

1 San Jose State University
2 Academic Senate
3 Professional Standards Committee
4 April 15, 2024
5 First Reading

6 Policy Recommendation
7 Board of Professional Responsibility

8 Legislative History: This proposal would rescind S99-9 (Board of Professional
9 Responsibility) and replace it with the following policy recommendation:

10 Rationale: The policy establishing the Board of Professional Responsibility has not
11 been updated in 25 years, while the procedures and university offices for addressing
12 breaches of professional ethics have undergone many changes in that time. In addition,
13 the current makeup of the Board dates to a time when the Boards of Academic
14 Freedom and Professional Responsibility were a single unit with a much broader
15 charge. As a result, the current Board is difficult to staff and often cannot operate due to
16 lack of a quorum. Finally, the current policy has been amended by Amendment A to
17 S99-8 and S99-9, which resulted in the establishment of an independent Board of
18 Academic Freedom, but the sections of S99-9 declaring the mission and organization of
19 the Board of Professional Responsibility were deleted as a result. This proposal
20 establishes the Board of Professional Responsibility as a separate entity, including its
21 mission and organization/membership, and updates the policy to reflect changes in
22 reporting structures and procedures.

23 Resolved: That S99-9 (Board of Professional Responsibility) be rescinded and replaced
24 with the following:

25 Approved: April 8, 2024

26 Vote: 9-0-0

27 Present: Blanco, Chen, French, Kazemifar, Pendyala, Pruthi, Raman, Riley, Smith

28 Absent: Barrera, Lacson

29 Financial Impact: None anticipated

30 Workload Impact: Some additional workload for the administrative office(s) charged with
31 directing complaints to the correct committees, and specifically for the Office of Faculty
32 Services with regard to establishment and posting of procedures, as well as evaluating
33 findings to be placed in Personnel Action Files.

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36

37 I. Mission

38 The Board of Professional Responsibility (BPR) is charged with monitoring and
39 ensuring professional responsibility in alignment with University Policy S99-8
40 (Professional Responsibility), except as noted in Section IV below. To carry out this
41 charge, BPR will:

- 42 1. Monitor the state of professional responsibility at the University, and make reports
43 and recommendations to the Academic Senate regarding revisions of policy and
44 other documents relating to professional responsibility;
- 45 2. Be available to consult confidentially with all members of the University on issues
46 related to professional responsibility;
- 47 3. Address complaints of infringements of academic freedom brought by members of
48 the University, issuing findings as appropriate;
- 49 4. Advise and assist the Office of Faculty Services on the handling of all complaints
50 about breaches of professional responsibility;
- 51 5. Review and adjudicate disputes made regarding Student Fairness Committee
52 recommendations, as described in University Policy S14-3, VI.
- 53 6. Present an annual report to the Academic Senate relaying all essential
54 information pertaining to professional responsibility cases, including but not limited
55 to number of complaints, general categories, types of complaints, methods of
56 resolution, and any trends year to year.

57 II. Appointment, Qualifications, and Terms of Membership

- 58 1. BPR will evaluate allegations of professional misconduct and infringements of
59 academic freedom in violation of University Policy S99-8. All members shall sign a
60 statement prepared by University Personnel indicating that they agree to keep
61 confidential all content of committee deliberations. Committee members may not
62 participate in deliberations until after having signed the agreement.
- 63 2. BPR will consist of five tenured faculty members-at-large, from different
64 colleges/academic units; **membership is restricted to Full Professors**. The
65 members shall be appointed by the Academic Senate after recommendation by
66 the Senate Executive Committee, selected through a nominating process.
- 67 3. Nominees for the BPR must submit a one-page statement to the Academic
68 Senate Executive Committee indicating their interest and experience in the areas
69 of BPR's work. Faculty whose names are placed in nomination for BPR shall have

70 a reputation for ethical behavior, and their integrity and honor will be held in the
71 highest regard by their colleagues. The members of the Academic Senate
72 Executive Committee should perform due diligence in verifying the reputations of
73 the nominees.

74 4. BPR members will serve staggered terms of two years, with the potential for
75 reappointment for up to two additional terms. The BPR will elect a Chair for a one-
76 year term, covering the academic year. Members will be replaced by the process
77 described above as their terms expire.

78 III. Complaints Containing Allegations of Faculty Professional Misconduct

79 1. Complaints containing allegations of faculty professional misconduct will be
80 resolved through the policy and procedures established herein, and any policies
81 governing the resolution under the specific offices set forth below in paragraph 4.

82 2. Complaints containing allegations of faculty professional misconduct may be
83 submitted to any university administrative office designated by the University to
84 receive such complaints.

85 a. A list of these offices shall be publicly posted by the University through its
86 various platforms of communications.

87 b. Each office is responsible for assigning the responsibilities related to these
88 complaints to a selected representative in their respective offices.

89 c. For BPR, University Personnel shall designate a person to assist BPR with
90 the responsibilities related to transmitted complaints.

91 3. Transmission. Upon receipt of any complaint, the administrative office receiving
92 the complaint shall transmit it within two business days, to the designated office
93 of the University charged with overseeing Title IX, professional ethics and/or
94 other similar issues.

