking of it in public. An individual who speaks unofficially should so indicate. An individual who speaks officially for the institution, the board, the administration, the faculty, or the student body should be guided by established policy.

It should be noted that only the board speaks legally for the whole institution, although it may delegate responsibility to an agent.

The right of a board member, an administrative officer, a faculty member, or a student to speak on general educational questions or about the administration and operations of the individual's own institution is a part of that person's right as a citizen and should not be abridged by the institution.² There exist, of course, legal bounds relating to defamation of character, and there are questions of propriety.

3. The Academic Institution: The Governing Board

The governing board has a special obligation to ensure that the history of the college or university shall serve as a prelude and inspiration to the future. The board helps relate the institution to its chief community: for example, the community college to serve the educational needs of a defined population area or group, the church-controlled college to be cognizant of the announced position of its denomination, and the comprehensive university to discharge the many duties and to accept the appropriate new challenges which are its concern at the several levels of higher education.

The governing board of an institution of higher education in the United States operates, with few exceptions, as the final institutional authority. Private institutions are established by charters; public institutions are established by constitutional or statutory provisions. In private institutions the board is frequently self-perpetuating; in public colleges and universities the present membership of a board may be asked to suggest candidates for appointment. As a whole and individually, when the governing board confronts the problem of succession, serious attention should be given to obtaining properly qualified persons. Where public law calls for election of governing board members, means should be found to ensure the nomination of fully suited persons, and the electorate should be informed of the relevant criteria for board membership.

Since the membership of the board may embrace both individual and collective competence of recognized weight, its advice or help may be sought through established channels by other components of the academic community. The governing board of an institution of higher education, while maintaining a general overview, entrusts the conduct of administration to the administrative officers—the president and the deans—and the conduct of teaching and research to the faculty. The board should undertake appropriate self-limitation.

One of the governing board's important tasks is to ensure the publication of codified statements that define the overall policies and procedures of the institution under its jurisdiction.

The board plays a central role in relating the likely needs of the future to predictable resources; it has the responsibility for husbanding the endowment; it is responsible for obtaining needed capital and operating funds; and in the broadest sense of the term it should pay attention to personnel policy. In order to fulfill these duties, the board should be aided by, and may insist upon, the development of long-range planning by the administration and faculty. When ignorance or ill will threatens the institution or any part of it, the governing board must be available for support. In grave crises it will be expected to serve as a champion. Although the action to be taken by it will usually be on behalf of the president, the faculty, or the student body, the board should make clear that the protection it offers to an individual or a group is, in fact, a fundamental defense of the vested interests of society in the educational institution.³

4. The Academic Institution: The President

The president, as the chief executive officer of an institution of higher education, is measured largely by his or her capacity for institutional leadership. The president shares responsibility for the definition and attainment of goals, for administrative action, and for operating the communications system that links the components of the academic community. The president represents the institution to its many publics. The president's leadership role is supported by delegated authority from the board and faculty.

As the chief planning officer of an institution, the president has a special obligation to innovate and initiate. The degree to which a president can envision new horizons for the institution, and can persuade others to see them and to work toward them, will often constitute the chief measure of the president's administration.

The president must at times, with or without support, infuse new life into a department; relatedly, the president may at times be required, working within the concept of tenure, to solve problems of obsolescence. The president will necessarily utilize the judgments of the faculty but may also, in the interest of academic standards, seek outside evaluations by scholars of acknowledged competence.

It is the duty of the president to see to it that the standards and procedures in operational use within the college or university conform to the policy established by the governing board and to the standards of sound academic practice. It is also incumbent on the president to ensure that faculty views, including dissenting views, are presented to the board in those areas and on those issues where responsibilities are shared. Similarly, the faculty should be informed of the views of the board and the administration on like issues.

The president is largely responsible for the maintenance of existing institutional resources and the creation of new resources; has ultimate managerial responsibility for a large area of nonacademic activities; is responsible for public understanding; and by the nature of the office

is the chief person who speaks for the institution. In these and other areas the president's work is to plan, to organize, to direct, and to represent. The presidential function should receive the general support of board and faculty.

