

**Academic Freedom and Faculty Rights, and the Role of the SCAFFR,
Guidance
University of Utah (Rev. 2014-11-03)**

I: Academic Freedom, Faculty Rights and Responsibilities.

A. Academic Freedom. All faculty members (Tenure-line, Career-line, Adjunct, Visiting and Emeritus, as defined in [Policy 6-300](#)) and other members of the academic community, i.e., staff and students, ([Policy 1-007](#)) have a right to Academic Freedom ([Policy 6-316](#), Section 2.B). Also relevant is [Policy 1-007](#) (University Speech Policy, protecting academic rights including academic freedom of faculty and other members of the University academic community).

The American Association of University Professors 1940 Statement of Principles on Academic Freedom and Tenure ([AAUP-1940](#)), endorsed by the University, defines three important principles governing 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.”
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.”
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... 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.”

B. Faculty Rights and Responsibilities. All faculty members have the rights and responsibilities of faculty as articulated in the Code of Faculty Rights and Responsibilities (University Policy 6-316), and in other University Policies (including [6-010](#), [6-001-III-B](#), and [6-300](#)).

II: Negotiated Resolution of Grievances. Before proceeding to the SCAFFR or other venue with any grievance by formal complaint, members of the University community are encouraged to pursue an informal resolution to all conflicts. For faculty members, the [Campus Faculty Ombudsman](#) or [Health Sciences Faculty Ombudsman](#) can assist in a number of ways:

- Clarification of University policies on academic freedom and faculty rights and responsibilities: The Ombudsman can help interpret these policies. Relevant University Policies, including those listed in Part I, are found on the University Regulations website at <http://regulations.utah.edu>.
- Fact finding: At your request, in consultation with the appropriate Associate Vice President, the Ombudsman can undertake a fact-finding effort to determine the customary and appropriate expectations for faculty within specific academic administrative units.
- Formal or informal mediation: At your request, the Ombudsman can also initiate either informal mediation (directed by the Ombudsman) or formal mediation (directed by a

professional mediator) between the parties.

III. Senate Committee on Academic Freedom and Faculty Rights (SCAFFR). Any issues involving infringement of academic freedom, or faculty rights as defined by the University Faculty Code ([Policy 6-316](#)), that cannot be resolved informally are directed to the Senate Committee on Academic Freedom and Faculty Rights (“SCAFFR”). And certain claims of free speech violations are also directed to the Committee under [Policy 1-007](#) (Free Speech and Academic Freedom). The Committee functions in a context of other committees and offices with distinct but, in some circumstances, overlapping functions of investigation and dispute resolution, including the **Senate Consolidated Hearing Committee** (“SCHC” [Policy 6-011](#)), and the **Office of Equal Opportunity and Affirmative Action** (“OEOE/AA” [Policy 5-210](#)).

1. The SCAFFR is an advisory committee, primarily concerned with academic freedom of faculty and other members of the University academic community, as well as issues of faculty rights and responsibilities. The Committee membership is governed by [Policy 6-002-III-D-1-d](#) (Academic Senate Standing Committees), and ordinarily consists of 12 faculty members, elected by the Academic Senate for a three-year rotating term. Student representatives may also be specially assigned to the Committee for matters involving students.

The responsibilities of the Committee are governed by, and a full description of them can be found in [Policy 6-010](#) (Academic Freedom, Academic Grievances, Functions and Procedures of the Senate Committee on Academic Freedom and Faculty Rights). See also [Policy 6-308](#) (Grievances, of Faculty). This committee is charged with three general tasks.

- To be informed on issues relating to academic freedom/ faculty rights and alert to any potential problems.
- To investigate complaints of faculty grievances, including grievances relating to academic freedom or other faculty rights and (when warranted) refer them to the SCHC for a formal hearing. ([Policies 6-010, 6-308, 6-011](#)).
- To consider and report on any instance of alleged academic freedom violation referred to the committee by the SCHC.
- To oversee the application and updating of the Code of Faculty Rights and Responsibilities ([Policy 6-316](#)), and make recommendations to the Senate.

2. Jurisdiction. Any member of the academic community may file a formal SCAFFR complaint that asserts a violation of academic freedom, and any faculty member may file a SCAFFR complaint that asserts a violation of other established faculty rights (as articulated in University Policy, particularly [Policy 6-316](#)), or other academic grievance (as described in [Policy 6-010-III-C-2-d](#)).

