PROFESSIONAL RIGHTS AND DUTIES OF FACULTY MEMBERS & ROLES AND PROFESSIONAL DUTIES OF DEPARTMENT CHAIRS

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PREAMBLE

The University seeks to provide and sustain an environment conducive to sharing, extending, and critically examining knowledge and values, and to furthering the search for truth as the faculty member sees it. Effective performance of this academic mission requires that University faculty members be free within their respective fields of competence to pursue and teach the truth in accord with applicable standards of scholarly inquiry.

The faculty's privileges and protections, including that of tenure, rest on the mutually supportive relationships between the faculty's special professional competence and its academic freedom, and the academic mission of the University. These relationships are also the source of the professional responsibilities of faculty members.

It is the intent of this professional standards document to protect academic freedom, to help preserve the highest standards of teaching and scholarship, and to advance the mission of the University as an institution of higher learning.

OVERVIEW

Part I, "Professional Rights of Faculty," sets forth the responsibility of the University to maintain conditions and rights supportive of the faculty's pursuit of the University's academic mission. Many of these conditions and rights are derived from principles of academic freedom of faculty members, and from the essential principle that a university is in its most critical aspects a collegial enterprise in which the faculty has principal authority with respect to academic and scholastic policies, and shares authority in many other matters.

Part II, "Ethical Principles and Professional Duties of Faculty Members," elaborates standards of professional conduct for faculty members, derived from general professional consensus about the existence of certain precepts that adequately describe acceptable faculty behavior. Conduct which departs from these precepts is viewed by faculty as unacceptable because it is inconsistent with the mission of the University. The articulation of types of both expected and unacceptable faculty conduct is appropriate both to verify that a consensus about expected professional conduct and minimally acceptable standards in fact does exist and to give fair notice to all that departures from expected professional conduct and from minimal standards may give rise to disciplinary proceedings.

In Part II, “Professional Responsibilities, Ethical Principles, and Faculty Conduct,” a clear distinction is made between statements of (1) ethical principles, (2) expected professional conduct, and (3) types of unacceptable behavior. Although the listings in none of these categories of statements are exhaustive, they encompass major concerns traditionally and currently important to the profession. It is expected that case adjudication, the lessons of experience, and evolving standards

of the profession will promote reasoned adaptation and change of this Professional Standards Document.

Part III, "Roles and Professional Duties of Department Chairs," deals with the role and professional duties of department chairs. This part states standards and procedures for the selection, role, and responsibilities of department chairpersons. These matters are brought together in the same document as professional rights and duties of faculty members in order to provide both department chairpersons and faculty members with readily accessible information on the faculty member's right to participate in the selection of department chairpersons, and to provide a description of the authority and limitations on authority of department chairpersons, and a statement of the ethical obligations of department chairpersons in dealing with faculty members. Most of the material in Part III comes directly from the *Laws of the Regents*, and a related Appendix B thereto. However, several additional statements of professional obligations of department chairpersons are set forth in Section III.C, and supplement the material from the *Laws of the Regents*.

Part IV, “Review of Faculty Conduct and Sanctions for Unprofessional Conduct by a Faculty Member,” provides a procedure for responding to allegations of unprofessional conduct, including a description of sanctions that may be imposed at the department, college, and university level. This part also describes a procedure for appealing sanctions.

Part V, "Appendices," contains appendices as follows:

Appendix A, "Principles of Academic Freedom," sets forth the statement on academic freedom contained in the *Laws of the Regents*, 1990, Article 5, Part D, as amended. This Professional Standards Document is to be read and interpreted consistently with the statement of academic freedom.

Appendix B, "Faculty Powers," sets forth the powers of the faculty provided for in Article 4, section A.6 and Article 5, section E.5 of the *Laws of the Regents*, 1990, as revised November 3, 2005.

Appendix C, "Additional Policy Statements," provides further elaboration of various University and Boulder Campus policies referred to in this Professional Standards Document.

PART I

PROFESSIONAL RIGHTS OF FACULTY MEMBERS

In support of the University's academic mission as an institution of higher learning, a major responsibility of the Administration is to protect and encourage the faculty in its teaching, learning, research, and public service activities. The authority to discipline faculty members in appropriate cases derives from the shared recognition by the faculty and the Administration that the purpose of discipline is to preserve conditions hospitable to these pursuits. Such conditions, as they relate to faculty, include, for example, the following:

1. the right to free inquiry, and exchange of ideas;

2. the right to present relevant information, however controversial, to a course of instruction;

3. the right to conduct scholarly research or creative work, no matter how controversial;

4. the right to enjoyment of constitutionally protected freedom of expression;

5. the right to share in the governance of the University, as provided in the *Laws of the Regents* and the laws of the State of Colorado, and in policies and procedures of the University and the University Senate, of the Boulder Campus and the Boulder Faculty Assembly, and of the schools, colleges, departments and other academic units, including the following:

    a. the faculty's principal responsibility for:

        i. academic policy, including initial authorization and direction of all courses, curricula, and degrees offered;

        ii. scholastic policy, including scholastic standards for admission, grading, continuation, graduation, and honors;

        iii. academic ethics, including development of policies and procedures; and

    b. the faculty's right to act jointly with the administration to make recommendations to the Board of Regents in the areas of:
        i. establishment of policies and procedures for faculty appointment, promotion, and tenure review; establishment of policy and procedures for the appeal of decisions on faculty appointment, promotion, and tenure; and joint participation in decisions affecting these policies;

        ii. regulation of student conduct and activities;

iii. budgetary review and development of recommendations concerning University resources;

iv. selection of academic administrators;

v. determination of candidates for degree; and

vi. making of other policy concerning the general academic welfare of the University; and

vii. the right to be judged by one's colleagues,

viii. the right to be judged in accordance with fair procedures, in matters of promotion, tenure, and discipline, solely on the basis of the faculty member's professional qualifications, professional achievements, and professional conduct.

Faculty rights may derive from such diverse sources as the Constitution and laws of the United States or of the State of Colorado; from the *Laws of the Regents* and University, Boulder Campus, and other academic unit policies; from faculty and other contracts; and from shared understandings and customs of the academic community. The statement of professional rights of faculty members set forth in this Part I is intended neither to be exhaustive nor to limit faculty rights in any manner.

PART II

PROFESSIONAL RESPONSIBILITIES, ETHICAL PRINCIPLES, AND FACULTY CONDUCT

This listing of the responsibilities of faculty members (including University administrators holding faculty positions), and of ethical principles and of examples of both expected and unacceptable conduct, is organized around the individual faculty member's participation in teaching, in scholarly and creative work, and in University citizenship. This document is informed by, and is to be interpreted consistently with, the Regents' Statement of Principles of Academic Freedom, contained in the *Laws of the Regents*, 1990, Article 5, Part D, which appears as Appendix A to this document. Procedures for review of faculty conduct that is alleged to be unprofessional, and sanctions for unprofessional conduct, are provided for in Part IV.

A. Teaching and Students

Ethical Principles

As a teacher, the faculty member encourages the free pursuit of learning; upholds the highest scholarly and ethical standards of the discipline; demonstrates respect for the student as an individual; adheres to a proper role as intellectual guide and counselor; makes every reasonable effort, through the faculty member's own example and otherwise, to foster honest academic conduct and to assure that evaluation of students reflects their true merit; respects the confidential nature of the relationship between faculty member and student; avoids any harassment or discriminatory treatment of students; avoids any exploitation of students for private advantage and acknowledges significant academic or scholarly assistance from them; and protects the academic freedom of students. (Modeled on 1966 AAUP Statement on Professional Ethics, as revised in 1987.)

1. Expected Conduct

The faculty member is expected to:

a. keep abreast of developments in the subject matter being taught;

b. prepare adequately for classes;

c. subject to campus policies, establish course requirements and policies, grading standards, and other administrative procedures for classes;

d. make clear to students the faculty member's expectations on receiving or giving unauthorized aid in examinations and other graded assignments;

e. meet classes as scheduled (see Boulder Faculty Assembly Ruling, 1980, referred to in Appendix C, Section 1);

f. comply with academic unit policy concerning absences during the regular Academic Year. (The regular Academic Year is the continuous period of time starting when faculty report for duty at the start of the fall semester and ending with the spring Commencement.);

g. treat students with understanding, dignity, and respect, maintain professional classroom decorum, and create a climate of civility in the class;

h. keep posted office hours;

i. cooperate regularly in University-mandated student evaluations of teaching, and participate in peer evaluation of teaching in accordance with academic unit policy;

j. adhere to campus wide administrative procedures and policies on such matters as final examinations, incompletes, withdrawals, and drop/adds;

k. evaluate students fairly and equitably, in a manner appropriate to the course and its objectives, and in any evaluation of a student's complete performance when providing a professional reference;

l. make all reasonable efforts to prevent the occurrence of academic dishonesty through the appropriate design and administration of assignments and examinations, and through the careful safeguarding of course materials and examinations; and when instances of academic dishonesty are suspected, see that appropriate action is taken in accordance with established University policies and procedures; and

m. consider in conscience whether the faculty member is able to be professionally objective in serving in a position in which the faculty member has institutional authority over a student with whom the faculty member has formed a very close personal relationship, as when such a student is enrolled in the faculty member's class or when such a student is in a continuing position to require evaluation of work or letters of recommendation from the faculty member (with respect to the special concerns relating to sexual harassment, including certain reporting requirements for faculty), see University of Colorado at Boulder Sexual Harassment Policy and Procedures, 2005, referred to in Appendix C, Section 3.b); and

n. comply with University policies on conflict of interest and nepotism in employment matters concerning any student to whom the faculty member is related (see University of Colorado Administrative Policy Statement on Procedures for Implementing Regent Policies on Conflict of Interest and Nepotism, 1979, IV-49).

