

1 San Jose State University
2 Academic Senate
3 Professional Standards Committee
4 December 4, 2023
5 Final Reading

AS 1864

6 Policy Recommendation
7 Amendment B to University Policy S99-8 (Professional Responsibility)

8 Legislative History: This proposal would amend the policy on Professional Responsibility

9 Rationale: The statement of Professional Responsibility found in University Policy S99-8 has
10 not been updated in nearly a quarter of a century, while the statement(s) upon which it is based
11 have undergone some revisions in that time. In addition, in recent years many institutions of
12 higher education have begun to enact policies to describe unprofessional conduct (often
13 described as “bullying”) that does not fall under any specific statutory protections, but is
14 nevertheless disruptive to the work of the university, and that undermines the environment for
15 free pursuit of scholarship. At present, SJSU does not have a formal definition of bullying in
16 University policy. This policy adds such a definition, and includes it as an example of behavior
17 that falls outside of acceptable standards for professional responsibility among faculty.

18 After feedback from the first Senate reading, three significant changes were made:

- 19 1. Language about respect for differing research methodology has been added to Section
20 B.3.
- 21 2. More specific language about what sorts of nonverbal and/or nonvocal expressions
22 would possibly be considered “bullying” was added to Section D.
- 23 3. Language addressing power differentials was added to Section D.
- 24 4. The word “faculty” was added to the title and the preamble to clarify that this policy
25 establishes professional expectations *for faculty by other faculty*.

26 Additional feedback received during the first reading included concern about the use of the term
27 “bullying” and whether the more general “other unprofessional conduct” or “other conduct of
28 concern” might be more palatable. The committee considered this, but came to the conclusion
29 that bullying, specifically, is an issue of great concern on campus, and has been for many years,
30 and since one of the goals of this amendment is to begin to address that concern, it is
31 preferable to keep the more specific language.

32 Resolved: That S99-8 (Professional Responsibility) be modified as follows:

33
34 Approved: November 27, 2023
35 Vote: 9-0-0
36 Present: Barrera, Chen, French, Kazemifar, Pendyala, Pruthi, Raman, Ruiz Blanco,
37 Smith
38 Absent: None

39
40 Financial Impact: None anticipated
41 Workload Impact: None anticipated

42

FACULTY PROFESSIONAL RESPONSIBILITY

I. Statement of Professional Responsibility for Faculty³¹

A. Preamble

45 Professional responsibility is the natural complement of the academic freedom essential to the
46 university's mission. Through their responsible professional conduct, faculty members² promote and
47 protect academic freedom. Since faculty members belong to a profession with the rights of self-
48 ~~government~~governance, they also have the obligation to establish standards of professional conduct
49 and procedures to enforce them. The following standards provide guidance for ~~many~~certain ethical
50 questions which may arise over the course of a faculty member's career, but they are not ~~intended to be~~
51 an exhaustive list. They are built upon the foundations of academic freedom; they are the ideals to
52 which all faculty members should aspire.

B. Faculty Responsibilities

53

54 The responsibilities of faculty members may be considered from five related, but somewhat
55 conceptually distinct, perspectives: (1) as members of an academic profession; (2) as teachers⁴³; (3) as
56 colleagues; (4) as members of an academic institution; and (5) as members of a community.

1. As members of an academic profession, faculty members:

58 a. serve as intellectual leaders; they

59 - seek and state the truth as they see it.

60 - develop and improve their instructional and scholarly competence.

61

³¹Derived in part, from the Academic Senate of California State University proposed policy AS-2080-92/FA-I, May 7-8, 1992. Also consulted were the original sources on which AS-2080-92/FA-I was based, including earlier AAUP documents: primarily the *Statement of Principles on Academic Freedom and Tenure* (1940), the *Statement on Professional Ethics* (1966, revised 1987 and 2009), the *Statement of the Association's Council: Freedom and Responsibility* (1970, revised 1990).

~~[†]Derived from the *International Statement on Academic Freedom and Tenure*, 1984. Signatories include the American Association of University Professors, the American Federation of Teachers, the National Education Association, and similar groups from the United Kingdom, New Zealand, Canada, Australia, Ireland, and France.~~

²The faculty of the university include all those who engage in scholarly activities and/or those who directly or indirectly participate in instructional activity. Thus faculty members include professors, lecturers, teaching assistants, research assistants, coaches, counselors, librarians, and all those faculty employees under Unit 3.

