

6 **Policy Recommendation**

7 **Declaring our Support for Academic Freedom and Establishing the Academic Freedom**  
8 **Committee**

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10 Resolved: That this policy be adopted effective immediately, with the Academic  
11 Freedom Committee to be established by the beginning of AY 2023-2024.

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13 Resolved: That Section I of S99-8 shall be deleted (as it is incorporated here unchanged.)  
14 The title of S99-8 shall be changed from “Academic Freedom and Professional  
15 Responsibility” to “Professional Responsibility.”

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17 Resolved: Throughout S99-9 the name of the “Board of Academic Freedom and  
18 Professional Responsibility” shall be changed to the “Board of Professional  
19 Responsibility.” Items 1, 2, and 3 of its charge (related to the education about  
20 Academic Freedom) will be deleted (as they are incorporated here.)

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22 Rationale: Academic Freedom is at the heart of the success of the modern university, but in  
23 recent years faculty, students, and others have begun to lose touch with an  
24 understanding of this critical concept. The classic statements in defense of  
25 academic freedom were articulated at the start of the twentieth century by the  
26 American Association of University Professors (AAUP) in response to egregious  
27 acts in which faculty appointments, research programs, and curricular content  
28 were attacked or manipulated for political reasons. Faculty organized and fought  
29 hard to secure tenure and other protections, and by the 1950s they won a key  
30 court decision that eloquently summarized the need for academic freedom.  
31 “Teachers and students must always remain free to inquire, to study and to  
32 evaluate, to gain new maturity and understanding; otherwise our civilization will  
33 stagnate and die.”<sup>1</sup> [[Sweezy v. New Hampshire](#), 34 U.S. 234, 250 (1957)]

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35 Today, however, many faculty and others do not know much about the history of  
36 academic freedom, its legal status, or its ultimate purpose. When the term is used  
37 it is sometimes perceived incorrectly as an individual privilege rather than as a  
38 critically important tool for fulfilling the academy’s scholarly and educational roles.  
39 Professional Standards believes it is the responsibility of each new generation of  
40 faculty to take on the challenge of renewing the community’s understanding of  
41 academic freedom, and has crafted this policy recommendation to fulfill this  
42 task.

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45 A generation ago, the Academic Senate combined the Academic Freedom  
46 Committee with a new board focused on professional ethics. The motivation was  
47 sound—to symbolize the deep interconnection of academic freedom to  
48 professional responsibility. We continue to agree with this principle, but experience  
49 has taught that the Board of Academic Freedom and Professional Responsibility  
50 (BAFPR) has not been a consistently effective committee. Its sweeping  
51 responsibilities, extended membership, and restricted qualifications have resulted

1.” [[Sweezy v. New Hampshire](#), 34 U.S. 234, 250 (1957)]

52 in a committee that is difficult to fill and which is torn between its educational and  
53 its quasi-judicial functions. As a result, the BAFPR has been the subject of review  
54 and reform by Professional Standards for 4 years, with numerous starts and stops  
55 and no resolution to the problems. After extensive consultation, Professional  
56 Standards is determined to solve this problem, and this policy recommendation is  
57 the first of two important steps.

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59 This policy recommendation removes the educational functions centered on  
60 Academic Freedom from BAFPR and gives them to a new Academic Freedom  
61 Committee (AFC.) The AFC will be much smaller than the Board and its  
62 qualifications for membership less restrictive. (BAFPR consists solely of full  
63 Professors elected from each College.) By creating a smaller committee with a  
64 sharper focus, Professional Standards hopes to create a vibrant, active  
65 committee of experts that can engage in the continual education of the university  
66 on academic freedom issues, and provide useful and timely information to  
67 faculty, students, and administration when issues related to academic freedom  
68 arise.

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70 Other features of this reform are to pull the eloquent AAUP-derived statements on  
71 Academic Freedom and Tenure into this policy creating the Academic Freedom  
72 Committee, so that the AFC's charge will be connected to its structure. We have  
73 added a section on professional responsibility that underlines the interconnection  
74 between freedom and responsibility and links to the (retitled) Professional  
75 Responsibility policy.