5. The Academic Institution: The Faculty

The faculty has primary responsibility for such fundamental areas as curriculum, subject matter and methods of instruction, research, faculty status, and those aspects of student life which relate to the educational process. On these matters the power of review or final decision lodged in the governing board or delegated by it to the president should be exercised adversely only in exceptional circumstances, and for reasons communicated to the faculty. It is desirable that the faculty should, following such communication, have opportunity for further consideration and further transmittal of its views to the president or board. Budgets, personnel limitations, the time element, and the policies of other groups, bodies, and agencies having jurisdiction over the institution may set limits to realization of faculty advice.

The faculty sets the requirements for the degrees offered in course, determines when the requirements have been met, and authorizes the president and board to grant the degrees thus achieved.

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. The primary responsibility of the faculty for such matters is based upon the fact that its judgment is central to general educational policy. Furthermore, scholars in a particular field or activity have the chief competence for judging the work of their colleagues; in such competence it is implicit that responsibility exists for both adverse and favorable judgments. Likewise, there is the more general competence of experienced faculty personnel committees having a broader charge. Determinations in these matters should first be by faculty action through established procedures, reviewed by the chief academic officers with the concurrence of the board. The governing board and president should, on questions of faculty status, as in other matters where the faculty has primary responsibility, concur with the faculty judgment except in rare instances and for compelling reasons which should be stated in detail.

The faculty should actively participate in the determination of policies and procedures governing salary increases.

The chair or head of a department, who serves as the chief representative of the department within an institution, should be selected either by departmental election or by appointment following consultation with members of the department and of related departments; appointments should normally be in conformity with department members' judgment. The chair or department head should not have tenure in office; tenure as a faculty member is a matter of separate right. The chair or head should serve for a stated term but without prejudice to reelection or to reappointment by procedures that involve appropriate faculty consultation. Board, administration, and faculty should all bear in mind that the department chair or head has a special obligation to build a department strong in scholarship and teaching capacity.

Agencies for faculty participation in the government of the college or university should be established at each level where faculty responsibility is present. An agency should exist for the presentation of the views of the whole faculty. The structure and procedures for faculty participation should be designed, approved, and established by joint action of the components of the institution. Faculty representatives should be selected by the faculty according to procedures determined by the faculty.⁵

The agencies may consist of meetings of all faculty members of a department, school, college, division, or university system, or may take the form of faculty-elected executive committees in departments and schools and a faculty-elected senate or council for larger divisions or the institution as a whole.

The means of communication among the faculty, administration, and governing board now in use include: (1) circulation of memoranda and reports by board committees, the administration, and faculty committees; (2) joint ad hoc committees; (3) standing liaison committees; (4) membership of faculty members on administrative bodies; and (5) membership of faculty members on governing boards. Whatever the channels of communication, they should be clearly understood and observed.

On Student Status

When students in American colleges and universities desire to participate responsibly in the government of the institution they attend, their wish should be recognized as a claim to opportunity both for educational experience and for involvement in the affairs of their college or university. Ways should be found to permit significant student participation within the limits of attainable effectiveness. The obstacles to such participation are large and should not be minimized: inexperience, untested capacity, a transitory status which means that present action does not carry with it subsequent responsibility, and the inescapable fact that the other components of the institution are in a position of judgment over the students. It is important to recognize that student needs are strongly related to educational experience, both formal and informal.

Students expect, and have a right to expect, that the educational process will be structured, that they will be stimulated by it to become independent adults, and that they will have effectively transmitted to them the cultural heritage of the larger society. If institutional support is to have its fullest possible meaning, it should incorporate the strength, freshness of view, and idealism of the student body.

The respect of students for their college or university can be enhanced if they are given at least these opportunities: (1) to be listened to in the classroom without fear of institutional reprisal for the substance of their views, (2) freedom to discuss questions of institutional policy and operation, (3) the right to academic due process when charged with serious violations of institutional regulations, and (4) the same right to hear speakers of their own choice as is enjoyed by other components of the institution.

