

**SAN JOSÉ STATE UNIVERSITY
ONE WASHINGTON SQUARE
SAN JOSÉ, CA 95192**

**University Policy
F24-2, Board of Professional Responsibility**

Rescinds: S99-9

Legislative History:

On November 4, 2024, the Academic Senate approved University Policy, Board of Professional Responsibility, to rescind University Policy S99-9, presented by Senator Riley for the Professional Standards Committee.

ACTION BY UNIVERSITY PRESIDENT:

Date: November 13, 2024

Signed and approved by: 
**Cynthia Teniente-Matson, President,
San José State University**

**University Policy
Board of Professional Responsibility**

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

Rationale: The policy establishing the Board of Professional Responsibility has not been updated in 25 years, while the procedures and university offices for addressing breaches of professional ethics have undergone many changes in that time. In addition, the current makeup of the Board dates to a time when the Board of Academic Freedom and Professional Responsibility was a single unit with a much broader charge. The current Board is difficult to staff and often cannot operate due to lack of a quorum. Further, the Board has historically operated without sufficient collaboration with University administration, which has curtailed its effectiveness. Thus, language about the roles of both the University administration and the Board in resolving

complaints about breaches of professional responsibility has been added. Finally, Amendment A to S99-8 and S99-9 established an independent Academic Freedom Committee, but the sections of S99-9 declaring the mission and organization of the Board of Professional Responsibility were inadvertently deleted. This policy will establish the Board of Professional Responsibility as a separate entity, including its mission and organization/membership, and address other changes in reporting structures and procedures.

At the final reading in May 2024, the Academic Senate passed AS1870, but it was returned to Professional Standards by the President for additional clarification. Professional Standards has worked collaboratively with the Provost's Office and the Senior Associate Vice President for University Personnel to fine-tune the policy. The current revision maintains the changes included in the draft that passed in May; new changes primarily reorganize the policy for improved intelligibility, clarify how complaints are referred to the Board, and clarify the Board's consultation process. In sum, the proposed changes to S99-9:

- 1) Update membership to include Associate Professors and Senior Lecturers
- 2) Add information about training requirements for members of the Board
- 3) Clarify language about how complaints can be referred to the Board, outlining the primary role of the University administration, in particular, but not limited to, the Office for Title IX and Gender Equity and UP-AER (University Personnel-Academic Employee Relations) in classifying and referring most complaints
- 4) Emphasize the Board's function in consultation and in seeking informal resolutions, whenever possible
- 5) Clarify procedures for the Board's consultation process
- 6) Change the communication of findings section to require the Board to make a recommendation if an informal resolution cannot be reached
- 7) Remove references to the BPR carrying out investigations
- 8) Update the name of the Office for Title IX and Gender Equity

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

Approved: October 28, 2024

Vote: 8-0-0

Present: Magdalena Barrera, Caroline Chen, Farzan Kazemifar, Gilles Muller, Chima Nwokolo, Sarika Pruthi, Shannon Rose Riley (Chair), Gigi Smith; James Lee (non-voting guest), Kenneth Peters (non-voting guest)

Absent: Priya Raman; Kristin Dukes (non-voting guest)

Financial Impact: None anticipated

Workload Impact: Some additional workload for the administrative office(s) charged with directing complaints and referrals to the Board, and specifically for the Office of Faculty Services and Academic Employee Relations (UP-AER) with regard to the establishment and

posting of procedures, and the evaluation of findings that are proposed to be placed in Personnel Action Files.

1 Mission

1. The Board of Professional Responsibility (BPR) is charged with monitoring and ensuring professional responsibility among San José State University faculty, as defined in S99-8 Professional Responsibility. To carry out this charge, BPR will:

- 1.1 Monitor the state of faculty professional responsibility at the University and make reports and recommendations to the Academic Senate regarding revisions of policy and other documents relating to professional responsibility;
- 1.2 Be available to consult with all members of the University on issues within the Board's purview, with the understanding that as University employees, they may have a duty to report (*see* § 3 below);
- 1.3 Address complaints of infringements of Academic Freedom brought by members of the University and issue findings as appropriate;
- 1.4 Advise and assist University Personnel-Academic Employee Relations (UP-AER) with allegations/complaints of violations/breaches of professional responsibility, pursuant to § 2, below;
- 1.5 Review and adjudicate disputes regarding Student Fairness Committee (SFC) recommendations, as described in University Policy S14-3, Student Fairness Dispute Resolution, § VI;
- 1.6 Review and adjudicate disputes regarding recommendations by the Office of Student Conduct and Ethical Development (SCED), as described in University Policy F15-7, Academic Integrity, in the rationale and § 5.0; and,
- 1.7 Present an annual report to the Academic Senate relaying information on the work of the Board.

