

# university of minnesota memo

To David Klaasen

From Marilee Ward, Senate

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- Per your request
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This document was approved by the Faculty Senate on June 7, 1984.

Date 6/8/84

# REGULATIONS CONCERNING FACULTY TENURE

Draft May 25, 1984

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**PROPOSED**  
**REGULATIONS CONCERNING FACULTY TENURE**  
**Recommended by the University Tenure Committee**  
**with Amendments approved by the Faculty Senate**  
**through May 25, 1984**

**SECTION 1. ACADEMIC FREEDOM**

1  
2       1.1 Principles. Every member of the faculty is entitled to due process and  
3 academic freedom as established by academic tradition and the Constitutions and  
4 laws of the United States and the State of Minnesota and as amplified by  
5 Resolutions of the Board of Regents. The Board of Regents hereby reaffirms its  
6 policies concerning academic freedom and tenure announced in its resolution of  
7 January 28, 1938, and statement of December 14, 1963, which are set forth in the  
8 Appendix to these regulations.

9       1.2 Protection of faculty. Denial of faculty appointment or reappointment  
10 or removal or suspension from office or censure or other penalty must not be based  
11 upon any belief, expression or conduct protected by law or by the principles of  
12 academic freedom.

**SECTION 2. APPLICABILITY OF REGULATIONS**  
**AND CONTINUITY OF APPOINTMENTS**

13  
14  
15       2.1 Employment Contracts. These regulations are part of the contract  
16 between the Board of Regents and every faculty member employed by the  
17 University of Minnesota, except as superseded by the provisions of collective  
18 bargaining agreements.

19       2.2 Continuation of Existing Appointments. On the effective date of these  
20 regulations, every person holding a faculty appointment governed by the 1945  
21 Regulations Concerning Faculty Tenure as amended, will hold the same kind of  
22 appointment under these regulations, whether or not their appointments are  
23 appropriate for such status under these regulations.

1                   **SECTION 3. FACULTY RANKS AND TYPES OF APPOINTMENTS**

2           3.1 In General. The faculty ranks are Professor, Associate Professor,  
3 Assistant Professor, and Instructor. Appointments at these ranks are either regular  
4 or non-regular. An appointment must be designated regular or non-regular when it  
5 is made.

6           3.2 Regular Appointments. A regular appointment is either with indefinite  
7 tenure or is probationary, leading to a decision concerning indefinite tenure within  
8 a specified period of time. A faculty member with indefinite tenure is entitled to  
9 retain that position until retirement in accordance with University regulations or  
10 until the appointment is terminated pursuant to the provisions of Sections 10. or  
11 11. A faculty member on probationary appointment (a) is entitled to consideration  
12 for indefinite tenure, and (b) is entitled to timely notice of termination in  
13 accordance with Section 6. A regular appointment may only be held in an  
14 academic unit<sup>1</sup> of a degree-granting college,<sup>2</sup> or similar unit. A regular  
15 appointment must be for two-thirds time or more over the academic year.

16           3.3 Non-Regular Appointments. A non-regular appointment is date-  
17 specific; that is, the appointment terminates at the end of a period specified in the  
18 appointment without further notice to the appointee. The Vice President<sup>3</sup> must  
19 give every person appointed to a non-regular faculty position a statement in  
20 writing setting forth the conditions of the non-regular appointment, including the  
21 fact that it terminates without further notice. No number of renewals of a non-

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<sup>1</sup>As used in these Regulations, "academic unit" means a department or other basic unit in which tenure is held. It may be a division, school, or college which is not further subdivided. The "head" of an academic unit is the academic administrator immediately responsible for it, such as a chair, head, or director.

<sup>2</sup>As used in these Regulations, "collegiate unit" or "college" means a major academic entity of the University. It may be a college, school, institute, or campus. The "academic administrator" or "dean" of a collegiate unit is a dean, provost, or similar officer.

<sup>3</sup>As used in these Regulations, "Vice President" means the Vice President for Academic Affairs.

1 regular appointment creates a right to further renewals or to a decision concerning  
2 tenure. Every renewal of a non-regular appointment for the seventh or succeeding  
3 year must be reported to the Tenure Committee with a justification of the reasons  
4 for non-regular status.

5 **3.4 Limitation on Use of Non-Regular Appointments**

6 Faculty appointments must be regular (either probationary or with indefinite  
7 tenure) unless one or more of the following conditions is met, in which case the  
8 appointment may be classified as non-regular:

9 (a) The duration, the percentage of time, or both require less than service  
10 for two-thirds time for the academic year.

11 (b) The appointment is designated a Visiting appointment because the  
12 faculty member is from another educational institution or is a qualified  
13 professional from a government or private agency on a leave of absence to accept  
14 a temporary appointment at this University.

15 (c) The appointment is designated a Clinical appointment because the  
16 faculty member is a clinician in the community who gives service to the University  
17 part-time.

18 (d) The appointment is designated an Adjunct appointment because the  
19 faculty member's primary employment is outside the University or is in another  
20 unit of the University.

21 (e) The appointment extends courtesy faculty rank without salary.

22 (f) The position is subject to the joint control of the University and another  
23 institution.

24 (g) The specific funding for the position is subject to the discretion of  
25 another agency.

26 (h) The funding for the position is for a limited time.

27 (i) The appointment is in a unit or program that is experimental or  
28 otherwise restricted in duration.

1 (j) The person is enrolled in a University of Minnesota degree program. A  
2 regular faculty member on a probationary appointment may transfer to non-regular  
3 status during enrollment in such a program if the faculty member and the Vice  
4 President agree. This transfer suspends the running of the maximum period of  
5 probationary service, but the faculty member retains other rights of regular  
6 appointment, including annual review, the right to timely notice and a terminal  
7 appointment period as provided in Section 6.

8 3.5 Administrators' Appointments. Academic administrators may hold  
9 regular or non-regular faculty appointments. Administrative titles and duties are  
10 distinct and severable from such individuals' faculty appointments. Removal from  
11 an administrative position does not impair any rights the individual holds as a  
12 faculty member.

13 3.6 Special Contracts. These regulations do not bar a faculty appointment  
14 pursuant to a special contract specifying terms or conditions of employment which  
15 are different from those prescribed in these regulations. All other provisions of  
16 these regulations apply to such appointments. Every special contract must be in  
17 writing and must state that it is a special contract entered into pursuant to this  
18 Subsection. It must be signed by the faculty member concerned, by the dean of the  
19 collegiate unit in which the faculty member will be employed and by the Vice  
20 President and must be authorized by the Board of Regents or its expressly  
21 authorized delegate. In addition, the Vice President will annually report to the  
22 Tenure Committee the terms of all special contracts and the reasons for their use.

23 A special contract may be used to reduce the minimum time of a regular  
24 appointment to one-half time in order to permit a faculty member to devote more  
25 time to family responsibilities. Such a contract must provide for the mutual  
26 responsibilities of the faculty member and the academic unit, including the type  
27 and percent time of the appointment, if any, to which the faculty member is  
28 entitled at the expiration of the special contract. In the case of a probationary



1 faculty member the contract will regulate the length of the probationary period,  
2 but no more than two years may be added to the total probationary period by  
3 action of the special contract.

4 **SECTION 4. TERMS OF FACULTY EMPLOYMENT**

5 **4.1 Written Notice of Appointment.** Each faculty appointment or change  
6 of status is specified in a written notice of appointment issued by or on behalf of  
7 the Board of Regents. The notice must include the following:

- 8 (1) whether the appointment is regular or non-regular;
- 9 (2) whether it is full or part-time and the percentage of time involved;
- 10 (3) if for a fixed term, its expiration date;
- 11 (4) if regular, whether it is probationary or with indefinite tenure;
- 12 (5) whether it is on a twelve-month, academic year or other specified  
13 annual basis;
- 14 (6) the rank of appointment;
- 15 (7) the academic unit or units to which the individual is being appointed;  
16 and
- 17 (8) the salary.