The faculty member's dean or department chairperson may approve occasional exceptions to e and h, above. (See Boulder Faculty Assembly Ruling, 1980, referred to in Appendix C, Section 1.)

2. Unacceptable Conduct

Examples of unacceptable faculty conduct are:

a. presenting as part of a course significant amounts of material unrelated to its subject matter;

b. evaluation of student work, in a course or in a professional reference, by criteria not directly reflective of the student's performance as measured by standards applied uniformly to all students in the course (except as differentiation is required or permitted in the case of disabled students);

c. acting in a conflict of interest in the evaluation of a student; or, in other situations involving a conflict of interest, failing to disclose the conflict or (where appropriate) to remove himself or herself from the situation;

d. undue delay in evaluating and reporting the faculty member's assessment of the work of students;

e. failure to comply with University or college requirements in regard to deadlines, scheduling of examinations, reporting grades, and student evaluation;

f. discrimination against a student on political grounds, or for reasons of race, religion, sex, ethnic origin, sexual orientation, or for other illegal, arbitrary, or personal reasons (see Policy Statements on Nondiscrimination and Diversity, referred to in Appendix C, Section 2);

g. intimidation of or engaging in other conduct disrespecting the human dignity of students;

h. sexual harassment (see Policy Statements on Sexual Harassment, referred to in Appendix C, Section III);

B. Scholarly Research and Creative Work

Ethical Principles. Guided by a deep conviction of the worth and dignity of the advancement of knowledge, the faculty member recognizes the special responsibility to the discipline to seek and to state truth as he or she sees it. To this end, the faculty member continuously seeks to maintain competence and strive for excellence in his or her chosen field of scholarship or creative work; accepts the obligation to exercise critical self-discipline and judgment in using, transmitting and extending knowledge; practices intellectual honesty; and, in pursuit of subsidiary interests, never allows these interests to seriously hamper or compromise freedom of inquiry. (Modeled on 1966 AAUP Statement on Professional Ethics, as revised 1987.)

1. Expected Conduct

a. The faculty member is expected to maintain competence and strive for excellence developments in his or her chosen field of scholarship or creative work. Faculty members are expected to maintain professional contact with scholars and or practitioners outside the University, in a measure appropriate to the discipline. Scholarly research and creative work may take many forms. Usually the results of a faculty member's research should be published as books or as articles in the refereed literature. Other types of scholarly and creative work for which publication is not appropriate should be presented in such a way that they can be evaluated by peers in the faculty member's academic discipline.

b. In addition to complying personally with professional and ethical standards that govern proposing, carrying out, or reporting results from research, the faculty member is also responsible for emphasizing the importance of ethical research conduct to staff and students who are under his or her supervision and for providing reasonable supervision to minimize the opportunities for research misconduct. The faculty member should work with colleagues in establishing policies regarding author names on publications, in making those policies well known to students and staff, and in conforming to those policies in his or her own publications. (See Administrative Policy Statement on Misconduct in Research and Authorship, section II.J below.)

2. Unacceptable Conduct

Examples of unacceptable conduct are: violations of canons of intellectual honesty such as falsification or fabrication of data or the misappropriation of the writings, research, or findings of others.

C. Academic Citizenship

<u>Ethical Principles</u>

As an academic colleague, a faculty member has professional obligations and expectations that derive from membership in the community of scholars. Prominent among these obligations and expectations is collegiality between faculty members and other academic associates. Collegiality, expected of each faculty member, includes civility, mutual respect, common courtesies, personal accountability, and willing contributions to the effective functioning of the academic unit. Among other essential professional obligations and expectations are that the faculty member respects and defends the free inquiry of associates; shows due respect for the opinions of others in the exchange of criticism and ideas; acknowledges academic debt and strives to be objective in professional judgment of colleagues and staff members; does not discriminate against or harass colleagues or staff members; respects the privacy of colleagues and staff members; accepts the responsibility of faculty for the governance of the institution; and, when speaking or acting as a private person, avoids creating the impression of speaking or acting for the University. (Modeled on 1966 AAUP Statement on Professional Ethics, as revised 1987.)

1. Expected Conduct

Faculty members and administrators holding faculty rank are expected to:

a. treat administrators, faculty, staff members, and students with understanding, dignity and respect; foster an environment of mutual trust among administrators, faculty, staff and students, and help develop a sense of belonging and pride in the University community (see Chancellor's Statement of Principles for Human Resources, September 13, 1993, and further elaboration therein);

b. participate in the operation and governance of his or her academic department or division, school or college and of the University; and render service to the public;

c. take fiscal responsibility for proper management of all types of University funds and property over which he or she has control, in accord with established University policy;

d. be familiar with campus staff personnel policies if the faculty member is a supervisor of staff, and provide regular performance evaluations for the staff, as indicated in such policies;

e. follow normal channels in raising any objection to an action taken by a department chair or other person that affects the faculty member. The faculty member should first discuss the matter with the person having responsibility for that action in order to try to seek to obtain resolution of the matter at the lowest possible level and by direct communication. If the issue is referred to a higher administrative level, all parties involved should be duly informed, and should be given copies of any written communications or other documents submitted.

2. Unacceptable Conduct

Examples of unacceptable conduct by faculty members or administrators who hold faculty rank are:

a. making evaluations of the professional competence of faculty or staff members based on any criteria that are not directly reflective of professional performance;

b. discrimination against faculty or staff members on political grounds, or for reasons of race, religion, sex, ethnic origin, or sexual orientation, or for other illegal, arbitrary, or personal reasons (See *Policy Statements on Nondiscrimination and Diversity*, referred to in Appendix C, Section 2);

c. breach of established rules governing confidentiality in faculty or staff personnel procedures;

d. intimidation of or engaging in other conduct disrespecting the human dignity of colleagues or staff members;

e. sexual harassment of faculty or staff (see *Policy Statements on Sexual Harassment*, referred to in Appendix C, Section 3);

f. making false or unsubstantiated personal accusations or complaint against a colleague, administrator, or staff member;

g. falsely portraying the faculty member's own or another's work or accomplishments (in a curriculum vitae or otherwise) in order to gain a personal advantage;

h. failure to disclose a conflict of interest involving the faculty member, or failure to remove himself or herself (where appropriate) from situations involving a conflict of interest or the appearance of impropriety;

i. use of University facilities or equipment for private gain in contravention of established University policy;

j. engaging in conduct that disrupts University functions, or that causes injury to persons or damage to property on the campus, or that impedes freedom of movement of persons to facilities of the University (see section II.I below);

k. without authorization, knowingly violating the legitimate expectation of privacy of a colleague or staff member, through accessing such person's private documents (including mail) or private computer records (including electronic mail) or through other significant violation of such person's privacy;

l. knowingly creating the impression of speaking or acting for the University when speaking or acting as a private person.

D. Differential Teaching, Research, and Service Loads

The University has adopted a policy that affirms the University's commitment to appropriate use of differentiated annual workloads for faculty members. The policy recognizes that there are legitimate differences in faculty development needs within the academic community, in interests and areas of expertise among faculty members, in conventions among academic disciplines, and in academic unit program needs. The University policy provides for the development of primary academic unit policies and mechanisms for the assignment and review of differentiated annual workloads for faculty members. (See Administrative Policy Statement on Differentiated Annual Workloads for Faculty, July 1, 2007.)

E. Conflicts of Interest Policies

In accord with the general policy adopted by the Board of Regents (April 26, 1975),". . . no member of the University community shall derive private gain from his/her association with the University except as provided by explicit policies of the University." (See also Administrative Policy Statement on Conflict of Interest). The Administrative Policy Statement also covers conflict of commitment and refers expressly to several other separately stated conflict of interest and conflict of commitment policies.

F. Policies on Research Involving Human Subjects or Animals

1. Human Subjects Research

The University of Colorado at Boulder complies with the Federal Policy for the Protection of Human Subjects, and all federal, state or local laws which may be related to research covered by the University's assurances given in this area. The University acknowledges and accepts its responsibilities for protecting the rights and welfare of human subjects of research covered by its assurances. In that connection, the University is guided by the ethical principles regarding research involving humans as subjects as set forth in the report of the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research entitled, Ethical Principles and Guidelines for the Protection of Human Subjects of Research (the "Belmont Report"). Except for categories exempted under government regulations, research covered by the University's assurance in this area must be reviewed and approved by the Human Resources Committee of the University. It is further University policy that unless informed consent has been specifically waived by the Human Research Committee in accordance with federal regulations, no research investigator shall involve any human being as a subject in research unless the research investigator has obtained the informed consent of the subject or the subject's legally authorized representative. Faculty members and other University personnel who are engaged in human subject research or who teach or supervise students engaged in such research are responsible for complying with the requirements of the University's policies in this area. For further information, contact the Associate Vice Chancellor for Research.

