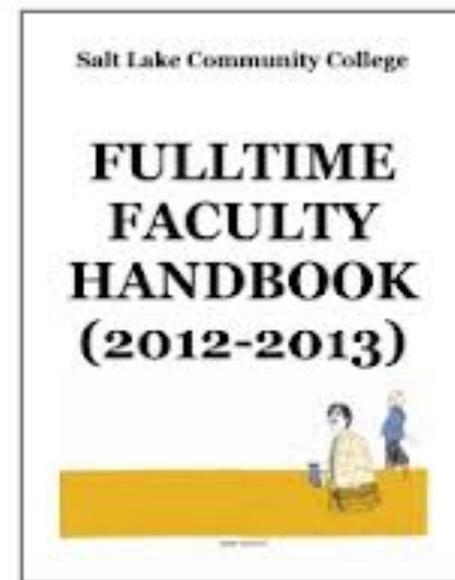
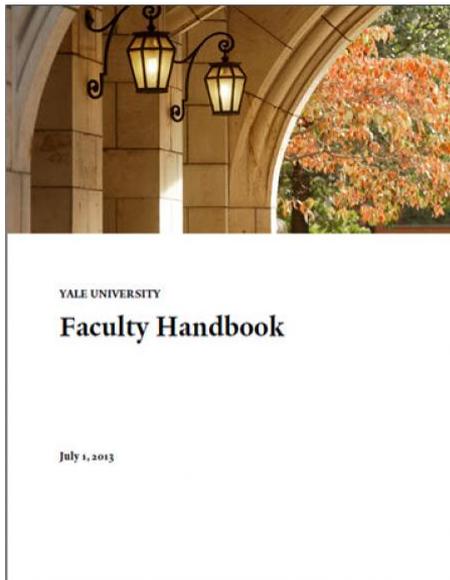


Strengthening Faculty Handbooks

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The logo for the American Association of University Professors (AAUP). It consists of the lowercase letters 'aaup' in a bold, red, serif font. The letters are closely spaced, with the 'a's and 'u's being particularly prominent.

Why Are Handbooks Important?



Many union contracts incorporate the handbook by reference. And without a union, a faculty handbook is the closest thing to a contract that you may have.



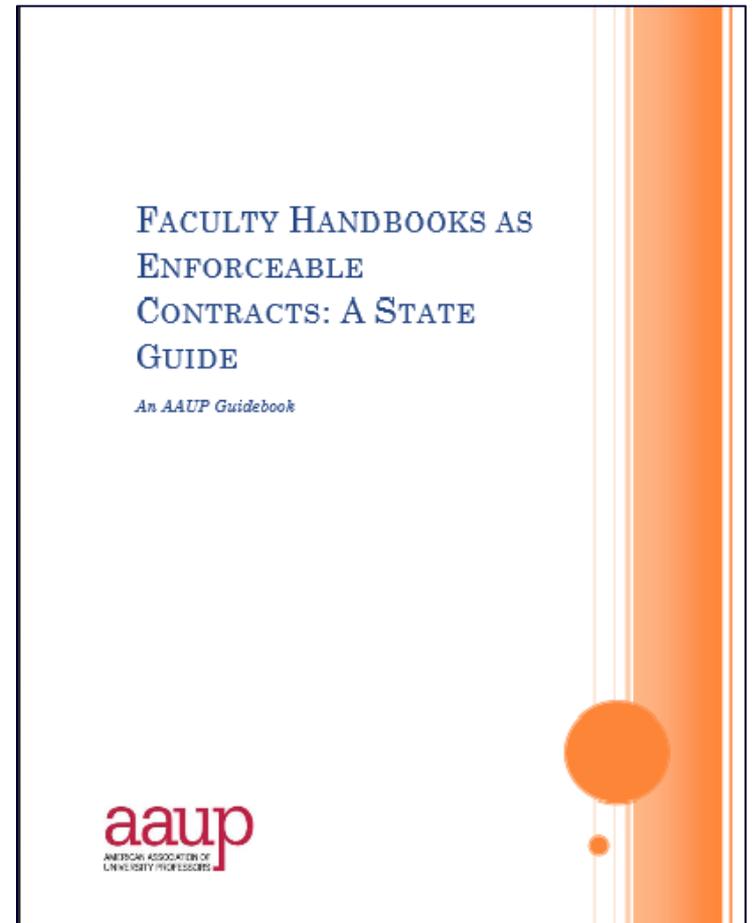
Is a Handbook a Contract?