2 Referrals

- 2.1 Complaints containing allegations of faculty professional misconduct may initially be submitted to any administrative office designated by the University to receive such complaints and may not necessarily be referred to the BPR, particularly if the complaint overlaps other policies and/or Executive Orders or involves numerous, complex, and/or egregious allegations of unprofessional conduct and/or violations of S99-8 Professional Responsibility that may result in disciplinary action if substantiated. Only those complaints deemed appropriate to the purview of the BPR, as determined by these offices, will be referred to the Board. Should a complaint come directly to the Board, it will immediately refer the matter to the Office for Title IX and Gender Equity and UP-AER for review and official referral back to BPR, as applicable.

- 2.1.1 Pursuant to applicable Executive Orders and/or policies, a list of these offices shall be publicly posted by the University through its various platforms of communication.
- 2.1.2 Pursuant to applicable Executive Orders and/or policies, each office will assign the responsibilities related to these complaints to a selected representative in their office.
- 2.1.3 UP-AER shall designate a person to consult with and assist BPR with its responsibilities related to transmitted complaints.
- 2.2 Requests for consultations received directly by the BPR that appear to involve, in any manner, allegations of protected status¹ discrimination, harassment and/or retaliation as defined by Executive Order², will be immediately referred to the Office for Title IX and Gender Equity. Such requests include complaints and/or consultations implicating Article 16³ of the CSU-CFA Collective Bargaining Agreement.
- 2.3 University offices receiving complaints containing allegations of infringements of Academic Freedom in alignment with University Policy S99-8 shall transmit such complaints to the BPR within 10 working days of receipt unless the complaint overlaps other policies and/or Executive Orders, etc. as outlined in Sections 2.1 and 2.2, above.
- 2.4 If the Board receives a complaint concerning Academic Freedom and the allegations appear to overlap with other areas as described in Sections 2.1 and 2.2 above, the Board shall immediately forward the matter to the Office for Title IX and Gender Equity and UP-AER for review and official referral back to BPR, as applicable.
- 2.5 The Student Fairness Committee shall forward matters to the Board as described in University Policy S14-3, Student Fairness Dispute Resolution, § VI.
- 2.6 The Office of Student Conduct and Ethical Development shall forward matters to the Board as described in University Policy F15-7, Academic Integrity, § 5.0.

3 Consultation

The members of the BPR shall provide consultation to and shall consult with UP-AER involving complaints containing allegations of faculty professional misconduct as appropriate. One of the primary goals of the BPR is to provide private consultation and to work toward the informal resolution of conflicts. Per CSU policy,⁴ all members of the BPR are responsible employees with a duty to report.

¹ Protected Status includes Age, Disability (physical or mental), Gender (or sex), Genetic Information, Gender Identity (including transgender), Gender Expression, Marital Status, Medical Condition, Nationality, Race or Ethnicity (including color, caste, or ancestry), Religion or Religious Creed, Sexual Orientation, and Veteran or Military Status.

² <https://calstate.policystat.com/policy/12891658/latest/>

³ <https://www.calstate.edu/cs-system/faculty-staff/labor-and-employee-relations/Documents/unit3-cfa/article16.pdf>

⁴ <https://calstate.policystat.com/policy/12891658/latest/>

- 3.1 In consultation with UP-AER, BPR shall develop and revise, as needed, procedures to process requests for consultation and complaints from receipt to resolution.
- 3.2 Appendix A includes a list of suggested procedures. BPR's procedures shall be shared with Faculty Services and publicly posted by the University through its various platforms of communication.

4 Alleged Infringements of Academic Freedom

2. BPR will develop and revise, as needed, procedures to evaluate allegations of infringements of academic freedom in violation of University Policy S99-8 Professional Responsibility. Findings will be communicated per § 5.2, below.