18 The notice is only evidence of the appointment; clerical or computer errors in a  
19 notice of appointment do not affect the terms of the appointment unless the  
20 faculty member reasonably relied upon the mistake and suffered an injustice  
21 because of that reliance. Notices required by this Section should be delivered  
22 before the effective date of the appointment or change of status, or as soon  
23 thereafter as is administratively feasible. A probationary appointee must also be  
24 given notice of the applicable maximum probationary period.

25 **4.2 Action by the Board of Regents.** Faculty appointments and renewals or  
26 changes of status become effective when approved by the Board of Regents or its  
27 authorized delegate.

1           4.3 Changes in Terms of Appointment. Except for raises in rank or salary  
2 and except for action expressly authorized by these regulations, no changes of any  
3 of the items listed in Subsection 4.1 may be made during the term of an  
4 appointment except with the agreement of the faculty member and the Board of  
5 Regents or its authorized delegate.

6                   **SECTION 5. MAXIMUM PERIOD OF PROBATIONARY SERVICE**

7           5.1 General Rule. To give the University ample opportunity to determine  
8 the qualifications of those faculty members whom it is considering for regular  
9 appointments with indefinite tenure, the maximum period of probationary service  
10 of a faculty member is six academic years, whether consecutive or not. At the end  
11 of this six-year period, the faculty member must either be given a regular  
12 appointment with indefinite tenure or a one-year terminal appointment.

13           5.2 Early Decisions Permitted. These regulations do not prevent the  
14 granting of indefinite tenure prior to the expiration of the maximum period of  
15 probationary service and do not prevent a decision to terminate an appointee's  
16 probation prior to the end of the appointee's maximum probationary service, if  
17 timely notice is given.

18           5.3 Definition of Academic Year. A faculty member is considered to have  
19 served an academic year if the appointee serves at least two-thirds time for three  
20 quarters or full-time for two quarters of the nine month academic year or any  
21 equivalent combination. An academic year during which the faculty member  
22 serves for less than this amount is not counted in computing the number of years  
23 for purposes of this section.

24           Unless otherwise agreed in writing, periods during which a faculty member is  
25 on paid leave for professional development (single quarter leave, sabbatical  
26 furlough, etc.) or on leave to teach or conduct research at another academic  
27 institution count as service, but periods in which the faculty member is on sick or  
28 disability leave or on leave in some non-faculty capacity do not count as service.

1           If a faculty member transfers to a position in the non-regular faculty, the time  
2 spent in the non-regular position does not count for the purpose of this section.

3           **5.4 Prior Service.**

4           **5.41 In this University.** Every academic year during which a faculty  
5 member has previously served at least two-thirds time under a regular appointment  
6 at this University reduces the maximum period of probationary service by one year.

7           **5.42 Elsewhere.** If a faculty member has previously served in regular  
8 faculty positions, as defined in these regulations, in one or more accredited  
9 universities or colleges, every academic year of such service (not exceeding three)  
10 reduces the maximum period of probationary service by one year.

11           **5.43 Exceptions Permitted.** If the prior service was in a different  
12 discipline, was in an academic unit or institution with teaching or research goals  
13 not comparable to those of the present appointment, or was too long ago to provide  
14 good evidence of the appointee's current professional development, the Board of  
15 Regents or its expressly authorized delegate may make an exception in writing at  
16 or near the beginning of the probationary period.

17                           **SECTION 6. TENURE OF FACULTY ON REGULAR**  
18                                   **PROBATIONARY APPOINTMENTS**

19           **6.1 In General.** A regular probationary appointee is a candidate for  
20 indefinite tenure. A probationary appointment continues until it is superseded by  
21 an appointment with indefinite tenure or until terminated by timely notice or by  
22 resignation. Regular probationary appointments are generally made at the rank of  
23 Assistant Professor, but may be made at any rank.

24           **6.2 Notice Requirements.** Except as provided below, a probationary  
25 appointment may be terminated at the end of any academic year by giving notice  
26 of termination (in the form provided in Section 17) not later than May 15 of the  
27 preceding academic year. The notice must inform the faculty member of the right

1 to request a hearing before the Judicial Committee and must advise the faculty  
2 member of the applicable time limit for making such a request.

3 6.21 Associate Professors and Professors on Probationary Appointments. An  
4 initial probationary appointment at the rank of Associate Professor or Professor  
5 may specify in writing that it is for a minimum period of three years. In that case,  
6 the earliest time at which notice of termination can be given is before May 15 of  
7 the second year of service, to take effect at the end of the third year of service.

8 6.22 Instructors on Probationary Appointments. An initial probationary  
9 appointment at the rank of Instructor may specify in writing that it is only for a  
10 minimum period of one year. The appointment may be terminated at the end of  
11 the first year by notice given not later than March 1 of that year, or at the end of  
12 the second year by notice given not later than December 15 of that year. In all  
13 other respects such appointments are governed by Subsection 6.2. A promotion of  
14 an Instructor to the rank of Assistant Professor without a grant of tenure does not  
15 affect the operation of this subsection.

16 6.3 Promotions. The promotion of a probationary appointee to the rank of  
17 Associate Professor or Professor must be accompanied with an appointment with  
18 indefinite tenure. A promotion to Assistant Professor does not affect the faculty  
19 member's tenure status.

20 6.4 Rank of Appointees with Indefinite Tenure. The grant of tenure to an  
21 Instructor must be accompanied with a promotion to Assistant Professor. Since the  
22 standards for granting tenure are ordinarily at least as rigorous as those for  
23 promotion to Associate Professor, the granting of tenure to an Assistant Professor  
24 will ordinarily be accompanied by a promotion to Associate Professor. Otherwise,  
25 a grant of indefinite tenure need not be accompanied with a promotion in rank.

26 6.5 Effect of Failure to Comply with this Section. No one is entitled to  
27 an appointment with indefinite tenure merely because the University failed to  
28 comply with this section. If an individual is given an extension of appointment

1 beyond the maximum probationary period or is not given timely written notice, the  
2 University may either:

- 3 (1) grant an appointment with indefinite tenure; or
- 4 (2) grant a further probationary appointment, if this would not exceed the  
5 maximum probationary period; or
- 6 (3) grant a terminal appointment ending at the end of the first full  
7 academic year which follows the May 15th after proper notice is given.

8 **SECTION 7. PERSONNEL DECISIONS CONCERNING**  
9 **PROBATIONARY FACULTY**

10 7.1 Criteria for Decisions.

11 7.11 General Criteria. The primary criteria for awarding indefinite tenure  
12 are effectiveness in teaching<sup>4</sup> and professional distinction in research.<sup>5</sup> High  
13 quality discipline-related service contributions<sup>6</sup> may also be taken into account.  
14 The relative importance of the criteria may vary in different academic units. Both  
15 of the two primary criteria must be considered in every decision,<sup>7</sup> but in some  
16 academic units, a faculty member will not be expected to have made significant  
17 service contributions during the probationary period.

18 The individual's service to the academic unit and other service

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<sup>4</sup> "Teaching" is not limited to credit-producing classroom instruction. It encompasses other forms of communication of knowledge (both to students registered in the University and to other persons in the community) as well as the supervision or advising of individual graduate or undergraduate students.

<sup>5</sup> "Research" is not limited to the publication of scholarly articles. It encompasses other activities such as artistic production.

<sup>6</sup> "Service" means high quality performance within the faculty member's academic expertise and the mission of the academic unit rendered to the community at large. As a criterion for faculty tenure, it does not include the rendering of routine professional services, even if those are within the faculty member's job description. It also does not include service in quasi-administrative functions such as service on faculty or Senate committees; those activities are relevant only to the limited extent set forth in the following paragraph.