95 4. Receiving Offices. Upon receipt of any transmitted or originating complaint, the
96 Office for Title IX and Equal Opportunity shall evaluate whether the complaint
97 may rise to the level of unlawful discrimination or harassment. It will then transmit
98 all other complaints (those not involving unlawful discrimination or harassment) to
99 the appropriate university office or committee.

100 University offices that may be appropriate to handling complaints include but are
101 not limited to: Research Compliance, University Personnel (including Faculty
102 Services and Academic Employee Relations), and the University Ombudsperson.
103 All receiving offices shall develop policies and procedures to process any
104 complaints from receipt to resolution that shall be publicly posted by the office
105 and/or University through its various platforms of communications.

106 Allegations involving misconduct by a faculty member of professional
107 responsibility in alignment with University Policy S99-8, and not meeting
108 any of the above criteria shall be referred to the BPR.

109 5. Consultation. The members of the BPR, acting under the authority of the
110 President, shall provide consultation to the Office of Faculty Services involving
111 any complaints containing allegations of faculty misconduct. BPR must be
112 consulted for any type of reprimand and/or other personnel issues within its
113 purview.

114 6. Complaints transmitted to BPR. In consultation with the Office of Faculty
115 Services, BPR shall develop and revise as needed procedures to process
116 complaints from receipt to resolution. Appendix A includes a list of suggested
117 procedures. BPR'S procedures shall be publicly posted by the University through
118 its various platforms of communications.

119 IV. Alleged Infringements of Academic Freedom

120 1. University offices receiving complaints containing allegations of infringements of
121 academic freedom in alignment with University Policy S99-8 shall transmit such
122 complaints to the BPR within 10 working days of receipt.

123 2. BPR will develop and revise as needed procedures to evaluate allegations of
124 infringements of academic freedom in violation of University Policy S99-8.

125 V. Communication of Findings

126 1. The findings of the BPR shall be presented to the subject and complainant in
127 writing. Such findings may fall into three categories:

128 a. The BPR may find that a complaint is without merit (or that the evidence is
129 insufficient to determine that a complaint has merit). In such cases, the
130 decision of the BPR is final.

131 b. The BPR may find that a complaint has merit and that a satisfactory informal
132 resolution can be reached. In such cases, the findings shall be sent to the
133 principal parties, the President, the Chair of the Academic Senate, and
134 University Personnel/Office of Faculty Services.

135 c. The BPR may find that a complaint has merit and is of sufficient gravity that it
136 requires documentation in the subject's Personnel Action File. In such cases,
137 the BPR shall follow the procedures for placing material in the PAF as
138 established in the CFA/CSU Collective Bargaining Agreement.¹

¹ See CFA/CSU Agreement 11.3: Any material identified by source may be placed in the Personnel Action File. Identification shall indicate the author, the committee, the campus office, or the name of the officially authorized body generating the material.

139 **History**

140 The procedures of this policy were first provided in S94-5 created by the Professional
141 Standards Committee, and approved by the Academic Senate on May 2, 1994. S94-5
142 was approved and signed as University Policy on May 11, 1994. S94-5 was created to
143 implement S93-12 on Academic Freedom and Professional Responsibility. S94-5 was
144 slightly amended by F95-1 approved as University Policy on October 2, 1996. S94-5
145 and F95-1 were modified and reissued as a new policy (S99-9) on May 4, 1999. S99-9
146 was further modified by Amendment A to S99-8 and S99-9 on August 21, 2023.
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148 Appendix A: Suggested Procedures for Complaints Containing Allegations of
149 Professional Misconduct or Infringements of Academic Freedom

150 The BPR is charged with developing procedures, in consultation with the Office of
151 Faculty Services, to address and resolve complaints in alignment with University Policy
152 S99-8 (Professional Responsibility). These procedures may include (but are not limited
153 to):

- 154 1. Development of questions to be addressed in an initial written assessment of the
155 complaint;
- 156 2. Development of standards to determine whether an informal and/or formal
157 investigation is required. This may include standards for timeliness of reporting.
158 Members of the BPR may assist in investigations if requested by the Office of
159 Faculty Services.
- 160 3. Development of investigatory procedures to be utilized by consensus of all
161 parties;
- 162 4. Development of procedures regarding the monitoring all investigations, including,
163 but not limited to investigations involving any discipline-specific issues;
- 164 5. Development of notification procedures including but not limited to the subject of
165 the complaint, the complainant, and other relevant parties;
- 166 6. Development of standards to determine whether any complaint is amenable to
167 informal resolution and, if so, how said informal resolution would be conducted
168 and how BPR will assist in achieving informal resolutions;
- 169 7. Development of standards to address when informal resolution is not achievable,
170 the process by which the matter will be forwarded to the Senate Executive
171 Committee who will provide a written determination after considering the written
172 positions of all parties;
- 173 8. Development of standards for determining, if applicable, a prevailing party;
- 174 9. Development of processes for communication of findings to all required parties
175 (see Section V above);
- 176 10. Development of due process and appeals processes (if appropriate) for BPR's
177 review of any complaints;
- 178 11. Development of expected timelines for complaint review and resolution;
- 179 12. Development of confidentiality standards with respect to creation of documents,
180 recording of any meetings and/or proceedings, and retention of parties'
181 documents in addition to any of the foregoing.
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