⁴³Teaching is meant in an inclusive sense. All those who directly or indirectly contribute to instructional activity are teachers. For example, librarians and other academically related faculty contribute to instructional activity, even in those cases where they do not engage in direct classroom instruction.

- 62 - exercise critical self-discipline and judgment in applying, extending, and transmitting
63 knowledge.
- 64 - practice, foster, and defend intellectual honesty, freedom of inquiry and instruction, and free
65 expression on and off the campus.
- 66 - promote the free and open exchange of ideas in the classroom as related to the subject matter.
- 67 - strive to foster a campus environment that i) supports a robust discussion of issues (including
68 political and societal issues), ii) promotes respect for the opinions of others, and iii) encourages
69 sensitivity to the possibility of multiple interpretations of speech and actions.
- 70 - do not allow their subsidiary interests to compromise their freedom of inquiry.
- 71 b. engage in research and other professional and creative activities; they
- 72 - perform their research with honesty and integrity.
- 73 - respect the ethical and legal considerations⁵⁴ that underlie their work and output, as consistent
74 with the ethical principles and guidelines of their discipline.
- 75 - comply with guidelines governing any grant or other funds related to a research or creative
76 project.
- 77 - strive to contribute to the body of knowledge in their discipline and to disseminate such
78 knowledge appropriately.
- 79 - critically evaluate their work prior to dissemination.
- 80 - use university and other resources with integrity and consideration of the mission of the
81 university.
- 82 2. As teachers, faculty members:
- 83
- 84 a. treat students fairly and respectfully; they
- 85 - assure that their evaluations of students reflect only matters relevant to the students' academic
86 performance.

⁵⁴ Such ethical and legal considerations include compliance with copyright laws and not plagiarizing.

- 87 - guard against improper disclosure of confidential information regarding students.⁶⁵
- 88 - ~~insure~~ensure that their professional contacts with students are free from any exploitation,
89 harassment, or discrimination.
- 90 - acknowledge significant academic or scholarly collaboration with or assistance from their
91 students.
- 92 - adhere to published descriptions of course content and grading practices, such as those
93 contained in syllabi and course catalogs.
- 94 - maintain awareness of and adhere to University policies governing student rights and
95 responsibilities.
- 96 b. encourage the free pursuit of learning; they
- 97 - encourage students to make their own judgments and to express them when appropriate.
- 98 - allow students to take reasoned exception to or to reserve judgment about the data or views
99 offered in a course of study.
- 100 - refuse to tolerate exploitation, harassment, or discrimination by students in an instructional
101 setting.
- 102 - ~~protect student academic freedom~~
- 103 c. exhibit and uphold the highest scholarly and ethical standards of their disciplines; they
- 104 - foster honest academic conduct.
- 105 - do not instruct, advise, or supervise students with whom they have personal or professional
106 conflicts of interest.⁷⁶
- 107 d. serve as intellectual guides and advisors; they
- 108 - are available during reasonable, posted hours to assist students who request their intellectual
109 and academic help.
- 110 - utilize instructional time to help students learn course materials.

⁶⁵ The confidentiality of student records and information is also governed by law and SJSU policy. See the federal Family Educational Rights and Privacy Act (often referred to as the Buckley Amendment), information available from either the SJSU Division of Student Affairs or the SJSU Office of Faculty Affairs, and University Policies S66-20 and S90-5 (and any related updates or modifications) available at the Senate Web site.

⁷⁶ For a discussion of the concept of "conflicts of interest" in the context of this Statement of Faculty Responsibility, see Section C of this policy. A separate University policy (S99-11) exists dealing with conflicts of interest for principal investigators; see the Senate Web page.

- 111 3. As colleagues and co-workers, faculty members:
- 112 a. respect and defend free inquiry **even when the methodology used or the findings and conclusions**
 - 113 **reached differ from their own.**
 - 114 b. show due consideration for diverse opinions.
 - 115 c. acknowledge the contributions of others to their academic work.
 - 116 d. seek objectivity in their professional evaluations.
 - 117 e. do not evaluate or supervise those with whom they have personal or professional conflicts of
 - 118 **interest.**⁸⁷
 - 119 f. avoid exploitive, harassing, or discriminatory behavior.
 - 120 g. hold themselves and colleagues to high ethical standards and address ethical abuses when they
 - 121 **become known.**