<sup>7</sup> Because of the special mission of the Crookston and Waseca faculty members these need show only effectiveness in teaching and disciplined inquiry in their fields of endeavor.

Other exceptions may be made only in exceptional circumstances by means of special contract, as provided in Section 3.6.

1 contributions to the University may also be relevant to a decision, but are not in  
2 themselves bases for awarding tenure.

3 Indefinite tenure may be granted at any time when the candidate has  
4 satisfied the requirements. A probationary appointment must be terminated when  
5 the appointee fails to satisfy the criteria in the last year of probationary service  
6 and may be terminated earlier if it appears that the appointee will not satisfy the  
7 criteria within that period.

8 **7.12 Departmental Statement.** Each academic unit must have a document  
9 that articulates with reasonable specificity the indices and standards which will be  
10 used to evaluate whether candidates meet the criteria of Section 7.11. The  
11 document must comply with those standards, but should make their application  
12 more specific. Each such document is subject to review by the dean or other  
13 appropriate academic administrator and by the Vice President. Each academic  
14 unit must provide each probationary faculty member with a copy of the document  
15 at the beginning of the probationary service.

16 **7.2 Annual Review.** The tenured faculty<sup>8</sup> of each academic unit annually  
17 reviews the progress of each probationary faculty member toward satisfaction of  
18 the criteria for receiving tenure. The head of the unit prepares a written summary  
19 of that review and discusses the candidate's progress with the candidate, giving a  
20 copy of the report to the candidate.

21 **7.3 Formal Action by the Faculty.** The tenured faculty of the academic  
22 unit may recommend that a probationary faculty member be granted indefinite  
23 tenure or that the appointment be terminated. If it does neither, it is presumed to  
24 recommend a renewal of the appointment. In the final probationary year, if the  
25 tenured faculty does not recommend an appointment with indefinite tenure, it must  
26 recommend termination of the appointment. The recommendation is made by a

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<sup>8</sup>As used in these Regulations, "tenured faculty" means those members of the faculty who hold indefinite tenure.

1 vote of the regular faculty with indefinite tenure in the unit. The presiding officer  
2 is not disqualified from voting merely because of office.

3 7.4 Procedures for Taking Formal Action. The academic unit must observe  
4 procedures established by the Vice President upon recommendation of the Tenure  
5 Committee. Before going into effect, these procedures must be reported to the  
6 Faculty Senate. These procedures will provide that:

7 (1) There is a good faith effort to gather all relevant information necessary  
8 to the decision. The academic units have the primary obligation to assemble the  
9 file, but the faculty member also has the right to add any material the faculty  
10 member considers relevant.

11 (2) The decision is made by vote, by written unsigned secret ballot, at a  
12 meeting of the regular faculty who have indefinite tenure in the academic unit.  
13 The rules may provide for absentee ballots by informed absent faculty members.

14 (3) Persons who have or have had a family or similar relationship to the  
15 candidate do not participate in the decision. The procedures may establish  
16 methods for raising and ruling on such questions in advance of the decision.

17 (4) Action is taken by majority vote. An academic unit may adopt a  
18 uniformly applicable rule that a motion to recommend tenure must achieve a  
19 specified exceptional majority in order to constitute an affirmative  
20 recommendation of that unit. In such case a motion which achieves a majority, but  
21 not the required exceptional majority, must be sent forward for review by the  
22 appropriate review process despite the absence of the unit's affirmative  
23 recommendation.

24 (5) The unit reports the vote of the faculty, together with the reasons for  
25 the action taken. This statement of reasons must take the form of a summary of  
26 both majority and minority views which have substantial support which were  
27 expressed in the course of formal consideration of the action. All statements must  
28 be made without personal attribution. A preliminary draft is open to members of

1 the faculty eligible to vote so they may comment and suggest changes. The final  
2 draft is sent to the affected faculty member and is open to the faculty eligible to  
3 vote.

4 (6) In academic units which are widely scattered geographically so that  
5 collegial deliberation is difficult, the rules may specify special procedures which,  
6 to the maximum extent practicable, conform to the procedures generally required.

7 (7) Before submitting a formal recommendation for an appointment with  
8 indefinite tenure or for termination of a probationary appointment, the head of the  
9 academic unit informs the appointee of the recommendation and gives the  
10 appointee a copy of the final report. The appointee may submit any comments  
11 upon the report to the academic administrator who will review the report, with a  
12 copy to the head of the academic unit.

13 7.5 Non-disclosure of grounds for recommendation of termination. The  
14 reasons for a recommendation to terminate a probationary appointment may not be  
15 disclosed, except as part of the review process, unless the faculty member requests  
16 such disclosure or makes a public statement concerning the reasons for  
17 termination.

18 7.6 Review of Recommendations. Recommendations of academic units to  
19 grant indefinite tenure or to terminate probationary appointments are reviewed at  
20 the collegiate and University levels.

21 7.61 Procedures. The Vice President, with the approval of the Tenure  
22 Committee, establishes general rules for such review. These must provide for  
23 review and recommendations by the head of the academic unit, by the dean of the  
24 collegiate unit, by faculty committees at the collegiate or University level, and,  
25 when appropriate, by other academic administrators. The review must be  
26 conducted on the basis of the standards and criteria established by subsections 7.11  
27 and 7.12 and the applicable rules and procedures. The rules may permit an  
28 administrator to refer the matter back to the unit for reconsideration, but if the



1 administrator and the unit do not agree after such reconsideration, both the  
2 recommendation and the administrator's comments must be sent forward for final  
3 administrative action. A copy of each review or recommendation must be supplied  
4 to the faculty member. The faculty member may comment thereon in writing to  
5 those who will review the matter further.

6 **7.62 Conflict of Interest.** No one may participate both in an initial  
7 recommendation by an academic unit and in a subsequent review of that  
8 recommendation, except that the head of the academic unit may make the initial  
9 administrative review. No one who has participated in a recommendation or  
10 review may thereafter serve as a member of the Judicial Committee in further  
11 consideration of that case.

12 Members of the Judicial Committee may not serve on collegiate or  
13 University review committees. Members of the Judicial Committee may  
14 participate in initial recommendations by their own academic units, but are  
15 disqualified from thereafter participating in Judicial Committee consideration of  
16 those decisions.

17 **7.63 Final Administrative Action.** The University may not act contrary to  
18 the recommendation of the academic unit which made the initial recommendation  
19 except for substantive reasons which must be stated in writing by the Vice  
20 President (or a person designated by the Vice President) to the faculty member, to  
21 the members of the academic unit which made the recommendation, and to the  
22 President. The fact that participants in the review process have recommended  
23 against the unit's initial recommendation is not, by itself, a substantive reason.

24 The Vice President takes the steps necessary to make the necessary  
25 appointment or to give notice of termination.

26 **7.7. Improper Termination of Probationary Appointments.** A person holding  
27 a regular probationary appointment who has been given notice of termination may  
28 petition the Judicial Committee to review that action. The Judicial Committee

1 will not base its ruling on the merits of the decision itself, but will review  
2 allegations that the decision was based in significant degree upon any of the  
3 following:

4 (a) Personal beliefs, expressions or conduct which fall within the liberties  
5 protected by law or by the principles of academic freedom as established by  
6 academic tradition and the Constitutions and laws of the United States and the  
7 State of Minnesota;

8 (b) Factors proscribed by applicable federal or state law regarding fair  
9 employment practices;

10 (c) Substantial and prejudicial deviation from the procedures prescribed in  
11 Subsections 7.4 and 7.6 and the procedural rules promulgated pursuant to those  
12 subsections;

13 (d) Failure to consider data available at the time of decision bearing  
14 materially on the faculty member's performance;

15 (e) Demonstrable material prejudicial mistakes of fact concerning the  
16 faculty member's work or conduct;

17 (f) Other immaterial or improper factors causing substantial prejudice; or

18 (g) Other violation of University policies or regulations.