Notes

1. See the 1940 "Statement of Principles on Academic Freedom and Tenure," AAUP, *Policy Documents and Reports*, 10th ed. (Washington, D.C., 2006), 3-11, and the 1958 "Statement on Procedural Standards in Faculty Dismissal Proceedings," *ibid.*, 12-15. These statements were jointly adopted by the Association of American Colleges (now the Association of American Colleges and Universities) and the American Association of University Professors; the 1940 "Statement" has been endorsed by numerous learned and scientific societies and educational associations.

2. With respect to faculty members, the 1940 "Statement of Principles on Academic Freedom and Tenure" reads: "College and 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" (*Policy Documents and Reports*, 3-4).

3. Traditionally, governing boards developed within the context of single-campus institutions. In more recent times, governing and coordinating boards have increasingly tended to develop at the multi-campus regional, systemwide, or statewide levels. As influential components of the academic community, these supra-campus bodies bear particular responsibility for protecting the autonomy of individual campuses or institutions under their jurisdiction and for implementing policies of shared responsibility. The American Association of University Professors regards the objectives and practices recommended in the "Statement on Government" as constituting equally appropriate guidelines for such supra-campus bodies, and looks toward continued development of practices that will facilitate application of such guidelines in this new context [Preceding note adopted by the AAUJVs Council in June 1978.]

4. With regard to student admissions, the faculty should have a meaningful role in establishing institutional policies, including the setting of standards for admission, and should be afforded opportunity for oversight of the entire admissions process. [Preceding note adopted by the Council in June 2002.]

5. The American Association of University Professors regards collective bargaining, properly used, as another means of achieving sound academic government. Where there is faculty collective bargaining, the parties should seek to ensure appropriate institutional governance structures which will protect the right of all faculty to participate in institutional governance in accordance with the "Statement on Government." [Preceding note adopted by the Council in June 1978.]

MISSION STATEMENT

Drake's mission is to provide an exceptional learning environment that prepares students for meaningful personal lives, professional accomplishments, and responsible global citizenship. The Drake experience is distinguished by collaborative learning among students, faculty, and staff and by the integration of the liberal arts and sciences with professional preparation.

VISION STATEMENT

Drake University will enhance its position as a premier comprehensive university in the Midwest and as a national leader in higher education for learning, faculty roles, and public service.

Passed by the Board of Trustees June 2002; Faculty Senate September 2002

NON-LIABILITY AND INDEMNIFICATION

NON-LIABILITY

A trustee, officer, employee or agent of the University is not liable on the University's debts or obligations and a trustee, officer, employee or agent is not personally liable in that capacity, for a claim based upon an act or omission of the person performed in the discharge of the person's duties, except for a breach of duty of loyalty to the University, for acts or omissions not in good faith or which involve intentional misconduct or knowing violation of the law, or for a transaction from which the person derives an improper personal benefit.

If this limitation of liability is too broad, then the above provisions shall be enforced to the fullest extent as provided by law.

If Iowa law is hereafter changed to permit further elimination or limitation of the liability of trustees, officers, employees or agents for monetary damages to the University, then the liability of such governor, trustee, officer, employee of the University shall be eliminated or limited to the full extent then permitted. The trustees, officers, employees or agents of the University have agreed to serve in their respective capacities in reliance upon the provisions of this Article.

INDEMNIFICATION

Section 1. Any person who is or was a trustee, officer, employee or agent of Drake University shall in accordance with the provisions of this article hereinafter set forth be indemnified by the University against expenses (including attorney's fees) judgments, fines, and amounts paid in settlements actually and reasonably incurred by him or her in connection with any threatened, pending, or completed action, suit or proceeding, whether civil, criminal, administrative, or investigative (other than an action by or in the right of the University), to which he or she was or is a party, or is threatened to be made a party, by reason of being or having been a trustee, officer, employee or agent of the University. The trustee, officer, employee or agent shall be entitled to such indemnification if such person acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the best interests of the University, and, with respect to any criminal action or proceeding, had no reasonable cause to believe such conduct was unlawful. The termination of any action, suit, or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, in itself create a presumption that the person did not meet the standards of conduct set forth therein. In the case of any action or suit by or in the right of the University to procure a judgment in its favor, such trustee, officer, employee or agent shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him or her in connection with the defense or settlement of such action if such a person acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to the best interests of the University, and except that no indemnification shall be made in respect of any claim, issue, or matter as to which such person shall have been adjudged to be liable to the University unless and only to the extent that the Court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the

case, such person is fairly and reasonably entitled to such expenses which the Court shall deem proper.