2. Animal Subjects Research

The University of Colorado at Boulder complies with the Public Health Service Policy on Humane Care and Use of Laboratory Animals by Awardee Institutions. The University complies with all applicable provisions of the Animal Welfare Act and other federal statutes and regulations relating to animals, and the University is guided by the U.S. Government Principles for the Utilization and Care of Vertebrae Animals Used in Testing, Research and Training. All faculty members and other University personnel who are engaged in care or use of laboratory animals must understand and conform to their individual and collective responsibilities under these requirements. For further information, contact the Animal Resources Office or the Associate Vice Chancellor for Research.

G. Fiscal Integrity Policies

1. Employee's Responsibility

Employees shall be responsible for the safekeeping and proper maintenance of University property in their charge. (*Laws of the Regents*, 1990, Section 14.A.4)

2. Further Elaboration of Professional Duties Relating to Fiscal Integrity

a.Duty to act with integrity and in a fiscally responsible manner with regard to University and granting agency funds or property

Every employee of the University has the duty to deal with University and granting agency funds and other property with integrity and in a fiscally responsible manner, and to comply with any applicable University, granting agency, federal and state reporting and accounting requirements regarding such funds or other property.

b. Duty to report fiscal misconduct within the University

"Any employee or student associated with the University who knows of or suspects fiscal misconduct must promptly notify either one's immediate supervisor or one of the following investigative units: the Department of Internal Audit, Office of University Counsel, the appropriate campus police department, and/or the appropriate campus Human Resources or Personnel department. This duty to report by an individual or supervisor is in compliance with State law and State Fiscal Rules. State employees have 'whistle blower' protection [provided by] State law when they are in compliance with the requirements set forth in statute." (Administrative Policy Statement on Reporting Fiscal Misconduct, July 1, 2009)

H. Drug Use Policies

The Drug-Free Schools and Communities Act Amendments of 1989 requires that, as a condition of receiving funds or other form of financial assistance under any Federal program, an institution of higher education must certify that it has adopted and implemented a program to prevent the unlawful possession, use, or distribution of drugs and alcohol by students and employees. The University has implemented the requirements of the Act, in a policy statement on The Drug-Free Schools and Communities Act, 1990, IV-147 et seq., which among other things prescribes standards of conduct which prohibit the unlawful manufacture, distribution, dispensation, possession, or use of drugs (controlled substances) and alcohol on University of Colorado property or as a part of University activities. For the Boulder Campus policy on this subject, see Policy on Alcohol and Drugs (as transmitted to the Faculty and others by letter of Shari J. Robinson, Director, Department of Human Resources, dated July 24, 1995),which provides in part:

University of Colorado Policy on Alcohol and Drugs

1. Standards of Conduct

   In compliance with the federal Drug Free Schools and Communities Act, the University of Colorado at Boulder prohibits the unlawful manufacture, dispensation, possession, use, or distribution of a controlled substance (illicit drugs and alcohol) of any kind and of any amount.

   These prohibitions cover any individual's actions which are part of any University activities, including those occurring while on University property or in the conduct of University business away from the campus.

2. Disciplinary Sanctions for CU Employees Who Violate Drug and Alcohol Laws in Violation of This Policy

   It is a violation of University policy for any member of the faculty, staff, or student body to jeopardize the operation or interests of the University of Colorado through the use of alcohol or drugs. Sanctions that will be imposed by the University of Colorado for employees who are found to be in violation of this policy may include expulsion and/or termination of employment. Compliance with this policy is a condition of employment for all employees.

   For further elaboration, see the Boulder Campus Policy. Note: Unlike the case for illegal drugs, the possession and use of alcohol on campus and at University sponsored off-campus activities are lawful and permitted in the instances described in the University of Colorado at Boulder Alcohol and Drug Policy, dated October 1987. See that policy for, among other things, the circumstances in which alcohol may be served and the applicable requirements.

I. One-Sixth Rule

The University has adopted policies regarding additional remuneration for consultative services by faculty, which include allowing faculty members to devote "not more than one-sixth of their time and energy" to research, consulting, or other professional activities for which they receive additional remuneration. See Appendix C, Section 4 for restrictions and further elaboration.

J. Misconduct in Research and Authorship

The University has adopted a policy, Misconduct in Research and Authorship, December 31, 1998, which is designed to “prevent, detect, and respond to misconduct in research and authorship.” In this context, "misconduct" is defined to include:

(1) Fabrication, falsification, plagiarism and other forms of misappropriation of ideas, or additional practices that seriously deviate from those that are commonly accepted in the research community for proposing, conducting, or reporting research.

(2) Material failure to comply with federal and University requirements for the protection of researchers, human subjects, or the general public or for ensuring the welfare of laboratory animals.

(3) Failure to adhere to other material legal requirements governing the field of research.

(4) Failure to comply with established standards regarding author names on publications.

(5) Retaliation of any kind against a person who reported or provided information about suspected or alleged misconduct and who has not acted in bad faith.

The definition of research misconduct does not include honest error or honest differences in interpretations or judgments of data. Moreover, the definition contained in this policy is not intended to override or contradict provisions of other regulations or policies, in particular those policies governing human research subjects and animal welfare. A finding of a substantive violation of specific policies in these areas will also be considered misconduct under this policy.

See the policy statement for further elaboration and for designation of procedures for review of faculty conduct alleged to be in violation of the policy.

K. Disruptive Conduct, Injury to Person or Damage of Property, and Impeding Freedom of Movement at the University

Faculty members have fully the rights of free expression referred to in Part I of this document and enumerated in Appendix A. Faculty members should be aware, however, that they are expected to refrain from conduct disruptive of University functions; from injury to persons or damage to property on the campus; and from impeding freedom of movement of students, school officials, employees, and invited guests to all facilities of the University. Interference in any manner with the public or private rights of citizens, conduct that threatens or endangers the health or safety of any person, and damage to property will not be tolerated.

PART III

ROLES AND PROFESSIONAL DUTIES OF DEPARTMENT CHAIRS

A. General Statement Regarding Departments and Department Chairs

1. Organization (Laws of the Regents, Article IV, Part B, Section 1)

a. A department of a college or school shall be an academic unit organized around a single academic discipline or several related academic disciplines.

b. To establish a department, a proposal must be approved by the appropriate dean and chancellor, the president, and shall be subject to the approval of the Board of Regents.

c. Departments shall develop their working structure, and department rules, subject to the approval of the dean and chancellor and in accordance with policies established by the Board.

2. Appointment of Chair

a. Criteria
The appointment of department chairs should be based on the following criteria:

i. Ability to provide intellectual leadership in the development of departmental faculty and programs;

ii. Ability to provide administrative leadership in the effective functioning of the department; and

iii. Personal skills to deal effectively with faculty, administrators, and support staff within the college and campus structure.

b. Procedures

i. Prior to initiating search and nomination procedures for a department chair, the faculty of the department should meet with the dean of the school or college to discuss the needs and expectations of the department as they relate to the appointment of a new chair, the role of the chair, and the type of search (i.e., internal or external) that will most likely assure that an appropriate candidate is recommended, and to discuss any budgetary considerations related to the search and appointment of a new chair.

ii. A search and nominating process will be carried out by the faculty of the department in accordance with department procedures. The faculty will subsequently submit its recommendation to the dean.

iii. If the dean does not concur with the department faculty's recommendation, the dean will meet with the department faculty to discuss his/her reasons for disagreement.

iv**.** The campus chancellor will approve appointments of department chairs.

v. It will be the responsibility of the deans and the chancellors to assure that recruitment and appointment procedures for department chairs reflect the University's commitment to equal opportunity and non-discrimination, as articulated in Regent Law (Article 10) and Regent Policy 10. In order to achieve this objective, efforts should be made to provide experience for females and minorities that will prepare them for these positions.

c. Term of Appointment

i. Consistent with Article 4, *Laws of the Regents,* department chairs will normally serve for four year terms. Appointments may be made occasionally for shorter periods for specific reasons.

ii. Reappointment of a department chair to an additional term will be dependent on the outcome of a performance evaluation and the positive recommendation of the department and dean.

iii. Department chairs may be appointed on the basis of either academic year (9-month) or fiscal year (12-month) appointments as appropriate, depending on the needs of the department.

3. Termination for Cause

Termination for just cause of an appointment of a department chair prior to the expiration of a term of appointment may be recommended by either the department faculty or the dean. Reasons for termination for cause will be the same as those specified for faculty in section 5.C.1, *Laws of the Regents*. Department recommendations for termination must comply with written procedures developed by the department. Prior to making such a recommendation, the dean will consult with the department faculty and the chancellor. In case of disagreement between the faculty members in the department and the dean, there will be an administrative hearing conducted by the chancellor's office, which will include adequate faculty representation. All such terminations are subject to approval by the chancellor, the president, and the Board of Regents.

4. Evaluation

a. All department chairs shall be subject to a comprehensive performance evaluation at the beginning of the final year of their term or every four years, whichever is the lesser. The evaluation will be conducted by the dean of the college/school and the department faculty in accordance with procedures developed by the department in consultation with the dean.

b. Formal input from other department constituencies (i.e., staff and students and other departments) will be obtained as part of the evaluation process.

c. Prior to recommending the reappointment of a department chair to another term, a comprehensive performance evaluation will be conducted.