19 Such proceedings are governed by Section 15.

20 **SECTION 8. IMPROPER REFUSAL OF A NEW APPOINTMENT**  
21 **TO A NON-REGULAR FACULTY MEMBER**

22 A person holding a non-regular faculty appointment who has been refused a  
23 renewal of that appointment or has applied for and been refused a regular or a  
24 different non-regular faculty appointment within six months of the end of that  
25 appointment may petition the Judicial Committee to review the refusal, but only  
26 on the ground that the decision was based in significant degree upon one or more of  
27 the following:

28 (a) Personal beliefs, expressions or conduct which fall within the liberties

1 protected by law or by the principles of academic freedom as established by  
2 academic tradition and the Constitutions and laws of the United States and the  
3 State of Minnesota;

4 (b) Factors proscribed by applicable federal or state law regarding fair  
5 employment practices;

6 (c) Essential and substantial written misrepresentation of the nature of the  
7 original appointment; or

8 (d) Other violation of University policies or regulations.

9 Such proceedings are governed by Section 15.

10 **SECTION 9. APPOINTMENT OF ASSOCIATE PROFESSORS AND**  
11 **PROFESSORS WITH CONTINUOUS TENURE**

12 Initial appointments with indefinite tenure may only be made at the rank of  
13 Associate Professor or Professor. Such appointments may be made only after  
14 receiving the recommendation of the regular faculty holding indefinite tenure in  
15 the academic unit concerned.

16 **SECTION 10. UNREQUESTED LEAVE OF ABSENCE FOR DISABILITY;**  
17 **TERMINATION OR SUSPENSION OF A FACULTY APPOINTMENT FOR CAUSE**

18 10.1 Unrequested Leave of Absence for Disability. A faculty member who  
19 is physically or mentally unable to perform reasonably assigned duties may be  
20 placed on unrequested leave of absence. The action may be taken only in  
21 accordance with the procedures established in this section. The faculty member is  
22 entitled to sick pay and disability insurance payments in accordance with  
23 University policy. The faculty member has a right to return to the faculty upon  
24 termination of the disability or upon cessation of disability payments.

25 10.2 Termination or Suspension of a Faculty Appointment Before its  
26 Expiration. A faculty appointment may be terminated or suspended before its  
27 ordinary expiration only for one or more of the following causes:

1 (a) Sustained refusal or failure to perform reasonably assigned duties  
2 adequately;

3 (b) Unprofessional conduct which severely impairs a faculty member's  
4 fitness in a professional capacity.

5 (c) Egregious or repeated misuse of the powers of a professional position to  
6 solicit personal benefits or favors.

7 (d) Sexual harassment or any other egregious or repeated unreasonable  
8 conduct destructive of the human rights or academic freedom of other members of  
9 the academic community.

10 10.3 Procedures. A faculty member may be placed on unrequested leave of  
11 absence or a faculty appointment may be terminated or suspended for these  
12 reasons only in accordance with the procedures set forth in Section 14.

### 13 SECTION 11. FISCAL EMERGENCY

14 11.1 Faculty Rights. The Board of Regents, if faced with the necessity of  
15 drastic reduction in the University budget, has the power to suspend or abolish  
16 positions, or even entire departments, divisions, or other administrative units. If  
17 confronted with such adverse contingency, the Board will consult with and secure  
18 the advice of faculty representatives, as provided in this section. Faculty members  
19 have the right to full access to information about the situation and the alternatives  
20 being considered. In effecting retrenchment because of financial necessity, the  
21 Regents will make reductions in faculty positions only to the extent that, in their  
22 judgment, is necessary after exploring various alternative methods of achieving  
23 savings. The Regents fully intend that the tenure system as a whole and the  
24 tenure rights of each individual faculty member be protected in every feasible  
25 manner during periods of such retrenchment.

26 11.2 General Principles of Priority. The following general principles of  
27 priority apply in any financial crisis:

28 -- First, the University must fully utilize all means consistent with its

1 continued existence as an institution of high academic quality to reduce expenses  
2 or to increase income which do not involve the termination of faculty positions or  
3 the impairment of faculty rights.

4 -- Second, the University may consider alternatives which involve only the  
5 temporary reduction or postponement of faculty compensation or the reduction of  
6 fringe benefits.

7 -- Only thereafter may the University suspend or terminate faculty  
8 positions in accordance with this section.

9 11.3 First Stage: Alternative Approaches. If there has been a serious  
10 reduction in the University's income, the President will report the matter to the  
11 Senate Consultative Committee. The President will identify the magnitude of the  
12 shortfall, the measures which might be taken to alleviate it (which must not  
13 involve impairment of faculty rights), and alternative measures which have been  
14 rejected. The President will give the Committee full access to all available  
15 information and will respond specifically to additional proposals suggested by the  
16 Committee. At this stage, the University will consider reductions of non-faculty  
17 staff, allowing non-regular appointments to lapse in accordance with their terms,  
18 and reductions in other expenses. It will also consider increases in tuition, sales of  
19 assets, and borrowing. These steps will be implemented by the President or the  
20 Board of Regents as is appropriate.

21 11.4 Second Stage: Reduction or Postponement of Compensation. If the  
22 University has implemented all of the measures which are required to be  
23 considered in the first stage, which are consistent with its continued operation as an  
24 ~~quality institution,~~ <sup>institution of high academic quality,</sup> and they are inadequate to meet the shortfall, the President  
25 may, after consultation with the Faculty Consultative Committee, propose the  
26 temporary reduction or postponement of faculty compensation for a predetermined  
27 period not to exceed one year, according to a mathematic formula or similar  
28 device. The Faculty Consultative Committee will report on the adequacy of the

1 steps taken in the first stage and make its recommendations on the proposal. If the  
2 Faculty Senate approves the proposed action (or any modification of it) by an  
3 absolute majority of its membership or by a two-thirds vote of the members  
4 present and voting (a quorum being present), the Board of Regents may take that  
5 action (or any less stringent action) and, to that extent, modify the terms of the  
6 appointments of all faculty members. The Board of Regents may rescind the  
7 action at any time thereafter. Such action may be repeated by the same  
8 procedures.

9 11.5 Third Stage: Fiscal Emergency. If there has been a reduction of the  
10 University's income which is so drastic as to threaten its survival, and this threat  
11 cannot be alleviated by the measures specified above, the Board of Regents may  
12 declare a fiscal emergency. During such an emergency, the Board of Regents may  
13 terminate or suspend faculty appointments as provided in this section.

14 11.51 Preliminary Procedures. Before recommending to the Board of  
15 Regents that it declare a fiscal emergency, the President must meet with the  
16 Senate Consultative Committee to examine alternatives to and the consequences  
17 of such a declaration. The President must provide the Committee access to all  
18 available information. The President must provide a written report identifying the  
19 dollar amount to be saved by reducing faculty positions. This report must also  
20 identify the dollar amount proposed to be saved by any other measures to be taken,  
21 including the level of any concurrent reductions in non-faculty staff during the  
22 emergency. The Faculty Consultative Committee will prepare a written report on  
23 the President's proposal, to which the Senate Consultative Committee may add  
24 additional comments. The Faculty Senate will first consider and act on the  
25 proposal and reports. Thereafter, the University Senate may consider them. The  
26 President must attend both Senate meetings to explain the proposal and to answer  
27 questions. After receiving the President's recommendation and the resolutions of  
28 the Senates, the Board of Regents may declare a state of fiscal emergency. Before

1 action contrary to the recommendation of the University Senate is subsequently  
2 taken, the President must report in writing and in person the reasons for this action  
3 to the Senate Consultative Committee. The Board of Regents' resolution states  
4 the maximum amount to be realized from termination or suspension of faculty  
5 appointments.