122 4. As members of an academic institution, faculty members:

- 123 a. observe the stated regulations of the institution that are consistent with the statement of academic
- 124 **freedom in this document Amendment A to University Policy S99-8,** and with their contractual
- 125 **and legal obligations.**
- 126 b. maintain the right to criticize regulations and seek their revision.
- 127 c. assure that their outside interests do not compromise the obligations of their primary appointment.
- 128 d. request a leave of absence or resign when the claims of outside interests preclude the fulfillment
- 129 **of substantial academic obligations.**
- 130 e. give appropriate notice of their intent to interrupt or terminate their services to the university.
- 131 f. share in the responsibilities for governing the university.
- 132 g. share in periodic review and improvement of curriculum.
- 133 h. cooperate in the pursuit of stated goals of one's program, department, college, or university.
- 134 i. help ensure that the university meets its commitment to maintain an environment that values
- 135 **diversity and that is free from discrimination and harassment.**

136 5. As members of a community, faculty members:

- 137 a. publicly distinguish when they speak or act as private citizens from when they do so as an official
- 138 **representative of the university so as not to lead others to mistake them as a spokesperson for San**
- 139 **José State University or the California State University system.**⁹⁸
- 140 b. recognize that breaking legal and civil codes for academic gain is also an infringement of
- 141 **professional ethics.**¹⁰⁹
- 142 c. promote conditions of free inquiry.
- 143 d. further public understanding of academic freedom.

144 C. Conflicts of Interest

145 *Definition:* In the context of professional responsibility, a conflict of interest is an agreement,
146 relationship, or other arrangement, be it personal or professional, formal or informal, that undermines
147 the faculty's disinterested performance of its professional duties and obligations.

⁸⁷For a discussion of the concept of "conflicts of interest" in the context of this Statement of Faculty Responsibility, see Section C of this policy.

⁹⁸ Also see California Education Code Section 89005.5.

¹⁰⁹ Also see California Government Code Section 8314 on unlawful use of state resources by state employees.

148 Importance: Students have a just expectation that they will be instructed, evaluated and supervised by
149 a disinterested faculty. Faculty members have a similar expectation that their professional and
150 academic evaluations and supervision are free from the self-interest of their peers. Maintaining
151 disinterestedness is one of the faculty's central ethical responsibilities. The disinterestedness of the
152 faculty assures both the academic integrity of the University and the faculty's academic freedom.

153 Conflicts of interest between faculty and students: In addition to the legal contracts existing between
154 students and the University, there is an equally important "social contract" between them and the
155 faculty, in which each fulfills its duties and obligations to the other. Many of the faculty's
156 responsibilities under this "contract" are found in Section II.B.2. of this document. Interests that
157 conflict with those obligations include actions or requirements of the faculty that appear to be
158 grounded in private interest or gain, not in professional responsibility. Examples of conflicting
159 interests are: requiring the purchase of course materials from which an instructor makes a profit (texts
160 and other materials professionally reviewed, published, and distributed are excluded); and giving
161 academic credit for student research which the instructor puts to use for private gain or profit.

162 Other conflicts of interest may arise in view of the disproportion of influence and power between
163 faculty and students. Instructors, thus, ought not engage students in their classes or under their
164 supervision in relationships that are so personal that the presumption of professional disinterest is
165 difficult to maintain. Faculty members, for example, ought not instruct or supervise students who are
166 obligated to them financially; and faculty ought not supervise or instruct students with whom they
167 have relationships grounded in interests inconsistent with their professional responsibility and the
168 mission of the University. These conflicts of interest include but are not restricted to sexual
169 relationships.

170 A similar caveat applies, of course, to the instruction and evaluation of students who are family
171 members, since faculty disinterestedness is problematic in this case as well.

172 Exceptions to these injunctions may be made after consultation with an instructor's department chair or
173 other appropriate party, such as a supervisor or a dean. The grounds for exception must be compelling
174 (e.g., curricular or staffing restrictions in a student's chosen academic program).

175 While acknowledging that the propriety of a personal relationship between a student and an instructor
176 is indeed a sensitive issue for all involved, the faculty holds that the rights of faculty and students to
177 free association must be honored and protected in instances when professional disinterestedness is not
178 expected or required. The faculty also acknowledges that disinterestedness thrives best in an
179 atmosphere free from suspicions of favoritism, nepotism, coercion and harassment.