5**. Orientation**

a**.** Campuses or deans will develop an orientation program for all new department chairs. The orientation program should provide information that will enable the department chair to function more effectively and efficiently. Areas that should be addressed in the orientation program include University personnel procedures for faculty and classified staff, especially those relating to appointment, reappointment, tenure, and promotion, the budget and planning processes, development of new degree programs, faculty governance relationships, relationships with other offices such as contracts and grants and with the administrative hierarchy, and other areas that are relevant to the department. In consultation with the departments and the vice chancellor for academic affairs, each dean may consider developing other types of programs and vehicles that will enhance the ability of the department chair to provide strong leadership.

b. Each campus chancellor, with the support and participation of the president's office, will be responsible for assuring that appropriate orientation programs are developed on the campus. The orientation programs may be presented on a campus-wide basis or by college or school. Each campus chancellor also will be responsible for developing formal mechanisms on the campus to assure that the program and management information necessary for the department chair to function effectively is provided to the department chair in a timely manner.

6. **Compensation**

a**.** Within budget limitations, the administration will make a commitment to provide a level of support to department chairs (including compensation and other forms of support) that makes the job of department chair more attractive and recognizes the value of strong leadership.

b**.** A special stipend or other form of compensation will be provided to department chairs to recognize the important leadership role they play**.**

B. Specific Statements Regarding Department Chairs (from *Laws of the Regents*)

The *Laws of the Regents* delegate the development of the working structure of a department to that department in consultation with the appropriate dean. Many departmental administrative structures thus exist, with the chair playing differing roles in each. In some, the chair may have broad authority for independent action; in others, many functions are delegated (to differing extents) to standing or ad hoc committees, which may be appointed or elected. In the case where department rules delegate such responsibility to such committees, the chair has the ultimate responsibility of ensuring that the committees carry out their functions in an equitable, efficient, and timely manner. It is understood in what follows that the duties and responsibilities described are thus to be interpreted in terms of the working rules of the individual departments.

1. **Leader of the Department**

a. The chair has the responsibility for providing leadership toward the achievement of the highest possible level of excellence in the teaching, research, and services activities of the department. The chair is expected to articulate the goals of the department, both within and without the department, to articulate the department's actions or requests in pursuit of these aims, and to maintain a climate that is hospitable to creativity and innovation. The chair has the responsibility to inform the department of the stances and actions of the dean and other administrators that might affect the department.

b. In the larger framework of the college or school, the chair, as a faculty member, has a special responsibility in representing the department in areas of formulation of educational policy and academic ethics, as provided in Article 4 of the *Laws of the Regents*.

c. The chair is ultimately responsible for the recruitment, selection, and evaluation of both the academic and the staff personnel of the department. In consultation with colleagues, and in consonance with the appropriate departmental procedures, the chair recommends appointments, promotion, merit increases, and terminations. The chair has the explicit responsibility to ensure that faculty members are aware of the departmental, college or school, and campus criteria prescribed for appointment, reappointment, promotion, and tenure, and to make appraisals and recommendations in accordance with the procedures and principles stated in the *Laws of the Regents* and the APS on Standards, Processes and Procedures for Appointment, Reappointment, Tenure, and Promotion.

In the course of recruitment of new appointees or in relation to salary increases or advancement of incumbents, the department chair shall make no formal commitment as to rank and salary until such action has received final approval of the appropriate

administrative office. The chair has the responsibility to be familiar with the state personnel system, and to ensure that staff are aware of departmental expectations and of state personnel system criteria for appointment, reappointment, job classification, and promotion.

d. The chair should be receptive to questions, complaints, grievances, and suggestions from members of the department, both academic and staff personnel, and from students. The chair has the responsibility to take appropriate action as required.

2. **Administrator of the Department**

As administrator of the department, the chair has duties that include the following, although special assignments may be added from time to time, and the dean or chancellor may specify additional duties. The chair is responsible for:

a. Assignment of teaching and other duties within the department consistent with appropriate FTE levels, and consistent with the concept that the appropriate mix of teaching, research or creative work, scholarship, clinical work, and service may differ from person to person, and from time to time in the career of an individual;

b. Preparation of the schedule of courses and of times and places for class meetings;

c. Arrangement and assignment of duty for counseling of students, and for training and supervision of teaching assistants and other student teachers and teacher aides;

d. Preparation of the budget and administration of the financial affairs of the department, in strict accordance with dollar and FTE allocations and in accord with University rules and procedures;

e. Recommendations of sabbatical leaves and other leaves of absence to the dean, and for ensuring that their scheduling is consistent with departmental needs;

f. Promptly reporting the resignation or death of any member of the department;

g. Custody and authorized use of University property charged to the department, and assignment of departmental space and facilities to authorized activities in accordance with University policy and campus rules and regulations;

h. Departmental observance of proper health and safety regulations, in coordination with the campus environmental health and safety officer;

i. Maintenance of records and of faculty and staff personnel files, and preparation of reports in accordance with the University and college or school procedures;

j. Enforcement of the "one-sixth" rule regarding outside compensation for consulting in accordance with regent and campus regulations;

k. Reporting to the dean, or appropriate administrators, whenever the problem cannot be expeditiously resolved at the departmental level any failure of an academic or staff member of the department to carry out responsibilities, and recommendation of appropriate remedial and/or disciplinary action.

In the performance of the duties listed above, the chair is expected to seek the advice of departmental faculty colleagues in a systematic way, to provide for the conduct of department affairs in an orderly manner through department meetings and the appointment of appropriate committees, and to keep department members informed of his or her actions in a timely manner. The chair is also expected to seek student advice on matters of concern to students enrolled in the department's programs. In large departments, the chair may be assisted by a vice chair or other colleagues in the tasks involved in carrying out his or her responsibilities, and, when desired, by an executive committee chosen in an appropriate manner.

C. Additional Professional and Ethical Obligations of Department Chairs, Not Expressly Set Forth Elsewhere**.**

A chair of a department is expected to perform his or her duties listed above according to the highest standards of professionalism. As a faculty member who also has administrative duties, the chair of a department has the professional rights of a faculty member set forth in Part I of this document. He or she necessarily also has the professional responsibilities of a faculty member and is subject to the ethical principles, limitations, and guides regarding faculty conduct set forth in Part II of this document. In particular, a department chair is expected to treat faculty members, staff, and students with understanding, dignity and respect. He or she is expected to avoid conflicts of interest, and to make academic and administrative recommendations or decisions strictly on the basis of the merits of the case in question, without discriminating against a faculty member, staff member, or student on political grounds or for reasons of race, religion, sex, sexual orientation, or ethnic origin, or for other illegal, arbitrary, or personal reasons.

A department chair should also be receptive, in the matters listed in Section III.A.1.d, above, to communications received from persons other than members of the department or students, if such other persons have a legitimate interest. The chair has the responsibility to take appropriate action as required in all such matters, and to notify complaining or other affected persons of the action taken. Department chairs are encouraged to manage or resolve conflicts through direct communication at the lowest appropriate level. If a faculty member disagrees with an action taken by the chair, the faculty member should raise the issue first with the chair in order to try to obtain resolution in a direct communication with the chair. (See Section II.C.1.e.) If the issue is referred to a higher administrative level, all parties involved should be duly informed and given copies of written communications and other documents submitted.

PART IV

REVIEW OF FACULTY CONDUCT
AND
SANCTIONS FOR UNPROFESSIONAL CONDUCT BY A FACULTY MEMBER

Review of a faculty member's conduct that is alleged to be unprofessional, and any sanction imposed as a consequence of a determination that the conduct is unprofessional, shall be made in accordance with the principles and procedures set forth below in this Part IV. A faculty member who believes himself or herself to be the focus of allegations or rumors of unprofessional conduct may invoke the procedures provided herein for review of his or her conduct.

A. General Principles

1. Use of Special Procedures

Any matter concerning alleged unprofessional conduct by a faculty member for which a special procedure has been provided (e.g., research misconduct, sexual harassment) shall be determined and resolved in accordance with that procedure. (See, e.g., *Administrative Policy Statement on Misconduct in Research and Authorship*, December 31, 1998; and *Administrative Policy Statement on Sexual Harassment Policies and Procedures*, July 1, 2009; and *UCB Campus Policy "Discrimination and Harassment Policy and Procedures" as revised July 28, 2008.* In addition, if the alleged unprofessional conduct, if established, would warrant suspension or dismissal of the faculty member, the special procedures required for such sanctions by the *Laws of the Regents* must be employed. (See *Laws of the Regents*, Article 5, Part C as amended and reprinted as Appendix A to this document.)

2. Administrative Level for Resolution

Allegations of unprofessional faculty conduct should be resolved at the lowest appropriate administrative level.

3. Informal Resolution Encouraged

Faculty members and administrators are encouraged to resolve disputes concerning professional conduct through direct personal discussion and agreement or through use of agreed-upon mediation using existing university mediation services (e.g., Ombuds Office or Director of Faculty Relations). If a dispute concerning professional conduct of a faculty member is resolved by agreement, the parties must take into account in reaching the agreement the policies regarding sanctions and record keeping set forth in sections IV.C and IV.D below.