6 11.52 Duration. A fiscal emergency lasts no longer than 12 months unless  
7 renewed by the same procedure. A fiscal emergency may be rescinded at any time  
8 by the Board of Regents.

9 11.53 Allocation of Shortfall. After consultation with the Faculty  
10 Consultative Committee and the Senate Consultative Committee, the President  
11 proposes an initial allocation of the shortfall to the various collegiate units, which  
12 need not be prorated. The Committee must obtain the views of the faculty in the  
13 affected units and must hold an open meeting at which anyone may comment upon  
14 the proposed action. It may also request the assistance of other University or  
15 Senate committees in studying all or particular aspects of the educational policies  
16 and priorities involved in the action. The colleges and campuses then allocate the  
17 shortfall to the various academic units after similar consultation with the  
18 representative bodies and academic units in the colleges and similar open meetings.  
19 The plans must reflect the principles and priorities established in Subsection 11.6.  
20 The colleges and campuses return their plans to the Vice President, who prepares a  
21 comprehensive plan for the University, including a list of the persons whose  
22 appointments will be suspended or terminated. This plan is submitted to the  
23 University Senate and the Faculty Senate for their recommendation. The  
24 recommendations of the Senates and the Vice President's plan will be presented to  
25 the President and the Board of Regents for action.

26 11.6 Principles Governing Termination or Suspension.

27 11.61 General Principles.

28 (a) Savings achieved through resignations, retirements, renegotiation of

1 contracts, inloading or other measures must be credited to the assigned shortfall  
2 before terminating or suspending faculty appointments.

3 (b) A good faith effort should be made to use temporary suspensions or  
4 voluntary furloughs rather than terminations. In this third stage, the Board of  
5 Regents may impose the temporary or permanent reduction of faculty  
6 compensation or the reduction of fringe benefits, in excess of those approved in the  
7 second stage. Suspensions without pay for one quarter in any year may be ordered  
8 in accordance with objective criteria, provided that faculty members are given at  
9 least six months' notice.

10 (c) Terminations may not be used in case of a short-term financial crisis,  
11 but only of the circumstances are such that the shortfall is reasonably expected to  
12 continue over a substantial number of years.

13 (d) A good faith effort must be made to cover as much of the shortfall as  
14 possible by allowing non-regular appointments to lapse and by giving notice to  
15 probationary faculty in accordance with the terms of their appointments.

16 (e) A good faith effort must be made to cover as much of the shortfall as  
17 possible by transferring faculty members to other positions for which they are  
18 qualified or by offering them retraining for available positions.

19 (f) The selection of faculty members within an academic unit for  
20 termination must be made on objective criteria. It may not involve a comparative  
21 evaluation of the relative merits of individuals or a repetition of the tenure-  
22 granting process.

23 11.62 Priorities.

24 (a) Unless the unit can demonstrate that essential functions could not  
25 otherwise be performed:

26 -- All non-regular faculty within an academic unit must be suspended  
27 or terminated before any regular faculty may be suspended or terminated in that  
28 unit.



1           -- All probationary faculty within an academic unit must be suspended  
2 or terminated before any tenured faculty may be suspended or terminated in that  
3 unit.

4           (b) Care must be taken to protect the employment of women and  
5 minorities entitled to affirmative action. The Vice President must insure that for  
6 the University as a whole the plan which is submitted does not reduce the  
7 proportion of appointments with indefinite tenure held by women or minorities  
8 entitled to affirmative action, does not reduce the proportion of probationary  
9 appointments held by women or minorities entitled to affirmative action, and does  
10 not reduce the proportion of non-regular appointments held by women or minorities  
11 entitled to affirmative action.

12           11.63 Notice and Severance Pay. A faculty member whose appointment is  
13 to be terminated or suspended is entitled to a minimum of one full academic year's  
14 notice or to one year's salary as severance pay in lieu of notice, unless the  
15 appointment would otherwise expire earlier.

16           11.64 Reemployment Rights. The University will not fill any faculty position  
17 for which a faculty member with indefinite tenure who has been terminated is  
18 qualified for five years after notice of termination, unless it first offers the  
19 position to each such faculty member and gives a reasonable time for the faculty  
20 member to accept or reject it.

21           11.7 Judicial Committee Review. A faculty member whose appointment is  
22 terminated or suspended may make a written request for review by the Judicial  
23 Committee. The review will be conducted in accordance with Section 15. The  
24 Judicial Committee will not reexamine the determination that a fiscal emergency  
25 exists, nor will it reexamine the educational policies and priorities pursued unless it  
26 finds a substantial failure to follow the procedures established in this section. It  
27 will only examine whether the action was taken in accordance with the procedures  
28 and standards set forth in this section, whether the action was based on a violation

1 of academic freedom or constitutional or legal rights, or was substantially based on  
2 immaterial or improper factors. It may consolidate cases involving common issues  
3 for a single hearing.

#### 4 **SECTION 12. PROGRAMMATIC CHANGE**

5 **12.1 Programmatic Change.** The University and faculty recognize that  
6 changes in academic programs are an essential part of the development and growth  
7 of the institution. These changes should reflect long-term policy and planning.

8 **12.2 Faculty Rights and Duties.** In the event that programmatic change  
9 leads to discontinuation of a program in which a member of the faculty is  
10 employed, the University recognizes its obligation to continue the employment of  
11 regular faculty in accordance with the terms of their employment, and to continue  
12 the employment of non-regular faculty for the term of appointment. In case of  
13 fiscal emergency, the provisions of Section 11 apply.

14 Regular faculty members who are so retained have the responsibility to  
15 accept teaching or other assignments for which they are qualified, and to accept  
16 training to qualify them for assignment in other fields. The University has the  
17 responsibility to assign such faculty members to responsibilities as closely related  
18 to their original field of tenure as is practicable, to allow them time in which to  
19 continue scholarship in their original field if they wish, and to recognize scholarly  
20 contributions in that field as valuable in assessing their contribution to the  
21 University for pay, promotion and other purposes.

22 The University has the right to offer inducements to faculty members  
23 voluntarily to change fields of study or to change place of employment or to accept  
24 early retirement.

#### 25 **SECTION 13. JUDICIAL COMMITTEE**

26 **13.1 Membership.** The Judicial Committee is composed of at least nine  
27 members of the regular faculty. The number of members and manner of  
28 appointment is governed by the University Senate Bylaws.

1           13.2 Procedures. Proceedings before the Judicial Committee will be  
2 conducted in conformity with these regulations. The Judicial Committee may  
3 adopt additional rules with the approval of the Tenure Committee.

4           In every case before the Judicial Committee the Vice President may  
5 designate the academic administrator who will represent the University as  
6 respondent.

7           13.3 Duty to Testify. Faculty members and administrators have an  
8 obligation to appear before the Judicial Committee to give testimony in matters  
9 pending before it.

10          13.4 Panels. The Judicial Committee may sit in panels to hear individual  
11 cases. In cases under Sections 10 and 14, the panel must consist of at least five  
12 members. In all other cases, the panel must consist of at least three members.  
13 The rules of the Judicial Committee will establish the respective functions of the  
14 Committee as a whole and of the individual panels.

15           **SECTION 14. PROCEDURES IN CASES OF UNREQUESTED LEAVE OF ABSENCE**  
16 **OR TERMINATION OR SUSPENSION OF A FACULTY APPOINTMENT FOR CAUSE**

17          14.1 Preliminary Proceedings. Only a dean or an academic administrator  
18 specially designated by the Vice President may initiate preliminary proceedings  
19 leading to unrequested leave of absence or to suspension or removal.

20          The administrator must first attempt to discuss and resolve the matter with the  
21 faculty member involved.

22          The administrator must then submit the matter to the tenured faculty of the  
23 academic unit involved for their recommendation. (The tenured faculty may  
24 decide to submit the issue to the entire regular faculty of the unit.)