180 Conflicts of interest in professional relationships: Faculty members rightfully expect unbiased
181 evaluations of their academic and professional performance. The responsibilities of the faculty in this
182 regard are detailed in Section II.B.3. of this document. Examples of conflicts of interest here include
183 evaluating or supervising faculty who are family members or parties in relationships grounded in
184 interests (e.g., personal, professional or financial interests) that preclude disinterestedness.

185 Beyond questions of peer evaluation, the faculty must ensure that its research or comparable activities
186 are consistent with the mission of the University and with professional standards. The faculty must
187 maintain a disinterested pursuit of truth in their professional activities, one uncompromised, for
188 example, by the pursuit of fees, royalties, and other forms of compensation. Disinterestedness comes
189 into question when subsidiary concerns or private gain makes one's intellectual honesty and freedom
190 of inquiry problematic.

191 The faculty holds that the right of a faculty member to freely associate with colleagues must be
192 honored and protected in instances when professional conflicts of interest are not at issue. Following
193 the principle of disinterestedness, the faculty also recognizes that non-academic relationships between
194 faculty members may become sensitive issues when placed in the context of professional evaluation
195 and supervision (e.g., the recruitment, retention, tenure or promotion of faculty). A faculty member
196 should be excused from these duties when a potential conflict of interest exists. If it is not possible to
197 excuse a faculty member in such circumstances, the faculty member who conducts the evaluation or
198 supervision should advise his/her chair or other appropriate party (e.g., a supervisor or dean) of the
199 situation.

200 Importance of ethical conduct in fact and appearance: Recognizing a conflict of interest in the area of
201 faculty responsibility is often a matter of common sense; at other times it is a matter of law. But
202 beyond the ethical minimums of law and common sense, there exists a higher standard toward which
203 the faculty should strive. That is, a faculty member ought to avoid actual conflicts of interest as well as
204 the appearance of such conflicts whenever possible. This ethical standard is not born of scrupulosity.
205 Rather, it arises from the faculty's full awareness of the wide scope of thought and expression it enjoys
206 under the protection of academic freedom.

207 D. Bullying and Other Unprofessional Conduct

208 Definition¹⁰: In the context of Professional Responsibility, “other” unprofessional conduct is defined
209 as repeated unprofessional behavior that does not fall under statutory protections, including but not
210 limited to Title IX, discrimination, harassment, or retaliation. Of particular concern in this area is
211 bullying. Bullying is behavior that a reasonable person would find hostile, intimidating, offensive, and
212 unrelated to the University’s legitimate instructional or research interests. Such behavior is generally
213 pervasive or severe to the extent that it makes conditions inhospitable and undermines another
214 person’s ability to carry out their responsibilities to the university. A single act will typically not be
215 sufficient to qualify as unprofessional conduct or bullying, but an especially severe or egregious act
216 may so qualify. Examples of bullying could include, but are not limited to:

- 217 1. Abusive expression directed at another person in the workplace, such as derogatory
218 remarks that are outside the range of reasonably accepted expressions of disagreement,
219 disapproval, or critique in an academic or professional setting;
- 220 2. Unwanted physical contact and/or aggressive, derogatory, hateful, or otherwise
221 unprofessional nonverbal and/or nonvocal expressions;
- 222 3. Exclusion and/or isolation leading to harm to another person’s reputation or hindering of
223 another person’s work;

¹⁰This definition is partially derived from the following sources:

1. The CSU Chancellor’s Strategic Workgroup Black Student Success Report
(<https://www.calstate.edu/impact-of-the-csu/diversity/Documents/CSU-Black-Student-Success-Workgroup-Report-2023.pdf>)
2. The University of California, Berkeley definition of “bullying”
(<https://campuspol.berkeley.edu/policies/bullying.pdf>)
3. The University of Wisconsin, Madison policy on Hostile and Intimidating Behavior
(<https://hr.wisc.edu/hib/principles-and-policies/>) T
4. The University of New Mexico Respectful Campus Policy (<http://policy.unm.edu/university-policies/2000/2240.html>)
5. The California State University, Chico Policy on Campus Behavior and Violence Prevention
(<https://www.csuchico.edu/pres/em/2012/12-025.shtml>)

- 224 4. Sabotage of another person’s work and/or impeding another person’s capacity for
225 academic expression.
226 5. The sharing of personal or private information about another person causing
227 embarrassment, intimidation, shaming and/or humiliation.
228 6. Cyberbullying, which is the use of electronic/digital communication in any form to
229 engage in any of the behaviors listed herein.