Please note that the SCAFFR has no direct jurisdiction over any claim of a *Tenure-line* faculty member asserting wrongful denial of Retention, Promotion, or Tenure. By Policies 6-010 and 6-011 jurisdiction of such a claim is assigned exclusively to the SCHC—with procedures governed by [Policy 6-011](#), based on RPT rights established through [Policy 6-303](#). The SCHC is free to refer to SCAFFR any academic freedom issue arising in an RPT case filed with the SCHC on which it would like advice. Should SCAFFR receive a complaint involving academic freedom issues in the context of a Retention, Promotion or Tenure action

for a Tenure-line faculty member, the complaint should be referred back to the faculty member with instruction to submit the matter to the SCHC, requesting SCAFFR review.

The SCAFFR jurisdiction regarding a claim of wrongful denial of *reappointment/or promotion* of a faculty member in the categories of *Career-Line, Adjunct, or Visiting Faculty* is limited to claims alleging that a denial of reappointment or promotion was based on a violation of academic freedom rights. In all other cases involving faculty members in the categories of Career-Line, Adjunct, or Visiting, rights with respect to reappointment and promotion are articulated and governed by rules of the relevant appointing unit (i.e., department/ college/ interdisciplinary teaching program) adopted in accord with University Policies [6-310](#) and [6-300](#), and any issue raised regarding them must be brought in accord with the appointing unit's rule.

3. As an *advisory* body to the Academic Senate, the SCAFFR does not have authority to directly resolve complaints. The committee will investigate the complaint and either negotiate an informal resolution, dismiss the claim, or find the claim has merit (See Flowchart below). The SCAFFR may also elect to refer the matter to a formal hearing by the SCHC, with hearing procedures governed by [Policy 6-011](#).

IV. SCAFFR Procedure. Guidelines for consideration of a formal complaint.

1. As prescribed in [Policy 6-010](#), complaints that involve issues of academic freedom and/or faculty rights can be referred to the SCAFFR by a formal complaint of an individual, by the Academic Senate, by a panel of the SCHC, or by the president of the University.

When complaints are brought by the Academic Senate, SCHC, or University President, they must be brought with the knowledge and consent of the harmed individual. If they are not, they fall outside the charge of the SCAFFR.

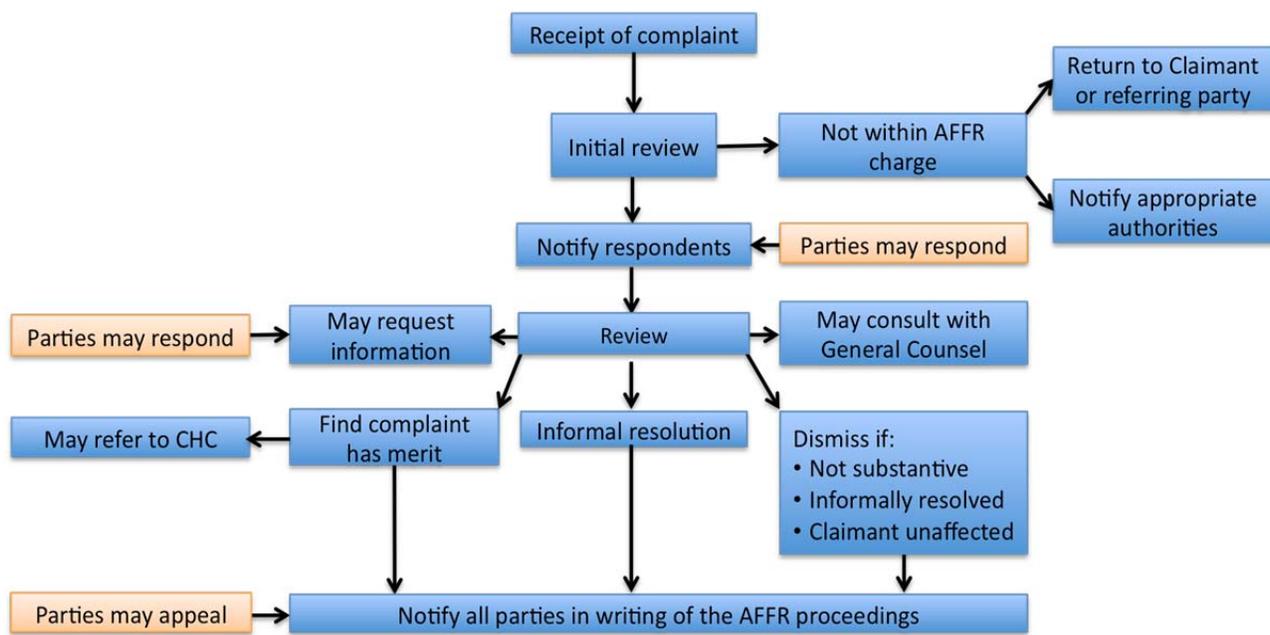
If a dispute involves an allegation of illegal discrimination, such allegations must be investigated by the OEOE/AA, and so any case including such an allegation must be referred immediately to the OEO/AA office ([Policy 5-210](#), and [6-010](#)). When such a case also involves an issue in the jurisdiction of the SCAFFR or the SCHC, the recommended process is to submit the case first to OEO/AA, and if all issues are not satisfactorily resolved there, one may appeal to the SCHC ([Policy 6-011-III-B-2](#)). If the SCHC finds that any issues in the case should be considered by SCAFFR, the SCHC panel will refer those issues to SCAFFR ([Policy 6-011-III-C-6-a](#)).