4. Academic Freedom

Determinations and advice or recommendations concerning unprofessional conduct of faculty members, and sanctions for such unprofessional conduct, shall be made and imposed only

after careful consideration of the principles of academic freedom of faculty members and must give effect to those principles. (See *Laws of the Regents*, Article 5, Part D.)

5. Confidentiality

Administrators dealing with allegations of unprofessional conduct of faculty members shall strive to maintain confidentiality in any discussions or consultations made or proposed to be made in any matters involving the allegations. If unprofessional conduct is found, the expectation of confidentiality shall not apply insofar as public sanctions require disclosure or as otherwise required by law. The person or persons who lodged the original allegation as well as any other persons affected by the alleged conduct shall be notified of the resolution of the matter and any action taken.

6. Timeliness of Proceedings

All proceedings under this Part IV relating to allegations of unprofessional conduct shall be conducted as expeditiously as possible, taking into account, however, both the seriousness of the matter and the need to conduct proceedings in a manner that is both careful and considerate of all persons concerned. Normally, such proceedings will be completed within sixty (60) calendar days of receipt of a written complaint.

B. Definitions

1. **Faculty Member** means any person who holds a faculty appointment, whether or not he or she also may have an administrative appointment.

2. **Complainant** means the person or persons alleging unprofessional conduct on the part of a Faculty Member.

3. **Responding Faculty Member** means any faculty member who has been alleged to have engaged in unprofessional conduct as defined and described in Part II.A., Part II.B. and Part II.C. of this document.

4. **Supervising Administrator** means the immediate supervisor of the faculty member, typically a department chair or director. (In the event of the recusal of the Supervising Administrator, the administrator at the next higher level becomes the Supervising Administrator for purposes of this procedure.)

5. **Reviewing Administrator** means the immediate supervisor of the Supervising Administrator, typically a dean.

C. Procedures for Determining Unprofessional Conduct and Sanctions

1. Presenting Allegations of Unprofessional Conduct against a Faculty Member

Any administrator, faculty member, staff member, student, or other interested person who believes that a Boulder Campus faculty member (the "Responding Faculty Member") has acted in an unprofessional manner may present specific allegations of such conduct to the Supervising Administrator of the Responding Faculty Member. The Supervising Administrator may himself or herself be the source of the allegations against the Responding Faculty Member. Initially, the allegations may be presented in either oral or written form. However, if the matter is not resolved under Part IV.C.2 or IV.C.3, below, allegations must be stated in writing in any further proceedings.

2. Preliminary Inquiry by the Supervising Administrator

   a. The Supervising Administrator shall first determine whether the alleged misconduct would fall within an area for which a special procedure for review has been established (see Part IV.A.1). If so, the Supervising Administrator shall refer the allegations to the appropriate body or person under the special procedure.

   b. Otherwise, the Supervising Administrator may make such preliminary inquiry as he or she may deem appropriate to determine the validity of the allegations. The process may terminate at this point if the Supervising Administrator concludes that the allegations

      1) are patently untrue or frivolous;
      2) do not involve unprofessional conduct; or
      3) involve matters that are too insubstantial to deserve further attention.

      In any of these instances, the Supervising Administrator shall advise the person presenting the allegations, orally or in writing, of the Supervising Administrator's decision not to pursue the matter further.

3. Meeting with the Responding Faculty Member

   a. If allegations are not disposed of under the preceding provisions, the Supervising Administrator shall meet with the Responding Faculty Member to discuss the allegations with him or her. This meeting shall result in one of the following:

      i. The Supervising Administrator may conclude that the allegations are patently untrue or frivolous; do not involve unprofessional conduct; or involve matters of insufficient consequence to merit further attention. On reaching such conclusion, the Supervising Administrator shall advise the person or persons presenting the allegations, orally or in writing, of the Supervising Administrator's decision not to pursue the matter further.

      ii. The Supervising Administrator may conclude (or the Responding Faculty Member may admit) that the Responding Faculty Member has engaged in unprofessional

conduct. On reaching such conclusion or receiving such admission, the Supervising Administrator may impose a sanction that he or she deems appropriate and warranted for the conduct in question, in accordance with Part IV.D, below.

iii. The Supervising Administrator may conclude that additional investigation is required.

4. Request for Recusal of Supervising Administrator; Referral to Higher Administrative Level

   a. If the matter is not disposed of under the preceding provisions, and if the Responding Faculty Member believes that the Supervising Administrator cannot be objective in further considering the matter, the faculty member may request that the administrator recuse himself or herself in the matter, presenting the reasons for the request. If such a request is made, the Supervising Administrator shall promptly consider the request and reasons and shall recuse himself or herself unless he or she in good faith determines that a reasonable person would find no impropriety in the determination of the matter by the Supervising Administrator.

   b. The Responding Faculty Member may promptly appeal a decision against recusal to the next higher administrative level, and in such case the matter will be suspended pending the appeal. The appeal shall be reviewed as promptly as possible. If the Supervising Administrator decides to recuse himself or herself, or if as the result of an appeal the Supervising Administrator is directed to withdraw from the matter, the matter shall be referred to the next higher administrative level, and the administrator at that level shall thereupon become the Supervising Administrator for the matter.

   c. If, at any time, the Supervising Administrator believes that, despite the general principle stated in Part IV.A.2 above, it would be more appropriate to resolve the matter at a higher administrative level, the Supervising Administrator may refer the matter to the next higher administrative level, and the administrator at that level shall thereupon become the Supervising Administrator for the matter. Alternatively, the Supervising Administrator may request a formal investigation by the Director of Faculty Relations instead of conducting an inquiry himself or herself. In such case, the Supervising Administrator will receive a formal written report of the findings of the Director of Faculty Relations, including recommendations for disposition of the matter.

5. Determination of Unprofessional Conduct and Sanctions

   a. If after informal consultation and further inquiry (or a formal investigation by the Director of Faculty Relations), the Supervising Administrator finds that the Responding Faculty Member has *not* engaged in unprofessional conduct, the Supervising Administrator shall notify both the Responding Faculty Member and the party or parties lodging the allegations of the final disposition of the matter.

b. If the Supervising Administrator finds that unprofessional conduct has occurred, the Supervising Administrator may impose a sanction appropriate to the conduct, in accordance with Part IV.D, below.

6. Appeal of a Supervising Administrator's Finding of Unprofessional Conduct

a. If the sanction imposed by the Supervising Administrator is to emphasize the faculty member's professional responsibilities under section IV.D.4.d.i or to admonish the faculty member orally under section IV.D.4.d.ii, or both, the finding and sanction(s) are final and may not be appealed.

b. If the Supervising Administrator imposes a more serious sanction than those described in IV.D.4.d.i or IV.D.4.d.ii, below, he or she must do so in writing. The Responding Faculty Member may appeal either the Supervising Administrator's finding or the sanction(s) imposed, or both, using the following procedure:

i. Within ten (10) working days of the date that the Supervising Administrator's notifies the Responding Faculty Member that unprofessional conduct has occurred and imposes a sanction, the Responding Faculty Member may submit a formal Request for Review to the next higher administrative level. The Request for Review shall include a statement of reasons for the appeal. The administrator at the next higher administrative level shall become the Reviewing Administrator.

ii. As part of the formal Request for Review, the Responding Faculty Member may request that the BFA Grievance Advisory Committee be convened to advise the Reviewing Administrator. The Reviewing Administrator shall honor such a request.

iii. The Reviewing Administrator shall employ such procedures as provide for a timely and impartial review of the allegations, findings, and imposed sanctions. These procedures may include conducting his or her own independent review of all documents related to the matter, consultations with the Responding Faculty Member and Supervising Administrator, requesting a formal investigation by the Director of Faculty Relations (if such investigation has not been undertaken previously), creating and convening an *ad hoc* Advisory Review Committee composed of a minimum of three disinterested faculty members, or, if requested by the Responding Faculty Member, requesting a recommendation from the BFA Grievance Advisory Committee. In carrying out their responsibilities, the Reviewing Administrator, the Director of Faculty Relations, the Advisory Review Committee, and/or the BFA Grievance Advisory Committee shall be guided by the intent to balance the interests of the Responding Faculty Member, the Supervising Administrator, and the University.

iv. The Reviewing Administrator (acting alone or with the advice of the Director of Faculty Relations, the Advisory Review Committee, and/or the BFA Grievance

Advisory Committee) has twenty (20) working days to complete his or her review. The Reviewing Administrator may affirm, modify, or overturn the Supervising Administrator's findings or sanctions, or both as the facts and circumstances warrant. The Reviewing Administrator shall render his or her decision in writing to both the Responding Faculty Member and the Supervising Administrator.

v. Except in those cases where the sanction to be imposed is serious enough to require the use of review and appeal procedures established in other University policies or the *Laws of the Regents*, the decision of the Reviewing Administrator shall be final.[1]

D. Sanctions for Unprofessional Conduct

1. Considerations for Determining Sanctions

   Any sanctions imposed by the Supervising Administrator shall be both appropriate for and likely to remedy and/or justly penalize the unprofessional conduct in question. In all cases, determination of the appropriate sanction depends upon the facts and circumstances of the particular instance of unprofessional conduct, including the nature of the conduct, whether it was purposeful or negligent, whether it has been repeated or is likely to be repeated, the harm resulting from the unprofessional conduct, and other relevant matters.