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77 The creation of the AFC will nevertheless leave another reform of the Board  
78 of Professional Responsibility to be taken up in a second stage. The most  
79 effective way to enforce our campus policy on professional responsibility,  
80 given the collective bargaining system and the growing importance of legal  
81 codes operating within the academy, has yet to be decided. The existing  
82 Board is advisory to Faculty Services and has had mixed success over the  
83 years with this function. Furthermore, the statement of professional  
84 responsibility is itself in need of revision after more than twenty years of legal  
85 developments. But Professional Standards would like to see an effective and  
86 functioning AFC in place while our work continues on the (now) separate  
87 professional responsibility policy.

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89 Approved: 5/1/23  
90 Vote: 10-0-0  
91 Present: Barrera, French, Gómez, Kazemifar, Maldonado, Monday, Pruthi, Riley,  
92 Smith, Wang  
93 Absent: None

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Financial Impact: There could be some modest travel costs associated with sending members of the Academic Freedom committee to conferences.

Workload Impact: The creation of a new committee would represent more work, although necessary work. This is somewhat obviated by the work that could be saved if the committee's actions prevent misunderstandings or incidents arising from disputes over academic freedom.

1. Statement of Academic Freedom<sup>2</sup>

1.1. In General

1.1.1. The primary mandates of a university—the discovery and dissemination of knowledge and understanding, are absolutely dependent upon academic and intellectual freedom. Freedom in research is fundamental to the advancement of truth. Freedom in teaching is fundamental for the protection of the rights of the student in learning and of the faculty<sup>3</sup> in teaching.

1.1.2. Political attacks on academic freedom, including government attempts to exert control over curriculum, restrict the freedom to pursue all avenues of scholarly research, and censor the speech of faculty, have many historical precedents. Such attempts to control teaching and research destroy higher education.

1.1.3 San José State University has a responsibility to society to defend and to maintain these freedoms, and to ensure that those engaged in academic pursuits can effectively execute their responsibilities. SJSU faculty must remain free of the forces of special interests and political interference if they are to fulfill society's expectations and their educational responsibilities.

1.2. Academic Freedom as it Relates to Tenure

1.2.1. All members of the university community: students, staff, and all faculty employees, regardless of tenure status, shall have the protections of

<sup>2</sup>Derived from the *International Statement on Academic Freedom and Tenure*, 1984. Signatories include the American Association of University Professors, the American Federation of Teachers, the National Education Association, and similar groups from the United Kingdom, New Zealand, Canada, Australia, Ireland, and France.

<sup>3</sup>The faculty of the university include all those who engage in scholarly activities and/or those who directly or indirectly participate in instructional activity. Thus faculty members include professors, lecturers, teaching assistants, research assistants, coaches, counselors, librarians, and all those faculty employees under Unit 3.

132 academic freedom. Tenure is one mechanism specifically created to  
133 protect academic freedom, and those faculty who hold the protection of  
134 tenure have an obligation to protect the academic freedom of all  
135 members of the university community.  
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137 1.2.2. Tenure constitutes ~~the~~ an important procedural safeguard of academic  
138 freedom and ~~individual professional~~ responsibility and, as such, is  
139 essential for the maintenance of intellectual liberty and high standards  
140 in education and in scholarship. It is ~~the one~~ means by which university  
141 faculty members are protected against personal malice or political  
142 coercion, and by which it is ensured that those who, following rigorous  
143 evaluation, secure continuing employment, can be dismissed only on  
144 professional grounds according to due process.  
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146 1.2.3. Historically, the indispensability of academic tenure to academic freedom  
147 in universities throughout the world has been proven by events in  
148 situations where tenure has not existed. We must not forget the lessons  
149 of the past but must work to ensure that SJSU continues to fulfill the  
150 educational needs of a free society.  
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### 152 1.3. Academic Freedom as it Relates to Professional Responsibility

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154 1.3.1. According to the AAUP, Academic freedom “is a professional right  
155 extended to members of the profession and is subject to certain  
156 limitations. Academic freedom means that faculty are free to engage in  
157 the professionally competent forms of inquiry and teaching that are  
158 necessary for the purposes of the university. It does not mean that  
159 individual faculty members are free to teach or publish whatever they want  
160 without repercussions.” AAUP makes clear that the academic freedom of  
161 an individual faculty member is subject to matters of professional  
162 responsibility, including those related to 1) the collective; 2) professional  
163 ethics; and 3) professional competence. AAUP says more about each  
164 category below:  
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166 “**The collective:** The faculty who are responsible for a particular course of  
167 study may share responsibility for determining courses to be offered or  
168 texts to be assigned to students. The shared academic freedom to make  
169 this decision trumps the freedom of an individual faculty member to assign  
170 a textbook that he or she alone prefers.”