230 *Importance:* Severe, persistent, or pervasive unprofessional behavior can undermine other faculty
231 member’s performance of their professional duties and obligations with regard to the university’s
232 mission, and chill the environment for free pursuit of learning. While it is often easier to recognize
233 conduct of concern when it occurs in a relationship with a power imbalance, this policy is meant to
234 specifically include bullying between individuals of perceived equal levels of power, as well.

235 E. Applicable Laws and Regulations Governing Conduct

236 Various federal and state laws and regulations apply to the university and its employees. Faculty
237 members must take responsibility for awareness of such rules and to comply with them. Many of these
238 laws and regulations are noted in this and other University policies related to faculty responsibilities (a
239 partial list is included at Section EF below).

240 Examples of laws and regulations applicable to the university and its employees include:

- 241 a. California law prohibits use of state resources or the "California State University" name to
242 advocate a position regarding a candidate or ballot proposition.¹¹
243 b. As a recipient of federal and state funds, and other grants, the university and its faculty involved in
244 research projects or programs may be governed by certain laws, regulations, and guidelines.
245 c. Federal and California laws dealing with non-discrimination, equal employment opportunity, and
246 affirmative action govern employment practices at SJSU and are relevant to faculty members
247 involved in retention, tenure, promotion, and similar employment decisions.
248 d. In order to protect the privacy of students, federal and California laws prohibit certain disclosures
249 of student records.

250 Faculty members may obtain assistance in gaining awareness and understanding of laws and
251 regulations that may govern their conduct from their department chair (or equivalent unit head) and the
252 Office of Faculty ~~Affairs~~Services

¹¹ See California Government Code Section 8314, California Education Code Section 89005.5, and *Stanson v. Mott*, 17 Cal.3d 206, 210 (1976). The CSU Office of General Counsel's *Handbook of Election Issues*, dated February 1997, provides general guidance to the legal background on the use of state resources in elections. This handbook is available at the Web site for this policy on Professional Responsibility. It is also available from the SJSU President’s Office.

253 **EF.** Additional References

254 University policies that relate to academic freedom and faculty responsibilities include:¹²

255 1. S92-12, Statement on Academic Freedom and Artistic Expression.

256 2. ~~insert policy number~~F12-5, Policy and Procedures for Responding to Allegations of Scientific or
257 Other Misconduct in Funded Research.

258 3. ~~insert policy number~~S99-11, Conflict of Interest Policy For Principal Investigators.

259 4. F97-6, Policy and Assurance for Humane Care and Use of Animals at San José State University

260 5. F90-4, Policy for Protection of Human Research Subjects; Ethics; Institutional Review Board (IRB).

261 6. S94-8, Policy on Research, Scholarship and Creative Activity; Grants; Academic Freedom.

262 7. ~~S94-5, F95-1 (insert new policy number)~~S99-9], Board of Professional Responsibility (BFR)—
263 provides an implementing mechanism for some of the policies described or referenced in this
264 document.

265 8. S90-5, Student Rights and Responsibilities.

266 **History**

267 S93-12, Professional Responsibility, superseded F67-17, Academic Freedom and The Common Good
268 (approved February 5, 1968), and S88-9, AAUP Statement on Professional Ethics (approved May 6,
269 1988). S88-9 superseded S67-10, Professional Ethics (approved May 11, 1967). S94-3 added the
270 explanation on conflicts of interest to S93-12 (originally added as Appendix A) and made slight changes
271 to two footnotes. S95-9 added Appendix B on conflicts of interest for principal investigators. S93-12 was
272 approved as University Policy on May 13, 1993, S94-3 was approved on April 12, 1994, and S95-9 was
273 approved on April 6, 1995.

¹² Faculty are encouraged to review University Policies (which are available at <http://www.sjsu.edu/senate/senatpol.htm> as well as in the Academic Senate Office) to be sure they are fully aware of the most current policies pertaining to their activities as teachers, researchers, mentors, and employees and members of the SJSU/CSU community. Any questions about these policies or matters covered by this policy on Professional Responsibility, or relevant federal and state laws, should be directed to the department chair, college dean, Office of Faculty Affairs, or Academic Senate Office, as appropriate.