25          If the Vice President and the Faculty Senate have expressly approved the  
26 submission of allegations of the violation of a specified policy to another body for  
27 preliminary recommendation, in place of submission to the tenured faculty of the  
28 academic unit, the administrator must submit the matter to that body for its  
29 recommendation.

1 Both the administrator and the faculty member may submit their views, in  
2 person or in writing, to the body making the recommendation, but neither of them  
3 may participate in the deliberation or vote. The body making the recommendation  
4 makes a written report to the administrator, indicating the number of votes for and  
5 against the proposed action and the reasons articulated. After considering the  
6 report the administrator makes a written recommendation to the Vice President.  
7 The recommendation must include a copy of the report of the panel or of the  
8 tenured faculty, as the case may be. A copy of the report must be sent to the  
9 faculty member.

10 **14.2 Formal Action.** After receiving the administrator's recommendation,  
11 and giving the faculty member an opportunity to comment, the Vice President will  
12 decide whether to proceed. If the Vice President decides not to proceed, the  
13 charges are dropped and the faculty member and the academic unit are so notified  
14 in writing. If the Vice President decides to proceed with formal action, the Vice  
15 President must give written notice to the faculty member. The notice must  
16 specify the action proposed, identify the specific grounds upon which it has been  
17 taken, and summarize the evidence in support. It must inform the faculty member  
18 of the right to request a hearing before the Judicial Committee and advise the  
19 faculty member of the applicable time limit for making such a request.

20 If the faculty member does not request a hearing within 30 days, the  
21 President may take the action proposed in the Vice President's notice, without  
22 further right to a hearing.

23 **14.3 Judicial Committee Hearing.** The faculty member may request a  
24 hearing before the Judicial Committee by written request to the Chair of the  
25 Committee, filed within 30 days of the notice. The Judicial Committee may  
26 extend the 30 day period for good cause. The Vice President designates the  
27 administrator who will present the case. The administrator has the burden of  
28 proving the case for the proposed action by clear and convincing evidence and also

1 has the burden of demonstrating the appropriateness of the proposed action, rather  
2 than some lesser measure.

3 The Judicial Committee makes written findings of fact, conclusions, and a  
4 recommendation for the disposition of the case. If the Committee finds that  
5 action is warranted, it may recommend action which is less severe than that  
6 requested in the written notice, including action which does not involve the  
7 termination or suspension of an appointment. It may not recommend more severe  
8 measures than those proposed in the Vice President's notice.

9 The Judicial Committee sends its report to the President with copies to the  
10 faculty member and the administrator.

11 14.4 Action by the President. The President must give the faculty member  
12 and the administrator the opportunity to submit written comments on the report  
13 and to make oral presentations. The President may not discuss the case with the  
14 Vice President or with any other academic officer, except in the presence of the  
15 faculty member or the faculty member's representative, but the President may  
16 discuss the case with the University's General Counsel, unless the General Counsel  
17 has personally participated in the prior proceedings or the preparation for them.  
18 The Vice President and other academic officers may communicate with the  
19 President about the case in writing only if the full text of the communications is  
20 given to the faculty member and the faculty member is given a reasonable  
21 opportunity to respond to it.

22 The President may request the Judicial Committee to make further findings  
23 of fact, to clarify its recommendation or to reconsider its interpretation. The  
24 reconsideration will be made by those who have heard all of the evidence in the  
25 case, but the full Judicial Committee may consult with them on questions of  
26 general policy.

27 The President may impose the action recommended by the Committee, or any  
28 lesser measure which appears to be appropriate. The President may impose action

1 less favorable to the faculty member only for compelling reasons, which must be  
2 stated in writing, with specific detailed reference to the report of the Judicial  
3 Committee, the evidence presented, and the policies involved. The President's  
4 written statement must be given to the faculty member and to the Judicial  
5 Committee. Unless the faculty member requests confidentiality, its full text must  
6 be published in the next docket of the Faculty Senate; if the faculty member  
7 requests confidentiality, a summary of the relevant considerations must be so  
8 published without identification of the faculty member.

9 14.5 Appeal to the Board of Regents. If the action involves removal or if  
10 the action involves a sanction more severe than that recommended by the Judicial  
11 Committee, the faculty member may appeal to the Board of Regents. In cases in  
12 which the President imposes a sanction more severe than that recommended by the  
13 Judicial Committee, the faculty member and the President may present to the  
14 Board evidence with respect to issues on which the President differs from the  
15 recommendation of the Judicial Committee. The request for a hearing must be  
16 made to the Secretary of the Board within 10 days of the President's action.

17 14.6 Temporary Suspension During Proceedings. The Vice President may  
18 temporarily suspend a faculty member during the proceedings, but only if there is  
19 clear evidence that the faculty member is likely to cause serious harm or injury or  
20 is not available for work. The suspension will be with full pay, unless the faculty  
21 member is not available for work. Before ordering such suspension, the Vice  
22 President must present the evidence to a special panel of the Faculty Consultative  
23 Committee and receive their written report. The faculty member must be given  
24 the opportunity to contest the suspension before the panel.

1           14.7 Resignation During Proceedings. A faculty member may submit a  
2 written notice of resignation to the President at any time during Judicial  
3 Committee proceedings pursuant to this Section. Upon the effective date of such  
4 resignation, the proceedings will be discontinued unless the faculty member  
5 concurrently files a written request with the Judicial Committee that they be  
6 carried to completion.

7                           **SECTION 15. APPEALS TO THE JUDICIAL COMMITTEE**

8           15.1 Right to Review. Any faculty member who claims that his or her  
9 rights or status under these regulations have been adversely affected without his or  
10 her consent may seek review before the Judicial Committee. Cases arising under  
11 Sections 7, 8, 10, or 11 may be brought directly to the Judicial Committee. In  
12 other cases the faculty member must exhaust all other available University  
13 remedies before bringing the case to the Judicial Committee; the Judicial  
14 Committee will not proceed with such a case until the appropriate University body  
15 has either decided it or has refused to consider it.

16           15.2 Procedure for Securing Review. A written request for review must be  
17 filed with the Chair of the Judicial Committee within 30 days of written notice of  
18 the action challenged. The request must specify the action complained of and the  
19 remedial action the individual seeks. Within 30 days of filing, the Chair of the  
20 Judicial Committee must send copies of the request to the head of the academic  
21 unit concerned and to the Vice President for Academic Affairs.

22           The Judicial Committee, however, may extend the time for filing for review  
23 for reasons that seem compelling to the Committee, such as mental or physical  
24 illness, or serious personal or family problems, or doubt concerning when final  
25 action was taken.

26           15.3 Hearings Before the Judicial Committee. The person seeking review  
27 has the burden of proving by the preponderance of the evidence that the action  
28 complained of was improper unless the Judicial Committee, for good cause,  
29 otherwise directs.

1           The Judicial Committee does not itself decide whether the faculty member is  
2 professionally worthy of a faculty position, but only determines whether the action  
3 was based in significant degree upon any of the factors specified in Subsection 7.7  
4 (Termination of Probationary Appointment) or Section 8 (Refusal of a New  
5 Appointment to a Non-Regular Faculty Member).

6           In cases involving Section 7 (Termination of Probationary Appointment), 8  
7 (Refusal of New Appointment to a Non-Regular Faculty Member), or 11 (Fiscal  
8 Emergency), the Judicial Committee hears the merits of the case, as provided in  
9 those sections. In other cases, if there is an appropriate University body to review  
10 the matter, the Judicial Committee will only determine whether that body has  
11 given the faculty member due process and whether, on the basis of the facts found  
12 by that body, there has been a violation of these regulations or of the faculty  
13 member's academic freedom. If there is no appropriate University body to hear  
14 such a case, or if the Judicial Committee finds that the body which heard the case  
15 did not provide due process, the Judicial Committee may hear the merits or may  
16 appoint an ad hoc tribunal to hear them.