This differs from state to state.

Often, for a handbook to be considered contractual, it must be cited in the initial appointment letter or reappointment notice.

AAUP Guidebook Available

The AAUP publishes a guidebook of court decisions related to the contractual status of faculty handbooks.





Overview

Faculty handbooks should include policies relating to:

- ❑ Shared governance
- ❑ Academic freedom and academic due process
- ❑ Grievances



Shared Governance

Since its founding in 1915, the AAUP has advocated meaningful faculty participation in institutional decision making.

Key policy: *Statement on Government of Colleges and Universities*



Shared Governance

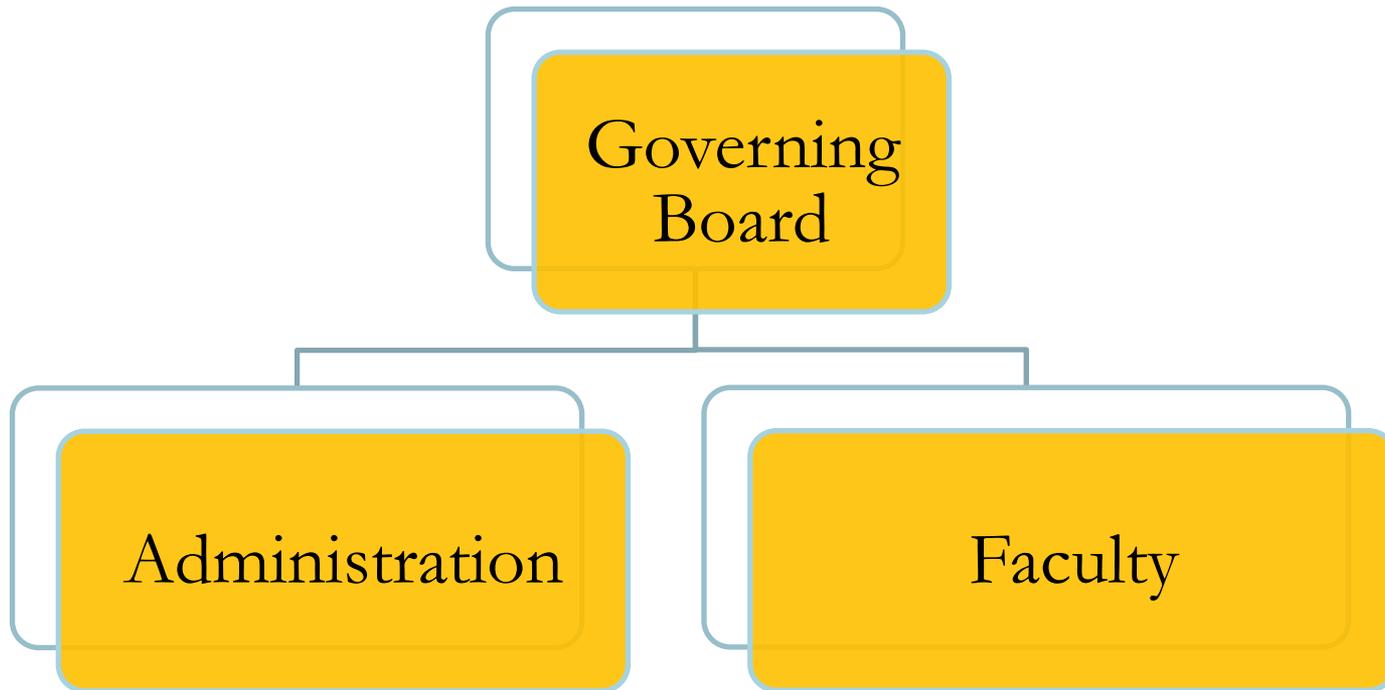
AAUP recommendations regarding institutional governance are general and conceptual.

This is because governance practices vary widely depending on

- institutional culture
- size
- public or private status.

Shared Governance

The three major components of institutional decision making:





The 1966 *Statement*

In these areas the “governing board and president should . . . concur with the faculty judgment except in rare instances and for compelling reasons which should be stated in detail.”



The 1966 *Statement*

“Agencies for faculty participation in the government of the college or university should be established at each level where faculty responsibility is present. An agency should exist for the presentation of the views of the whole faculty. The structure and procedures for faculty participation should be designed, approved, and established by joint action of the components of the institution. Faculty representatives should be selected by the faculty according to procedures determined by the faculty.”



