

****Reissued as S99-8 and S99-11**

**S93-12 ACADEMIC FREEDOM AND PROFESSIONAL RESPONSIBILITY; ETHICS;
CONFLICT OF INTEREST; PRINCIPAL INVESTIGATOR**

Legislative History:

At its meeting of May 3, 1993, the Academic Senate approved the following Policy Recommendation presented by David McNeil for the Professional Standards Committee.

Supersedes F67-17, S88-9.

S94-3 added appendix A and made slight changes.

S95-9 added appendix B.

This Policy has been modified and reissued as two separate policies according to S99-8:

**S99- Academic Freedom and Professional Responsibility and
S99-11 Conflict of Interest Policy for Principal Investigators**

ACTION BY THE UNIVERSITY PRESIDENT:

S93-12 "Approved as University Policy" Signed J. Handel Evans, May 13, 1993.

S94-3 "Approved as University Policy" Signed J. Handel Evans, April 12, 1994.

S95-9 "Accepted as University Policy" Signed Robert Caret, 4/6/95.

Whereas, The current statement on Academic Freedom adopted by San José State University in 1968 is in need of revision in light of more contemporary documents, such as the 1984 "International Statement on Academic Freedom and Tenure"; and

Whereas, The current statement on Professional Ethics adopted by San José State University in 1988 is a useful core document, but in need of more precise language and greater completeness in order to assure that 1) faculty cannot be charged with excessively vague violations of standards, and 2) faculty truly understand the standards, and 3) that faculty are held accountable to a set of standards that they

themselves have approved; and

Whereas, Academic freedom and professional ethics are inextricably linked and must be considered as a unit; now, therefore be it

Resolved, That the attached document "Academic Freedom and Professional Responsibility at San José State University" be adopted as policy.

ACADEMIC FREEDOM AND PROFESSIONAL RESPONSIBILITY

AT SAN JOSE STATE UNIVERSITY

Statement of Academic Freedom:[\(1\)](#)

The primary mandates of a university--the discovery and dissemination of knowledge and understanding--are absolutely dependent upon academic and intellectual freedom. Freedom in research is fundamental to the advancement of truth. Freedom in teaching is fundamental for the protection of the rights of the student in learning and of the faculty[\(2\)](#)in teaching.

San José State University has a responsibility to society to defend and to maintain these freedoms, and to ensure that those engaged in academic pursuits can effectively execute their responsibilities. SJSU faculty must remain free of the forces of special interests and political interference if they are to fulfill society's expectations and their educational responsibilities.

Tenure constitutes the procedural safeguard of academic freedom and individual responsibility and, as such, is essential for the maintenance of intellectual liberty and high standards in education and in scholarship. It is the means by which university faculty are protected against personal malice or political coercion, and by which it is ensured that those who, following rigorous evaluation, secure continuing employment, can be dismissed only on professional grounds according to due process.

Historically, the indispensability of academic tenure to academic freedom in universities throughout the world has been proven by events in situations where tenure has not existed. We must not forget the

lessons of the past but must work to insure that SJSU continues to fulfill the educational needs of a free society.

Statement of Professional Responsibility:[\(3\)](#)

Preamble:

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

Faculty Responsibilities:

The responsibilities of faculty may be considered from five major perspectives: (1) as members of the teaching profession;[\(4\)](#) (2) as teachers; (3) as colleagues; (4) as members of an academic institution; (5) as members of a community.

1. As members of the teaching profession, faculty:

- a. seek and state the truth as they see it.
- b. develop and improve their instructional and scholarly competence.
- c. exercise critical self-discipline and judgment in applying, extending, and transmitting knowledge.
- d. practice, foster, and defend intellectual honesty, freedom of inquiry and instruction, and free expression on and off the campus.
- e. do not allow their subsidiary interests to compromise their freedom of inquiry.

2. As teachers, faculty:

- a. treat students fairly and respectfully; they

- assure that their evaluations of students reflect only matters relevant to the students' academic performance.

- guard against improper disclosure of confidential information regarding students.
 - insure that their professional contacts with students are free from any exploitation, harassment, or discrimination.
 - acknowledge significant academic or scholarly collaboration with or assistance from their students.
 - adhere to published descriptions of course content and grading practices, such as those contained in syllabi and course catalogs.
- b. encourage the free pursuit of learning; they
- encourage students to make their own judgments and to express them when appropriate.
 - allow students to take reasoned exception to or to reserve judgment about the data of views offered in a course of study.
 - refuse to tolerate exploitation, harassment, or discrimination by students in an instructional setting.
- c. exhibit and uphold the highest scholarly and ethical standards of their disciplines; they
- foster honest academic conduct.
 - do not instruct, advise, or supervise students with whom they have personal or professional conflicts of interest.[\(5\)](#)
- d. serve as intellectual guides and advisors; they
- are available during reasonable, posted hours to assist students who request their intellectual and academic help.
 - utilize instructional time to help students learn course materials.
3. As colleagues, faculty:
- a. respect and defend the free inquiry of their associates.
 - b. show due consideration for the opinions of others.
 - c. acknowledge the contributions of others to their academic work.