17           15.4 Action by the Judicial Committee. The Judicial Committee makes  
18 written findings of fact, conclusions, and a recommendation for the disposition of  
19 the case.

20           If the Judicial Committee finds that the action complained of was improper,  
21 it also specifies the respects in which it finds the action to have been improper and  
22 recommends appropriate remedial action. If it recommends reconsideration, it  
23 may specify the manner in which reconsideration will be undertaken to avoid the  
24 influence of improper factors. If a probationary faculty member has reached the  
25 maximum probationary period, the Committee may recommend a non-regular  
26 appointment for an additional academic year to provide for reconsideration.

27           The Judicial Committee sends its report to the President with copies to the  
28 faculty member and the administrator who appeared as respondent.



1           **15.5 Action by the President.** The President must give the faculty member  
2 and the administrator the opportunity to submit written comments on the report.  
3 The President may not discuss the case with the Vice President or with any other  
4 academic officer, except in the presence of the faculty member or the faculty  
5 member's representative, but the President may discuss the case with the  
6 University's General Counsel, unless the General Counsel has personally  
7 participated in the prior proceedings or the preparation for them. The Vice  
8 President and other academic officers may communicate with the President about  
9 the case in writing only if the full text of the communications is given to the  
10 faculty member and the faculty member is given a reasonable opportunity to  
11 respond to it.

12           The President may request the Judicial Committee to make further findings  
13 of fact, to clarify its recommendation or to reconsider its interpretation. The  
14 reconsideration will be made by those who have heard all of the evidence in the  
15 case, but the full Judicial Committee may consult with them on questions of  
16 general policy.

17           The President may impose the action recommended by the Committee or any  
18 action more favorable to the faculty member. The President may impose action  
19 less favorable to the faculty member only for important substantive reasons, which  
20 must be stated in writing, with specific detailed reference to the report of the  
21 Committee, the evidence presented, and the policies involved. The President's  
22 written statement must be given to the faculty member and to the Judicial  
23 Committee. Unless the faculty member requests confidentiality, its full text must  
24 be published in the next docket of the Faculty Senate; if the faculty member  
25 requests confidentiality, a summary of the relevant considerations must be so  
26 published without identification of the faculty member.

27           **15.6 Actions Requiring Reconsideration.** If the Judicial Committee  
28 recommends reconsideration of an action, that reconsideration will be undertaken

1 under the supervision of the Vice President, unless otherwise specified. The  
2 Judicial Committee may retain provisional jurisdiction of the matter to review  
3 allegations that the reconsideration itself was improper, and may make  
4 supplementary findings, conclusions, and recommendations in this regard.

5 **15.7 Recommendations for Changes in University Policies and Procedures.**

6 As a result of Judicial Committee proceedings, the Judicial Committee, the Tenure  
7 Committee or the Vice President may initiate steps to clarify or improve  
8 University rules or policies involved. The changes will not affect the outcome of  
9 the case before the Committee.

10 **SECTION 16. TENURE COMMITTEE**

11 The Tenure Committee is composed of at least seven members of the faculty  
12 and such other persons as the University Senate Bylaws shall provide. The manner  
13 of appointment is governed by the University Senate Bylaws.

14 The Tenure Committee advises the University concerning interpretation and  
15 amendment of these regulations, but the Judicial Committee will exercise its  
16 independent judgment about the meaning of these regulations in the review of  
17 cases before it.

18 Interpretations which the Tenure Committee or the Judicial Committee  
19 decides may be of interest to the faculty generally, will be published as provided in  
20 Section 18. The Faculty Senate will be informed of these interpretations in  
21 writing.

22 **SECTION 17. WRITTEN NOTICE**

23 Notices of termination of a probationary appointment, of suspension or  
24 termination of an appointment, or of placement on unrequested leave of absence  
25 for disability, must be sent by registered or certified mail to the last known  
26 residence address of the faculty member concerned and also by campus mail to the  
27 faculty member's campus address, if any. The written notice satisfies the  
28 applicable time requirement if it is postmarked at or before midnight of the  
29 applicable date.

1 Failure to comply fully with this section is immaterial if, in fact, the faculty  
2 member was not prejudiced by such failure.

3 **SECTION 18. PUBLICATION**

4 These regulations, and the interpretations referred to in Section 16, will be  
5 published and made available to all faculty members. Every faculty member who  
6 holds a regular or non-regular appointment, except for courtesy faculty  
7 appointments without salary, must be given a copy of the current regulations and  
8 copies of subsequent amendments or published interpretations.

9 **SECTION 19. AMENDMENT**

10 These Regulations are subject to amendment by the Board of Regents.  
11 Proposed amendments from any source will be submitted to the Faculty Senate for  
12 its advice and recommendation before final action by the Board of Regents. The  
13 Faculty Senate will solicit the recommendations of the Faculty Affairs Committee,  
14 the Judicial Committee, and the Tenure Committee, before giving its advice and  
15 recommendation.

APPENDIX  
ACADEMIC FREEDOM

The University of Minnesota was founded in the faith that men are ennobled by understanding; it is dedicated to the advancement of learning and the search for truth; it is devoted to the instruction of youth and the welfare of the state. These purposes, carved in stone upon the facade of its stately building, embody the tradition of scholarship upon which rests the development of higher education and the continuous progress of democratic society. It is this tradition that sustains the human mind and spirit when beset by human passions and prejudices. It is to this tradition that the Board of Regents of the University of Minnesota reaffirms its adherence. In so doing, it reiterates its acceptance of the corollary principles of academic freedom. The Board of Regents of the University of Minnesota bears witness to its faith by entering upon its record the following statements concerning academic freedom:

1. The University of Minnesota should not impose any limitation upon the teacher's freedom in the exposition of his own subject in the classroom or in addresses and publications.
2. No teacher may claim as his right the privilege of discussion in his classroom controversial topics that are not pertinent to the course of study that is being pursued.
3. The University of Minnesota should not place any restraint upon the teacher's freedom in the choice of subjects for research and investigation undertaken on his own initiative.
4. The University of Minnesota should recognize that the teacher in speaking or writing outside of the institution upon subjects beyond the scope of his own field of study is entitled to the same freedom and is subject to the same responsibilities as attach to all other citizens but in added measure.
5. It is clearly understood that the University of Minnesota assumes no responsibility for views expressed by members of its staff; and the faculty members themselves, should, when necessary, make it clear that they are expressing their personal opinions.
6. If the conduct of a teacher in his classroom or elsewhere should give rise to doubts concerning his fitness for his position, the question should in all cases be submitted first to a committee of the faculty, and in no case should any member of the teaching staff be dismissed before the normal termination of his period of appointment without full and open hearing before the Board of Regents, should he desire it, and only upon sufficient notice.

APPROVED BY THE BOARD OF REGENTS - January 28, 1938

ACADEMIC FREEDOM

We, as the Board of Regents, are responsible to the public for the health and vitality of the University. It is our responsibility to inquire continuously into the conduct of the University to make sure this health and vitality are preserved.

The University community is a city of more than fifty thousand people; they come from every part of the country; of the undergraduates, 94 percent come from somewhere in Minnesota. They represent a cross section of our population, differing from a random cross section only because they are especially selected for intellectual interests and intellectual competence. We assume that almost every type of political conviction is to be found among them, just as in any city of fifty thousand adults one would expect to find the complete variety of political, social, economic, and religious beliefs.

The University, the city, and the state do have facilities to ensure order in such a community. For varying problems of public safety we have provided for us a University security staff, a city police, and the Federal Bureau of Investigation. We have confidence in the effectiveness of these law enforcement agents, and we cooperate with them. We believe the American community is fundamentally law abiding; that it abhors both resort to violence in the affairs of men, and the use of extra legal methods in the examination of alleged violations of law.