Section 2. To the extent that a governor, trustee, officer, employee or agent of the University has been successful on the merits or otherwise in defense of any action, suit, or proceeding referred to in the preceding paragraph, or in defense of any claim, issue, or matter therein, such person shall be entitled, as of right, to indemnification as provided in this Article. Any indemnification under this Article (unless ordered by a court) shall be made by the University as authorized in the specific case upon a determination that indemnification of the trustee, officer, employee or agent is proper in the circumstances because he or she has met the applicable standard of conduct set forth in Section 1 of this Article. Such determination shall be made (1) by the board of trustees by a majority vote of a quorum consisting of trustees who were not parties to such action, suit, or proceeding; or (2) if such a quorum is not obtainable, or, even if obtainable a quorum of disinterested trustees so directs, by independent counsel (who shall not be regular counsel of the University and shall have generally recognized competence to advise upon this matter) in a written opinion.

Section 3. Expenses incurred in defending a civil or criminal action, suit, or proceeding of the character described in this Article shall be paid by the University in advance of the final disposition thereof upon this request of and receipt of an undertaking by or on behalf of the trustee, officer, employee or agent to repay such amount if it shall be ultimately determined that such person is not entitled to indemnification under this Article.

Section 4. The rights of indemnification and advancement of expense provided in or granted pursuant to this Article shall be in addition to any other rights to which any trustee, officer, employee or agent may be entitled as a matter of law, under any contract, bylaw, agreement, vote of disinterested trustees or otherwise, both as to action in his or her official capacity and as to action in another capacity while holding such office, and in the event of such person's death, such rights shall extend to his or her heirs and legal representatives. The foregoing rights shall be available whether or not such person continues to be a trustee, officer, employee or agent at the time of incurring or becoming subject to such liability, or expenses and whether or not the claim asserted against him or her is based on matters which antedate the adoption of this Article.

Section 5. The University shall have power to purchase and maintain insurance on behalf of any person who is or was a governor, trustee, officer, employee or agent of the University, or was serving at the request of the University as a trustee, officer, employee or agent of any other entity. In matters where Drake purchased and maintained insurance are involved, the insurance company shall have the right to select legal counsel if the insurance policy so provides.

Section 6. In cases where private or chartered aircraft are used in violation of Drake rules and/or directives, persons in violation of such rules or directives, shall not be entitled to indemnification.

Primary Responsibilities of Deans of Drake University's Schools & Colleges

1. Participate in the collaborative leadership of the University, and in the resolution of the challenges facing the University in a manner that is not limited to responsibility for the individual unit; ensure the unit's full participation in addressing the mission and goals of the University as a whole.
2. Ensure the unit's commitment to the University's educational values and priorities, and at the same time ensure that the University community as a whole understands and respects the values of the unit, and the unit's contributions to the University.
3. Set the intellectual and programmatic direction for the unit in collaboration with the broader University community, and in the context of the University's overall strategic plan and institutional goals.
4. Require and support the commitment by all faculty and staff to the recruitment, retention, and education of students.
5. Manage the recruitment, development, and retention of the highest quality faculty and staff; support and encourage the highest levels of faculty and staff performance; ensure necessary infrastructure and appropriate operational behaviors to support students, faculty, and staff in meeting their goals; provide support, guidance, and encouragement for academic innovation and creativity.
6. Develop, nurture, and maintain appropriate relationships between the unit and its major external constituencies (alumni, donors, board members, the professional community, the local community). This responsibility includes the assumption of a leadership role in generating resources for the unit, in close collaboration with Institutional Advancement and the senior administration of the University, and consistent with the University's priorities as identified by the administration and the Board of Trustees.
7. Manage the unit's operations in an efficient and effective manner (finances, personnel, program quality, staff development)

August 26, 2001