171 “**Professional ethics:** A faculty member must act ethically in their  
172 teaching and research; for example, by following regulations on human  
173 subject research.

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**“Professional competence:** In order to produce and disseminate the highest quality of knowledge in a given field, academics are regulated by other academics who are in a position to judge the work of their peers. A faculty member is not entitled to teach something that their academic peers judge is invalid--for example, teaching that 2+2=5 would not be protected; neither would teaching intelligent design in an evolutionary biology class.”<sup>4</sup>

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Professional responsibility is thus the natural complement of the academic freedom essential to the university's mission. Through their responsible professional conduct, faculty members promote and protect academic freedom. Because faculty members belong to a profession with the rights of self-government, they also have the obligation to establish standards of professional conduct and procedures to enforce them. These standards are set in the SJSU Statement of Professional Responsibility.<sup>5</sup>

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1.3.2. Academic freedom is a privilege granted to faculty in return for their obligation to serve the public good, which they do through the advancement of scholarship, the search for truth, and the higher education of our communities. We agree with the AAUP 1915 Declaration that “not only that the profession will earnestly guard those liberties without which it cannot rightly render its distinctive and indispensable service to society, but also that it will with equal earnestness seek to maintain such standards of professional character, and of scientific integrity and competency, as shall make it a fit instrument for that service.”<sup>6</sup>

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2. The Academic Freedom Committee is established as a Special Agency.

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2.1. Charge of the Academic Freedom Committee (AFC):

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2.1.1. AFC shall monitor the state of academic freedom both at San Jose State and in the broader academic environment. In addition, it shall safeguard and promote academic freedom at SJSU, and shall serve as an advisory body on issues arising from the application of academic freedom on our campus.

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<sup>4</sup> <https://www.aaup.org/programs/academic-freedom/faqs-academic-freedom>

<sup>5</sup>S99-8 at the time of this policy recommendation

<sup>6</sup> American Association of University Professors, *1915 Declaration of Principles on Academic Freedom and Academic Tenure*.

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2.1.2. AFC shall educate and advise on the meaning and scope of academic freedom and its application. To do so, AFC shall familiarize itself with policies, laws, court decisions, and current events concerning academic freedom. As part of this function it shall maintain contact (and membership if possible) with the American Association of University Professors (AAUP) and familiarize itself with relevant AAUP publications. Members of AFC should attend AAUP conferences on academic freedom when possible.

2.1.3. AFC shall work in concert with the Center for Faculty Development to educate and orient new faculty on academic freedom issues, by attending and presenting at events such as faculty orientations.

2.1.4. AFC shall educate all constituencies of the San Jose State Community on our own policies on academic freedom. It shall host at least one academic freedom forum each year, on a topic related to academic freedom and designed to stimulate interest in academic freedom.

### 3. Organization of the AFC

#### 3.1. Membership

3.1.1. Three faculty members, two of whom must be (or have previously been) tenured, chosen university-wide for their expertise and/or interest in academic freedom issues. One of the three faculty may be from among our emeriti faculty. One of the three faculty may be a lecturer or a probationary faculty member. These faculty will serve 2 years terms and may be renewed twice (for a total of six years) before rotating off the committee for a minimum of one term.

3.1.2. One student.

3.1.3. One administrator.

3.2. Chair. Each year the AFC shall choose its own Chair from among the tenured (or previously tenured) faculty members of the committee.

#### 3.3. Reporting.

3.3.1. If the AFC has suggestions for policy changes it shall report them to the Professional Standards Committee of the Academic Senate.

- 254 3.3.2. The Chair of the AFC shall be permitted to address the Professional  
255 Standards Committee and the Academic Senate to report on issues  
256 relating to academic freedom.  
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- 258 3.4. Selection  
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- 260 3.4.1. All candidates for membership shall submit statements discussing their  
261 expertise and/or interest in academic freedom issues, and (if faculty) a  
262 curriculum vitae.  
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- 264 3.4.2. Faculty candidates for membership shall be screened by the  
265 Executive Committee and approved by the Senate.  
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- 267 3.4.3. The Administrative representative shall be designated by the President  
268 after consultation with the Executive Committee.  
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- 270 3.4.4. The student representative shall be designated by Associated Students  
271 after consultation with the Executive Committee.  
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- 273 3.5. Meetings. The AFC should meet at least once every month during the  
274 academic year.