   Sanctions shall be selected only after due consideration of the principles of academic freedom and shall give effect to those principles. (See *Laws of the Regents*, 1990, Article 5, Part D, reprinted in Appendix A to this document.) Because of the threat to academic freedom, an administrator should not require an apology from a faculty member as part of a sanction without consultation with an appropriate faculty committee. (See Boulder Faculty Assembly *Resolution on Administrators' Demands for Apologies by Faculty Members*, Appendix C, Section 5.)

2. Limitation on Imposing Sanctions Providing for Suspension or Dismissal

   Any suspension or dismissal of a faculty member shall be made only under the procedures provided for such action in the *Laws of the Regents*. (See *Laws of the Regents*, 1990, Article 5, Part C.)

3. Limitation on Imposing Sanctions for Failure to Act in a Collegial Manner

   Collegiality (See section II.C, "Ethical Principles") contributes to a cooperative, harmonious, and productive work environment in an academic unit. Merely irritating conduct, evidencing a lack of collegiality, shall not alone be the basis for imposing a sanction more severe than a confidential reprimand of a faculty member. However, the

[1] Faculty members retain their right of appeal to the Committee on Privilege and Tenure in any matter "involving perceived violation of academic rights, privileges, or tenure" (Laws of the Regents, Article 5.C.3.A).

Supervising Administrator may impose a more serious sanction if he or she determines that the lack of collegiality is of such severity or duration that it compromises the effective operation of the academic unit or substantially interferes with the work of one or more of its faculty members, staff, or students.

4. Authorized Sanctions and by Whom Imposed

   a. Subject to the foregoing, sanctions for unprofessional conduct by a faculty member may consist of any one or more of the sanctions listed below, as may be appropriate, and any other sanction or sanctions that may be considered appropriate in the particular instance. The order in which sanctions are listed below does not imply that they must be imposed successively, nor does it imply that any lesser sanction must be imposed before a more severe sanction may be imposed.

   b. Sanctions will normally be imposed by the Supervising Administrator. However, sanctions referred to in sections IV.D.4.d.vii—ix, below (i.e., reassignment to another academic unit, withholding raises or privileges, reduction of salary or privileges), may be imposed only by an administrator who holds the position of dean of a school or college, or an equivalent or higher administrative level position. If the Supervising Administrator believes such a sanction to be appropriate but does not hold such a position, he or she shall refer the matter, with his or her recommendation for sanctions, to the administrator at the next highest level of administration who holds such a position. The administrator at that level shall then determine the appropriate sanction, if any, following a review of the recommendation for sanction, any record available, and any written statement the Responding Faculty Member may wish to make in the matter to that administrator. (Note: In such cases, the process described in this paragraph shall also be understood to constitute the appeal process described in IV.C.6, above.)

   c. Sanctions described in sections IV.C.4.d.x and IV.C.4.d.xi (i.e., suspension or termination) may be imposed only under the special procedures provided for in the *Laws of the Regents*. (See section IV.C.2 above.)

   d. Sanctions for unprofessional conduct by a faculty member may include, but are not necessarily limited to, the following:

      i. emphasizing, orally or in writing, to the faculty member his or her professional responsibilities;

      ii. oral or written admonition of the faculty member;

      iii. confidential reprimand of the faculty member;

      iv. public reprimand of the faculty member;

v. reassignment, temporarily or permanently, of the faculty member's office or other working space (with the appropriate consent of any academic unit affected);

vi. reassignment, temporarily or permanently, of the faculty member's courses or other duties;

vii. reassignment, temporarily or permanently, of the faculty member to another academic unit (with the appropriate consent of any academic unit affected);

viii. withholding raises or privileges for the faculty member for a specified period or until the faculty member demonstrates, under the terms of the sanction, that he or she has terminated the unprofessional conduct;

ix. temporary or continuing reduction in salary or privileges of the faculty member;

x. suspension of the faculty member (subject to the provisions of section IV.D.2 above) for a period stated or until stated conditions are met; or

xi. termination of employment or dismissal of the faculty member (subject to the provisions of section IV.D.2 above).

5. Special Requirements for Temporary Sanctions

In any case in which a temporary sanction is imposed, the temporary sanction shall specify the term of the sanction or the conditions upon which the sanction will terminate, either automatically or after a hearing determining that such conditions have been satisfied. Any such hearing shall be conducted by the Supervising Administrator who imposed the sanction or by the Supervising Administrator's successor or designee.

E. Reporting and Records

1. Reporting

Any sanction imposed on a faculty member for unprofessional conduct (other than emphasizing the faculty member's professional obligations under section IV.D.4.d.i or an oral admonition under section IV.D.4.d.ii above), and any decision made concerning whether the terms of a temporary sanction have been met, shall be reported to the next higher administrative level.

2. Records

   a. Except as otherwise provided in the terms of a sanction, any sanction imposed on a faculty member (other than emphasizing the faculty member's professional obligations under section IV.D.4.d.i or an oral admonition under section IV.D.4.d.ii above) shall be evidenced in writing and shall become part of the personnel file of the faculty member.

   b. The faculty member upon whom the sanction is imposed shall receive a copy of the written notice of the sanction. The faculty member may, at a date specified and having satisfied the conditions specified in the sanction (if any), request that the notice of the sanction be removed from his or her personnel file in accordance with any applicable University procedures.

   c. A copy of any and all records pertaining to any matter dealt with under these provisions, including those in the possession of the administrator making the decision or of any Advisory Committee appointed under these provisions, shall be made available to any review as contemplated in these provisions. In the absence of any such review, such records shall be maintained in a confidential file by the administrator making the decision, except as the administrator may otherwise be directed by order of any tribunal or by express University policy or by University Counsel, or except as the records may become relevant to a sanction in a further matter of unprofessional conduct by the faculty member.

   d. In the absence of any other direction, and if no sanction was imposed, the material in the confidential file shall be destroyed after a period of one year from the date of the decision of the Supervising Administrator. If any part of the material consists of property belonging to another person, a copy or a description of such property shall be placed in the confidential file and the property returned to the owner as soon as possible.

F. Review by Committee on Privilege and Tenure for Dismissal for Cause

Imposition of a sanction of dismissal for cause is subject to the provisions of *Laws of the Regents* 5.C.3: Faculty Grievance Process, and is appealable to the Committee on Privilege and Tenure, provided that all available campus-level appeals have been exhausted.

Amendments to *Professional Rights and Duties of Faculty Members and Roles and Responsibilities of Department Chairs* may be initiated by the Boulder Faculty Assembly, the Provost, the Associate Vice Chancellor for Faculty Affairs, or the Chair of the Boulder Faculty Assembly. Amendments require the approval of the Provost.

Approved as Academic Affairs Policy

_____ Date: January 16, 2013

Russell Moore, Provost

Appendices

Appendix A

PRINCIPLES OF ACADEMIC FREEDOM

(from *Laws of the Regents*, Article 5, as amended October 10, 2002)

5.D.1 <u>Intent and Definition</u>

(A) The University of Colorado was created and is maintained to afford men and women a liberal education in the several branches of literature, arts, sciences, and the professions. These aims can be achieved only in that atmosphere of free inquiry and discussion, which has become a tradition of universities and is called "academic freedom."

(B) For this purpose, "academic freedom" is defined as the freedom to inquire, discover, publish and teach truth as the faculty member sees it, subject to no control or authority save the control and authority of the rational methods by which truth is established.

(C) Within the bounds of this definition, academic freedom requires that members of the faculty must have complete freedom to study, to learn, to do research, and to communicate the results of these pursuits to others. The students likewise must have freedom of study and discussion. The fullest exposure to conflicting opinions is the best insurance against error.

(D) Academic freedom does not give either faculty or students the right to disregard the standards of conduct outlined in part B of article 7 of these *Laws*.

(E) All members of the academic community have a responsibility to protect the university as a forum for the free expression of ideas.

5.D.2 <u>Faculty Responsibility</u>

(A) Faculty members have the responsibility to maintain competence, exert themselves to the limit of their intellectual capacities in scholarship, research, writing, and speaking; and to act on and off the campus with integrity and in accordance with the highest standards of their profession. While they fulfill this responsibility, their efforts should not be subjected to direct or indirect pressures or interference from within the university, and the university will resist to the utmost such pressures or interference when exerted from without.

(B) Faculty members can meet their responsibilities only when they have confidence that their work will be judged on its merits alone. For this reason the appointment, reappointment, promotion, and tenure of faculty members should be based primarily on the individual's ability in teaching, research/creative work, and service and should not be influenced by such extrinsic considerations as political, social, or religious views, or views concerning departmental or university operation or administration. A disciplinary action against a faculty member, including dismissal for cause of faculty, should not be influenced by such extrinsic consideration.

(C) The faculty member is entitled to freedom in the classroom in discussing the subject, but should be careful not to introduce into teaching controversial matter that has no relation to the subject.

(D) Faculty members are citizens, members of learned professions, and members of the academic leadership of an educational institution. When speaking or writing as citizens, they should be free from university censorship or discipline, but their special position in the community imposes special obligations. As faculty members however, they should remember that the public may judge their profession and institution by their utterances. Hence faculty members should be accurate at all times, should exercise appropriate restraint and show respect for the opinions of others, and when speaking or writing as private citizens should make every effort to indicate that they are not speaking for the institution.