Of all crimes or violations, the American philosophy and tradition require that we assume the citizen innocent until proved guilty. We believe it proper that the University leave the law enforcement role in American society to established law enforcement agencies. The University's tasks are learning, research, constructive criticism, and intellectual inquiry. By fulfilling its role, the University makes its contribution to public order by nourishing devotion to the rule of reason in the conduct of human affairs.

It cannot be too strongly stated that the only atmosphere in which a university can fulfill its assigned role is the atmosphere of freedom. Nor is it surprising that in America, where free discussion is the first principle of our political faith, universities have flourished best, and have at the same time made the most remarkable contribution to the public good. Those universities contributing most have been those which are most free. From the first days of our independence, the giants of American history have revered the principle of free speech; they have had enough faith in our form of government to state affirmatively that if truth and error were allowed to contest in free debate, truth would triumph. They have also recognized that any effort to close by force a free discussion is destructive of the dictator and of those dictated to. The first is poisoned by power; the latter is denied a share in the public dialogue. The man denied participation in free discussion loses, at the very least, his participating right as a citizen, but he may also be robbed of the dignity and self respect which freedom encourages.

The inherent validity of free competition among ideas is as apparent in the economic community as in the educational community. No one who has observed the development of the American economy can deny the efficiency of freedom. But perhaps an example of the creativity of freedom in the economic marketplace will serve to clarify the importance of freedom to the marketplace of ideas. As recently as forty years ago, the typical market was a corner grocery store. Whether found in the country or city it was heated by a potbellied stove, its aisles were crowded, its shelves crammed. Its proprietor helped each customer through the wilderness of items one by one. Gradually, in a kind of merchandising conversation, the entire enterprise was changed. One merchant, to increase the attraction of his business, widened the aisles; he was answered by a competitor who lowered shelves to put all items within

easy reach; he in turn was answered by another who encouraged self service. Step by step the modern supermarket was born. But no one firm jumped directly from the narrow, crowded, confused grocery store of 1920 to the specially-designed supermarket of today. It required a merchant's conversation in which free men challenged and answered each other in a free and competitive atmosphere.

The marketplace of ideas is comparable, but even more dependent upon a completely free conversation. The student and the professor must live in an atmosphere where questioning is encouraged; where every alternative can be explored; where their free minds may be allowed to test the validity of each idea, and where they feel free to follow wherever truth may lead. Such a free atmosphere is not only merely necessary to university freedom; it is also the way of life which we have a right to associate with America. To ask that the University be respected in its right to this freedom is not to ask for special privilege, but rather to ask for the opportunity to demonstrate the efficiency of the freedom in which we all believe and for which so many brave Americans have died. The most American activity of them all is to think, to speak and to inquire freely. The un-American activity is to deny such freedom.

A university must cherish freedom or be untrue to its own nature. Equally it cherishes responsibility, the natural corollary of freedom. In this connection the Regents endorse the following statement adopted by the Association of American Universities in 1953 and reprinted in 1962:\*

"Historically the word 'university' is a guarantee of standards. It implies endorsement not of its members' views but of their capability and integrity. Every scholar has an obligation to maintain this reputation. By ill-advised, though not illegal, public acts or utterances he may do serious harm to his profession, his university, to education, and to the general welfare. He bears a heavy responsibility to weigh the validity of his opinions and the manner in which they are expressed. His effectiveness, both as scholar and teacher, is not reduced but enhanced if he has the humility and the wisdom to recognize the fallibility of his own judgment. He should remember that he is as much a layman as anyone else in all fields except those in which he has special competence. Others, both within and without the university, are as free to criticize his opinions as he is free to express them."

University teachers, as teachers, are judged for scholarly competence by their peers from the moment they aspire to membership on a faculty. The demands of such judgment are heavy, for the academic profession insists that its members be both skillful and devoted in their search for truth. The profession grants status and tenure to its members in proportion to their publicly demonstrated competence within a given academic discipline. And just as the medical profession must assume responsibility for establishing the standards of competence which admit members to the practice of medicine, so must the academic profession assume responsibility for establishing the standards of competence which qualify its members for the practice of teaching.

\*The Rights and Responsibilities of Universities and their Faculties.

Just as the atmosphere of freedom within a university is the best guarantee of productive and responsible instruction, so also is it the best guarantee that students will grow toward responsible citizenship. A free society calls for citizens well schooled in the wisdom traditional to that society. It also calls for citizens accustomed to grappling with new ideas, to participating in the give and take of public discussion, and to assuming public responsibility for one's own thinking. Students properly assert their right to learn responsibilities of choice and decision which they must bear as citizens, and the free university properly provides the most appropriate setting for such learning.

We cannot emphasize too strongly the importance of a free university to the development of citizens able to carry responsibility in a free society. The dangers of fanatic, angry and irrational behavior were brought home to every American with the assassination of President Kennedy. It is time for Americans to draw closer together in dedication to our national goals. These include continued freedom, concern for the rights of others, political and spiritual tolerance, equality of opportunity, equality before the law and protection from the law's delays, and access to the blessings of justice and public order. These goals will not be won through angry and emotional outbursts which divide our people.

They can be won by systematic, rational, and thoughtful analysis of the obstacles to our national purposes. The university is of paramount importance to our nation as it seeks to bring the methods of reason to bear upon our problems -- to find better means to public peace, as well as more effective ways to deter threats of violence which may be directed toward our nation. To do its rational work wisely, a university by its very nature requires freedom to inquire.

The people of Minnesota have been wise in their support of education. Their agricultural and industrial economy as well as their public peace and safety, are the better because of this wisdom. The University, operating in an atmosphere of freedom, has made great contributions to the healthy, stable society of which we are all now so proud. We as Regents are satisfied that to a very high degree the faculty of the University, and its administration, understand the mission of the University and are using their freedom responsibility. We are satisfied that the existing agencies for enforcement of law and the protection of natural peace and safety are alert and adequate to their tasks. We are also sure that the University officials are prepared to and do cooperate with them in assuring national safety. We are impressed by the great responsibilities related to our nation safety and prosperity that are continuously entrusted to the University personnel, and we wish to take this opportunity to reaffirm our faith in the University and in the efficiency of freedom.

APPROVED BY THE BOARD OF REGENTS - December 14, 1963

## ADDITIONAL RESOLUTIONS

1) RESOLVED, the Faculty Senate expressly approves the submission of allegations of violations of the Sexual Harassment Policy to the Sexual Harassment Review Board, for preliminary recommendation as provided in the third ~~Section~~ paragraph of 14.1 of the draft Tenure Regulations.

*Section*

2) ~~Resolution to be included in the Minutes (April 5, 1984)~~ RESOLVED, in adopting Section 2.2, the Faculty Senate expressly intends to protect the tenure of individuals who hold faculty appointments in the University libraries or in similar units in which new faculty appointments are not permissible under these regulations. The Faculty Senate also intends that persons who hold probationary appointments with functions which will continue to exist, but which will not be faculty positions in the future, should nevertheless be considered for tenure on the basis of the criteria applicable to their positions at the time of their initial appointment. The Faculty Senate also intends to protect the tenure of persons holding tenure in ranks, such as research associate or research fellow or instructor, in which tenure is not permitted under these regulations. The Faculty Senate also intends to protect the status of persons holding non-regular (T) appointments which would not be appropriate under these regulations, including the right of such persons to be reappointed to such non-regular appointments on the same basis that such re-appointments took place before the adoption of these regulations. This list of examples is not intended to exclude other cases to which Section 2.2 might apply. Faculty members who continue to hold such appointments by virtue of their appointment under the old regulation, must not be discriminated against. It would not be proper to withhold salary increases, promotion, or other benefits as an inducement for such faculty members to transfer into another employment category. The Faculty Senate urges the Board of Regents to adopt a similar clarifying statement upon adoption of the Code.