5 Communication of Findings

- 5.1 The findings of the BPR related to SFC or SCED cases shall be addressed as described in University Policy S14-3, Student Fairness Dispute Resolution, and University Policy F15-7, Academic Integrity.
- 5.2 The findings of the BPR related to breaches of faculty professional responsibility as outlined in S99-8 Professional Responsibility, including breaches of academic freedom, shall be presented to the involved parties and UP-AER in writing. Such findings may fall into three categories:
 - 5.2.1 The BPR may find that a complaint is without merit or that the evidence is insufficient to determine that a complaint has merit. In such cases, the decision of the BPR is final.
 - 5.2.2 The BPR may find that a complaint has merit and that a satisfactory informal resolution can be reached. In such cases, the findings and resolution achieved shall be documented and sent to the principal parties and UP-AER.
 - 5.2.3 The BPR may find that a complaint has merit and is of sufficient gravity that an informal resolution is not achievable. In such cases, the BPR shall make recommendations for further action to the President or their designee. It shall document such recommendations by following the procedures for placing material in the PAF as established in the CFA/CSU Collective Bargaining Agreement.⁵

6 Appointment, Qualifications, and Terms of Membership

- 6.1 BPR will consist of five faculty members-at-large, each from a different college/academic unit; membership is restricted to tenured faculty and Senior Lecturer faculty, with a majority of tenured professors. The members shall be appointed by the Academic Senate after recommendation by the Senate Executive Committee.

- 6.2 Nominees for the BPR must submit a one-page statement to the Academic Senate Executive Committee indicating their interest and experience. Preference will be given to nominees with expertise or training in conflict resolution, mediation, and other areas of BPR's work, including familiarity with University policy. Faculty nominated for BPR shall have a reputation for ethical behavior, and their integrity and honor must be held in the highest regard by their colleagues. Administrative members of the Executive Committee (the President and Provost) shall review the Personnel Action Files (PAFs) of nominees and consult with the appropriate Office for Title IX and Gender Equity administrator(s) and UP-AER, regarding any in-progress matters, investigations, or other relevant concerns, prior to the Executive Committee's deliberations. Any nominees must have completed all systemwide and university-required compliance training, including training related to gender equity, Title IX, and discrimination, retaliation, and harassment.
- 6.3 BPR members will serve staggered terms of two years, with the potential for reappointment for up to two additional terms (for a total of three terms). The BPR will elect a Chair for a one-year term, covering the academic year. Members will be replaced by the process described above as their terms expire.
- 6.4 All members shall sign a statement prepared by UP indicating that they agree to keep confidential all content of complaints, consultations, and committee deliberations. Committee members may not participate in deliberations until after having signed the agreement. Any breaches of confidentiality shall result in removal from the Board.
- 6.5 At the start of their term, BPR members will receive standard anti-bias and conflict resolution training. The appropriate training will be determined and implemented in consultation with UP.
- 6.6 BPR members should recuse themselves when necessary to avoid the possibility—or appearance—of bias or conflict of interest.

3. History

4. The procedures of this policy were first provided in S94-5 created by the Professional Standards Committee, and approved by the Academic Senate on May 2, 1994. S94-5 was approved and signed as University Policy on May 11, 1994. S94-5 was created to implement S93-12 on Academic Freedom and Professional Responsibility. S94-5 was slightly amended by F95-1 and approved as University Policy on October 2, 1996. S94-5 and F95-1 were modified and reissued as a new policy (S99-9) on May 4, 1999. S99-9 was further modified by Amendment A to S99-8 and S99-9 on August 21, 2023.

⁵ See CFA/CSU Agreement 11.3: Any material identified by source may be placed in the PAF.. Identification shall indicate the author, the committee, the campus office, or the name of the officially authorized body generating the material.

Appendix A: Suggested Procedures for Complaints Containing Allegations of Professional Misconduct or Infringements of Academic Freedom

The BPR is charged with developing procedures, in consultation with the UP-AER, to address and resolve complaints in alignment with University Policy S99-8, Professional Responsibility. These procedures may include but are not limited to:

1. Development of a process to examine and discuss an incoming complaint;
2. Development of standards to determine whether a complaint is amenable to informal resolution and, the process of conducting an informal resolution
3. Development of a process that BPR will use to assist in achieving informal resolutions;
4. Development of a method for determining the Board's final findings and voting on them;
5. Development of notification procedures including but not limited to the principal parties and other relevant parties;
6. Development of a process for the communication of findings to all required parties (*see § 5 above*).