Within the limits of academic discipline, students have an equivalent responsibility for study and learning. They should be judged on the merits of their performance without reference to their political, social, or religious views.

Appendix B

Faculty Powers

(From Sections 4.A.5 and 5.E.5 of the *Laws of the Regents*, as revised November 3, 2005)

(A) A College or school faculty shall collaborate with the dean in the governance of the college or school as to all matters that concern only the college or school in question.

(B) A College or school faculty shall have jurisdiction over all matters under section 5.E.5 of these *Laws* that concern the college or school in question. Through shared governance of the University with the administration and the Board of Regents, college or school faculty will implement statutory and CCHE requirements for new academic degree program proposals, academic program review, and program discontinuance.

Principles of Participation

It is a guiding principle of the shared governance recognized by the Board of Regents that the faculty and the administration shall collaborate in major decisions affecting the academic welfare of the university. The nature of that collaboration, shared as appropriate with students and staff, varies according to the nature of the decisions in question.

The faculty takes the lead in decisions concerning selection of faculty, educational policy related to teaching, curriculum, research, academic ethics, and other academic matters. The administration takes the lead in matters of internal operations and external relations of the university. In every case, the faculty and the administration participate in the governance and operation of the university as provided by and in accordance with the laws and policies of the Board of Regents, and the laws and regulations of the state of Colorado. The chair or other designated representative of the Faculty Council shall be the spokesperson for the faculty when addressing the Board of Regents on matters of importance to shared governance.

(A) The faculty shall have the principal role for originating academic policy and standards, including initial authorization and direction of all courses, curricula, and degrees offered, admissions criteria, regulation of student academic conduct and activities, and determination of candidates for degrees.

(B) The faculty shall have the principal role for originating scholastic policy, including scholastic standards for admission, grading (consistent with the Uniform Grading System of the University), continuation, graduation, and honors. As required by the *Laws of the Regents*, the deans of the colleges and schools shall have responsibility for enforcement of admissions standards and requirements.

(C) In the selection and evaluation of faculty, the faculty shall have the principal role, subject to the concurrence of the administration and the ultimate authority of the Board of Regents or its designee(s).

(D) In establishing policies and procedures for faculty appointment, reappointment, promotion, tenure and post-tenure review, and establishing policies and procedures for the appeal of decisions in these areas, the faculty shall collaborate with the campus and system administrations in the development of recommendations to the president for submission to the Board of Regents.

(E) In the selection and evaluation of department chairs and academic administrators, the faculty shall collaborate with the campus and system administrations in the development of recommendations for submission to the Board of Regents or its designee(s).

(F) In establishing and reviewing budget policies and plans for resource allocation, the faculty shall collaborate with the campus or system administration in the development of recommendations to the chancellor or the president, as appropriate, for submission to the Board of Regents. This includes review for new academic degree program proposals, academic program review, and program discontinuance.

(G) In the preparation of budgets, the administration shall have the principal role, with early collaboration with the appropriate faculty governance unit(s), subject to the ultimate authority of the Board of Regents or its designee(s).

(H) In the making of other policy concerning the general academic welfare of the university, the faculty shall collaborate with the administration in developing recommendations to the president for submission to the Board of Regents.

(I) Administrative policy changes with respect to matters listed in the Faculty Senate Constitution, Article I.B that affect faculty shall be promulgated only after consultation with appropriate faculty governance bodies.

(J) In the Faculty Senate Constitution, Articles II-IV, which defines the structure and functions of faculty governance at different university levels, other aspects of faculty participation are specified.

Appendix C: Additional Policy Statements

1. Statement on Faculty Absences, Adopted by the Boulder Faculty Assembly, April 1980

It is expected that faculty members will not be absent from classes except in cases of illness, personal emergency, religious observance or when the absence is desirable for the faculty member to meet his or her professional responsibilities.

It is expected that arrangements will be made for covering instructional and other activities during the period of absence.

Departmental chairpersons are expected to take whatever measures are necessary to safeguard against inappropriate absence from classroom responsibilities.

For additional information, consult the "Boulder Campus Policy on Absences from Campus," Approved December 2008)

2. Policy Statements on Nondiscrimination and Diversity

a. General Statement on Nondiscrimination and Diversity

The University of Colorado does not discriminate on the basis of race, color, national origin, sex, age, disability, creed, religion, sexual orientation, or veteran status in admission and access to, and treatment and employment in, its educational programs and activities. The University takes action to increase ethnic, cultural, and gender diversity, to employ qualified disabled individuals, and to provide equal opportunity to all students and employees.

Qualification for the position and institutional need shall be the sole bases for hiring employees, and the criteria for retaining employees shall be related to performance evaluation, assessment of institutional need, fiscal constraints, and/or, in the case of exempt professionals, the rational exercise of administrative prerogative.

All students shall have the same fundamental rights to equal respect, due process, and judgment of them based solely on factors demonstrably related to performance and expectations as students. All students share equally the obligations to perform their duties and exercise judgments of others in accordance with the basic standards of fairness, equity, and inquiry that should always guide education.

b. Boulder Chancellor's Policy on Diversity, 1994

REAFFIRMATION OF POLICY

In its pursuit of excellence, the University of Colorado at Boulder (UCB) recognizes the importance of its commitment to diversity. UCB reaffirms this commitment to both the concept and process of affirmative action. Central to the educational purpose of this institution is a need to reflect the diversity of our society including faculty, students, and staff. We must continue to make major advances in this area.

We must be more active in our responses to the concepts, methodologies and characteristics of affirmative action. UCB will continue to take explicit affirmative action to employ, retain, and advance in employment qualified members of all protected groups. UCB provides equal opportunity for all employees and applicants for employment regardless of race, color, creed, religion, national origin, veteran status, age, or sex, except where sex or age is a bona fide occupational qualification. Discrimination on the basis of disability in employment at UCB is prohibited.

UCB provides equal opportunity for all students and applicants for admission, regardless of race, color, creed, religion, national origin, veteran status, age, or sex. Discrimination on the basis of disability in education programs and activities at UCB is prohibited. UCB will implement programs to overcome the effects of past discrimination.

UCB remains firm in its commitment to diversity and practice of affirmative action. We must retain this principle as well as develop and support specific goals and objectives. Not until UCB reflects the full range of the rich diversity found in this country's society, will our educational goals be met.

c. Boulder Chancellor's Statement on the Mission and Role of the Boulder Campus with Respect to Gay, Lesbian and Bisexual Issues, 1994

On several occasions since my arrival in Boulder I have stated that my vision of this campus is one which is "second to none and open to all." By open to all I mean that CU-Boulder is

open to all Colorado citizens who are academically qualified to benefit from the fine education offered here. Open to all has an additional meaning. CU-Boulder is committed to making the Boulder campus a community in which diversity, including sexual orientation, is an accepted value. In this regard CU-Boulder goes beyond the mandate of federal statute. It is the commitment of this campus to support all members of our community as they work to fulfill their educational ambitions.

3. **Sexual Harassment Policy and Procedures** (from Administrative Policy Statement, July 1, 2009)

I. INTRODUCTION

Regent Policy 2-J, adopted on June 23, 2003, established that consistent with the *Laws of the Regents, Article 10*, Non-Discrimination, the University will not tolerate acts of sexual harassment or related retaliation against or by any employee or student in its educational programs and activities. This administrative policy statement implements Regent Policy 2-J, Sexual Harassment Policy.

II. POLICY STATEMENT

The University of Colorado is committed to maintaining a positive learning, working and living environment. The University does not discriminate on the basis of race, color, national origin, sex, age, disability, creed, religion, sexual orientation, or veteran status in admission and access to, and treatment and employment in, its educational programs and activities. (Regent Law, Article 10). In pursuit of these goals, the University will not tolerate acts of sexual harassment or related retaliation against or by any employee or student.

This policy (1) provides a general definition of sexual harassment and related retaliation; (2) prohibits sexual harassment and related retaliation; and (3) sets out procedures to follow when a member of the University community believes a violation of the policy has occurred. It also isÂ a violation of this policy for anyone acting knowingly and recklessly either to make a false complaint of sexual harassment or to provide false information regarding a complaint.

Robust discussion and debate are fundamental to the life of the University. Consequently, this policy shall be interpreted in a manner that is consistent with academic freedom as defined in Regent Law, Article 5 D, last amended 10/10/02.

It is intended that individuals who violate this policy be disciplined or subjected to corrective action, up to and including termination or expulsion.

III. DEFINITIONS

Appointing authority - an appointing authority is the individual with the authority or delegated authority to make ultimate personnel decisions concerning a particular employee.

Disciplinary authority - a disciplinary authority is the individual who has the authority or delegated authority to impose discipline upon a particular employee.

Supervisor - A supervisor is anyone who has the authority to hire, promote, discipline, evaluate, grade or direct faculty, staff, or students.

Complainant - a complainant is a person who is subject to alleged sexual harassment.

Respondent - a respondent is a person whose alleged conduct is the subject of a complaint.

Sexual harassment - Sexual harassment consists of interaction between individuals of the same or opposite sex that is characterized by unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when: (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, living conditions and/or educational evaluation; (2) submission to or rejection of such conduct by an individual is used as the basis for tangible employment or educational decisions affecting such individual; or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile, or offensive working or educational environment.