2. If a complaint has been referred by an SCHC panel, the SCAFFR will consider the allegations and make a written report to SCHC based only on the materials forwarded, in accordance with [Policy 6-010-III-C-7](#).

3. Upon receipt of a complaint by the SCAFFR Chairperson or by a designated proxy, the SCAFFR will conduct an initial review in a timely manner to determine:

- a. Whether the complaint falls within the charge of the SCAFFR ([Policy 6-010-III-C-3-g](#)). If not, the complaint will be referred back to the Claimant or to the referring party with instructions as to the appropriate avenue for resolution of the complaint. In cases of physical or sexual violence ([Policy 1-004](#)), discrimination or harassment ([Policy 5-](#)

- [210](#)), or research misconduct ([Policy 7-001](#)), the matter will be referred to appropriate authorities.
- b. If the complaint falls within the charge of the SCAFFR, the Claimant and Respondent(s) will be notified in a timely manner and provided with a copy of the Complaint as well as a copy of SCAFFR Procedures (from [Policy 6-010](#)). The SCAFFR Chairperson may also elect to notify other persons, if the Chairperson believes they may wish to participate in the proceedings as a Respondent.
4. As part of notification, both parties will be given an opportunity to respond.
 - a. If a response is made, the parties will be notified and given an additional opportunity to respond to this new information.
 - b. Notification/opportunity to respond continues until no further response is made.
 5. The SCAFFR may request additional information or documentation from either the Claimant or Respondent ([Policy 6-010-III-C-5](#)), and the Committee Chairperson may seek advice of the General Counsel's office to formulate such a request. If additional information is provided, the opposing party will be given an opportunity to respond until no further response is made.
 6. Once all relevant information has been received, the SCAFFR will investigate the matter in a closed meeting ([Policy 6-010-III-C-5](#)). As part of the investigation, the SCAFFR may informally interview the Claimant, the Respondent or other parties. As a result of this investigation, the SCAFFR will take one of three actions and will notify all parties in writing of the proceedings of the Committee:
 - a. The complaint may be dismissed, if any of the following pertain:
 - 1) The complaint involves neither a substantial question of academic freedom nor a substantial academic grievance.
 - 2) The matter has been resolved to the satisfaction of the claimant either through informal resolution or a change in circumstances.
 - 3) The claimant is not directly or substantially affected by the matters of which he or she complains and it is not appropriate for the Committee to proceed with investigation of the matter on its own initiative.
 - b. The Committee may attempt to resolve the matter informally ([Policy 6-010-III-C-5](#)).
 - c. The Committee may find the complaint has merit.
 7. If the matter is dismissed (6.a, above), the Claimant will be notified in a timely manner, and informed of further options, including the possibility of filing a complaint with the SCHC ([Policy 6-010-III-C-3-a](#)).
 8. If the Committee elects to attempt an informal resolution (6.b, above), they may designate one or more members to meet with the Claimant or Respondent, with or without the assistance of the Ombudsman.
 9. If the Committee finds the complaint has merit (6.c, above), the report will be communicated to the Claimant, the Respondent(s) and the party initially submitting the complaint to the SCAFFR (if other than the Claimant). Parties will be advised of the option of requesting a hearing from the SCHC.



Flowchart for complaints to the SCAFFR that have been submitted by a member of the academic community or referred to the Committee by the SCHC. For details, see: ([Policy 6-010](#)).