- d. seek objectivity in their professional evaluation of colleagues.
- e. do not evaluate or supervise colleagues with whom they have personal or professional conflicts of interest.
- f. avoid exploitation, harassment, or discriminatory treatment of co-workers.
- g. will hold themselves and colleagues to high ethical standards and address ethical abuses when they become known.

4. As members of an academic institution, faculty:

- a. observe the stated regulations of the institution that are consistent with the statement of academic freedom in this document, and with their contractual and legal obligations.
- b. maintain the right to criticize regulations and seek their revision.
- c. assure that their outside interests do not compromise the obligations of their primary appointment.
- d. request a leave of absence or resign when the claims of outside interests preclude the fulfillment of substantial academic obligations.
- e. give appropriate notice of their intent to interrupt or terminate their services to the university.
- f. accept their share of responsibilities for the governance of their institution.

5. As members of a community, faculty:

- a. publicly distinguish when they speak or act as private citizens from when they do so as an official representative of the university.
- b. recognize that breaking legal and civil codes for academic gain is also an infringement of professional ethics.
- c. promote conditions of free inquiry.
- d. further public understanding of academic freedom.

NOTES

1. 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.
2. The 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.
3. Derived 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), the *Statement of the Association's Council: Freedom and Responsibility* (1970, revised 1990).
4. Teaching 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.
5. For a discussion of the concept of "conflicts of interest" in the context of this Statement of Faculty Responsibility, see "Appendix A," appended to this policy.

STATEMENT OF FACULTY RESPONSIBILITY

APPENDIX A "Conflicts of Interest"

1. In this context, a conflict of interest is an agreement, relationship, or other arrangement, be it personal or professional, formal or informal, that undermines the faculty's disinterested performance of its professional duties and obligations. Students have a just expectation that they will be instructed, evaluated and supervised by a disinterested faculty. Faculty have a similar expectation that their professional and academic evaluations and supervision are free from the self-interest of their peers. Maintaining disinterestedness is one of the faculty's central ethical responsibilities. The disinterestedness of the faculty assures both the academic integrity of the University and the faculty's academic freedom.

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

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

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

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

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

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

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

inquiry problematic.

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

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

APPENDIX B (S95-9, Amends S93-12):

CONFLICT OF INTEREST POLICY

FOR PRINCIPAL INVESTIGATORS

Background

San José State University actively encourages increased involvement of academic researchers and educators with industry and with private entrepreneurial ventures. However, such involvements create an increased risk of conflict between the private interests of individuals, the companies with which they are involved, and the public interest that Federal funding serves. SJSU has adopted policies to regulate potential conflicts of interest among its grantees and its investigators in order to protect the funded research from bias.

The National Science Foundation and the Department of Health and Human Services (NIH-PHS-HHS) are adopting parallel policies on Investigator Financial Disclosure that are relatively consistent. The CSU has had a policy related to Conflict of Interest in effect since 1985. The SJSU Conflict of Interest Policy incorporates requirements from the federal funding agencies and the CSU into its policy.

Investigator Disclosure

Investigators must disclose significant financial interests at the time of proposal submission and update this information annually or as new interests are obtained during the live of the award.

- Investigator

Investigator is defined as principal investigator, co-principal investigator, and any other person who is responsible for the design, conduct, or reporting of the sponsored project. In addition, disclosure must be made for each investigator's spouse and dependent children.

- Significant Financial Interest

Significant financial interest is defined as any financial interest that a principal investigator would have that would reasonably appear to be directly and significantly affected by the sponsored activities or any interest that a principal investigator would have in entities whose financial interest would reasonably appear to be directly and significantly affected by the sponsored activities. Financial interest includes salary or payment for services outside the parameters of the award, interests in business enterprises more than \$1,000 or 5 percent ownership interest, and intellectual property rights.

Institutional Certification

Certification will be performed by the Associate Vice President for Graduate Studies and Research (AVPGS&R) and will be based on information provided by the Investigator on the Conflict of Interest Disclosure Form (Attachment A). The AVPGS&R will review disclosures, assess their potential for conflicts of interest, confer with the Board of Academic Freedom and Professional Responsibility (as needed) if a potential conflict is identified, and develop resolution strategies with the investigator to manage, reduce or eliminate such conflicts.

- Resolution Plan

A Resolution Plan must be implemented prior to award. The Resolution Plan must be in writing and approved by the AVPGS&R and the College Dean.

Resolution Options may include but are not limited to:

- public disclosure of significant financial interests
- monitoring of research by independent reviewers
- modification of the research plan if necessary to avoid conflict of interest

- disqualification from participation in the portion of the project that is affected by the significant financial interest
- divestiture of significant financial interests
- severance of relationships that create actual or potential conflicts
- ***Enforcement Mechanisms and Sanctions***

Potential violations of the Conflict of Interest Resolution Plan shall be handled by the Board of Academic Freedom and Professional Responsibility which monitors the state of academic freedom and professional responsibility at SJSU. The Board of Academic Freedom in conjunction with the AVPGS&R will establish and enforce appropriate sanctions based on the specific conduct of an investigator failing to follow the approved Resolution Plan.

Documentation and Record Maintenance

The SJSU Foundation will maintain records related to all disclosures and ensure that follow-up reporting is conducted in a timely manner.