Hostile environment sexual harassment: (described in subpart (3) above) is unwelcome sexual conduct that is sufficiently severe or pervasive that it alters the conditions of education or employment and creates an environment that a reasonable person would find intimidating, hostile or offensive. The determination of whether an environment is "hostile" must be based on all of the circumstances. These circumstances could include the frequency of the conduct, its severity, and whether it is threatening or humiliating.

Examples which may be policy violations include the following: an instructor suggests that a higher grade might be given to a student if the student submits to sexual advances; a supervisor implicitly or explicitly threatens termination if a subordinate refuses the supervisor's sexual advances; and a student repeatedly follows an instructor around campus and sends sexually explicit messages to the instructor's voicemail or email.

Retaliatory Acts: It is a violation of this policy to engage in retaliatory acts against any employee or student who reports an incident of alleged sexual harassment, or any employee or student who testifies, assists or participates in a proceeding, investigation or hearing relating to such allegation of sexual harassment.

Students and employees who believe they have been retaliated against because of testifying, assisting or participating in a proceeding, investigation, or hearing relating to an allegation of sexual harassment, should meet with and seek the advice of their campus sexual harassment officer, whose responsibilities include handling retaliation.

IV. POLICIES AND PROCEDURES

A. Obligation to Report

In order to take appropriate corrective action, the University must be aware of sexual harassment or related retaliation. Therefore, anyone who believes that s/he has experienced or witnessed sexual harassment or related retaliation should promptly report such behavior to a campus sexual harassment officer (see campus Appendix discussed below) or any supervisor (see section B below).

B. Supervisor's Obligation to Report

Any supervisor who experiences, witnesses or receives a written or oral report or complaint of sexual harassment or related retaliation shall promptly report it to a campus sexual harassment officer. This section of the policy does not obligate a supervisor who is required by the supervisor's profession and University responsibilities to keep certain communications confidential (e.g., a professional counselor or ombudsperson) to report confidential communications received while performing those University responsibilities. Each campus shall have an appendix to this policy designating the supervisory positions that qualify under this exception.

C. Investigation Process

1. Reports or complaints under this policy shall be addressed and resolved as promptly as practicable after the complaint or report is made. Ordinarily, investigations shall be concluded and reports submitted to the reviewing committee no later than 90 days following the receipt of a complaint. Ordinarily, the final report shall be sent to the Chancellor or President no later than 30 days after the committee's receipt of the draft report of the investigation.

It is the responsibility of the sexual harassment officer(s) to determine the most appropriate means for addressing the report or complaint. Options include: 1) investigating the report or complaint in accordance with paragraph C.3. below; 2) with the agreement of the parties, attempting to resolve the report or complaint through a form of alternative dispute resolution (e.g., mediation); or 3) determining that the facts of the complaint or report, even if true, would not constitute a violation of this policy.

The campus sexual harassment officer(s) may designate another individual (either from within the University, including an administrator, or from outside the University) to conduct or assist with the investigation or to manage an alternative dispute resolution process. Outside investigators shall have training, qualifications and experience as will, in the judgment of the sexual harassment officer, facilitate the investigation. Anyone designated to address an allegation must adhere to the requirements of this policy and confer with the sexual harassment officer(s) about his or her progress. (See campus appendix for a list of resources for further assistance or additional information.)

2. All reports or complaints shall be made as promptly as feasible after the occurrence. (A delay in reporting may be reasonable under some circumstances, as determined on a case-by-case basis. An unreasonable delay in reporting, however, is an appropriate consideration in evaluating the merits of a complaint or report.)

3. If an investigation is conducted: The complainant and the respondent shall have the right to:

a. Receive written notice of the report or complaint, including a statement of the allegations, as soon after the commencement of the investigation as is practicable and to the extent permitted by law;
b. Present relevant information to the investigator(s); and
c. Receive, at the conclusion of the investigation and appropriate review, a copy of the investigator's report, to the extent permitted by law.

4. The Chancellor, the respondent's appointing authority and the respondent's supervisor shall be notified that an investigation is taking place. The sexual harassment officer shall advise the respondent's supervisor whether the respondent should be relieved of any supervisory or evaluative authority during the investigation and review. If the respondent's supervisor declines to follow the recommendation of the sexual harassment officer, s/he shall send a letter explaining the decision to the Chancellor with a copy to the sexual harassment officer.

5. At the conclusion of an investigation, the investigator shall prepare a written report which shall include a statement of factual findings and a determination of whether this policy has been violated. The report shall be presented for review to the standing review committee designated by the Chancellor, or, in the case of System Administration, the President.

6. The standing review committee may consult with the investigator, consult with the parties, request that further investigation be done by the same or another investigator, or request that the investigation be conducted again by another investigator. The standing review committee may adopt the investigator's report as its own or may prepare a separate report based on the findings of the investigation. The standing review committee may not, however, conduct its own investigation or hearing. Once the standing review committee has completed its review, the report(s) shall be sent to the campus sexual harassment officer(s), the complainant and the respondent, to the extent permitted by law. The report also shall be sent to the Chancellor, or, in the case of System Administration[1], to the President. If a Chancellor is the respondent or complainant, the report shall be sent to the President. If the President or the Secretary of the Board of Regents is the respondent or complainant, the report shall be sent to the Board of Regents.

D. Reporting Process

1a. If a policy violation is found, the report(s) shall be sent to the disciplinary authority for the individual found to have violated the policy, and the disciplinary authority must initiate a disciplinary process against that individual. The disciplinary authority shall have access to the

records of the investigation. If disciplinary action is not taken, the appointing authority and the Chancellor, or in the case of System Administration, the President shall be notified accordingly.

1b. Following a finding of violation of the policy, the disciplinary authority shall forward to the sexual harassment officer and to the Chancellor, or in the case of System Administration, the President, a statement of the action taken against an individual for violation of this policy.

1c. If a policy violation is not found, the appointing authority and the Chancellor, or in the case of System Administration, the President, shall be notified accordingly.

2. The sexual harassment officer shall advise the complainant and respondent of the resolution of any investigation conducted under this policy.

3. A copy of the investigator's written report as approved by the standing review committee, shall be provided to:

1) the complainant; 2) the respondent; and 3) the respondent's appointing authority.

4. In all cases, the sexual harassment officer shall retain the investigator's report, as approved by the standing review committee, for a minimum of three (3) years or for as long as any administrative or legal action arising out of the complaint is pending.

5. All records of sexual harassment reports and investigations shall be considered confidential and shall not be disclosed publicly except to the extent required by law.

6. Complaints Involving Two or More Campuses: When an alleged policy violation involves more than one campus, the complaint shall be handled by the campus with disciplinary authority over the respondent. The campus responsible for the investigation may request the involvement or cooperation of any other affected campus and should advise appropriate officials of the affected campus of the progress and results of the investigation.

7. Complaints By and Against University Employees and Students Arising in an Affiliated Entity: University employees and students sometimes work or study at the worksite or program of another organization affiliated with the University. When a policy violation is alleged by or against University employees or students in those circumstances, the complaint shall be handled as provided in the affiliation agreement between the University and the other entity. In the absence of an affiliation agreement or a provision addressing this issue, the University may, in its discretion, choose to 1) conduct its own investigation, 2) conduct a joint investigation with the affiliated entity, 3) defer to the findings of an investigation by the affiliated entity where the University has reviewed the investigation process and is satisfied that it was fairly conducted, or 4) use the investigation and findings of the affiliated entity as a basis for further investigation.

E. No Limitations on Existing Authority

No provision of this policy shall be construed as a limitation on the authority of a disciplinary authority under applicable policies and procedures to initiate disciplinary action. If an individual is disciplined for conduct that also violates this policy, the conduct and the discipline imposed shall be reported to a campus sexual harassment officer. If an investigation is conducted under this policy and no policy violation is found, that fact does not prevent discipline of the respondent for inappropriate or unprofessional conduct under other applicable policies and procedures.

4. **Policy Statements on Additional Remuneration for Consultative Services** (from *Laws of the Regents*, Article 5-E, as revised November 3, 2005)

   Faculty consultation work is a desirable and legitimate function, serving to keep faculty abreast of their professions, and should be encouraged. Such work must not interfere with the educational processes of the University. (See Regent Policy 3.B and 3.D.) With prior written approval by the dean or appropriate campus authority, faculty members shall be permitted to receive additional remuneration from sources outside the university so long as the activities generating the income do not exceed one-sixth of their time and effort. Outside work during leaves of absence shall be of concern only to the individual and the entity by which he/she is employed.

   Normally, university facilities shall not be used for faculty members' outside work. However, faculty members may make contractual arrangements to rent university facilities at fair-market rates using campus-approved procedures. Faculty members shall not use university resources to advertise their availability for private consultation practice.

   Separate policies may apply to faculty members in Chancellor-approved practice plans.

   One-Sixth Rule activities shall not involve large amounts of consecutive time, but shall be limited to reasonably short periods of consultation.

5. **Statement on Administrators' Demands for Apologies by Faculty Members** (Adopted by the Boulder Faculty Assembly, September 3, 1992)

   Because of the threat to academic freedom, an administrator ought not to be in the position to demand an apology from a faculty member. If upon extraordinary circumstances an apology is deemed to be necessary, this matter should be submitted to an appropriate conflict resolution unit of the faculty, such as the Committee on Privilege and Tenure.