Governance and Handbooks

A faculty handbook should contain:

- ❑ **A definition of the term “faculty.”**
- ❑ **Governing documents of faculty governance organs, such as senates or councils.**
- ❑ **Governing documents for the faculty as a whole.**
For example: a constitution, bylaws, or standing rules.



Governance and Handbooks

Institutions should have regulations on the election and appointment of committees.

Faculty representatives to committees, task forces, and *ad hoc* committees should be elected by the faculty or appointed by an elected body.

Governance and Handbooks

A faculty handbook should contain:

- ❑ A statement that, in areas in which the faculty has primary responsibility, the faculty is responsible for formulating and approving policies, subject to final approval by the administration & board.
- ❑ Expectations for faculty serving as representatives.
- ❑ Policies regarding the role of the faculty in
 - budgetary matters
 - administrative searches and evaluations
- ❑ Arrangements for faculty-board communication.



Governance and Handbooks

Policies regarding changes to the faculty handbook should be explicit regarding

- ❑ Who may make changes
- ❑ How they may be made
- ❑ Whose approval is needed



Academic Freedom

Key policy: 1940 *Statement of Principles on Academic Freedom and Tenure.*



Definition of *Academic Freedom*

Academic freedom is the freedom to teach, both in and outside the classroom, to conduct research and to publish the results of those investigations, and to address any matter of institutional policy or action whether or not as a member of an agency of institutional governance. Professors should also have the freedom to address the larger community with regard to any matter of social, political, economic, or other interest, without institutional discipline or restraint, save in response to fundamental violations of professional ethics or statements that suggest disciplinary incompetence.

From: *Protecting an Independent Faculty Voice: Academic Freedom after Garcetti v. Ceballos* (2009)

Tenure

- ❑ “Tenure” is an indefinite appointment terminable only for cause.
- ❑ 1940 *Statement*: “After the expiration of a probationary period, teachers or investigators should have permanent or continuous tenure, and their service should be terminated only for adequate cause, except in the case of retirement . . . or under extraordinary circumstances because of financial exigencies.”
- ❑ In addition, terminations may occur due to program discontinuance.



Academic Due Process

- ❑ Tenure protects academic freedom.
- ❑ Academic due process protects tenure.

Terminology

- Probationary and non-tenure-track faculty are sometimes **nonreappointed** or their appointments are **nonrenewed**. The AAUP has standards for notice.
- Tenured, probationary, and non-tenure-track faculty are sometimes **dismissed for cause**. The AAUP has detailed procedural standards that require a hearing before an elected faculty committee.
- Tenured, probationary, and non-tenure-track positions can be **terminated** due to financial exigency or program discontinuance.

Nonreappointment: Notice

AAUP standards for notice are:

Years of Service	Notice should be given by
First academic year of service	March 1
Second academic year of service	December 15
Two or more years of service	At least twelve months before the expiration of an appointment.

Nonreappointment: Procedures

Faculty who

are not reappointed

allege that nonreappointment was based on considerations that were discriminatory or violated their academic freedom

allege that nonreappointment was based on inadequate consideration

Have the right to

written reasons upon request

make this case to a hearing committee

have their case reviewed by a faculty committee



Dismissal For Cause

“Adequate cause for dismissal will be related, directly and substantially, to the fitness of faculty members in their professional capacities as teachers or researchers.”

--AAUP *Recommended Institutional Regulations (RIR5)*



Dismissal For Cause

The AAUP has not defined what constitutes adequate cause, but it is frequently defined to be

- demonstrated incompetence or dishonesty in teaching or research,
- substantial and manifest neglect of duty, or
- personal conduct which substantially impairs the individual's fulfillment of institutional responsibilities.

Dismissal For Cause

The essential elements of a dismissal proceeding:

- ❑ Written statement of charges
- ❑ Opportunity for a pre-termination hearing before an elected body of peers
- ❑ Burden of proof rests on the administration, based on clear and convincing evidence in the record as a whole
- ❑ The faculty member has the right to present evidence and cross-examine witnesses
- ❑ The decision is based on the record of the hearing
- ❑ The faculty member may to appeal to the governing board.



Suspensions

AAUP policies distinguish between suspensions

- that are imposed prior to a dismissal for cause hearing and
- that are imposed as a sanction.



Suspensions Prior to Dismissal Hearing

- ❑ Faculty should be suspended only if immediate harm is threatened.
- ❑ Before suspending, the administration should consult with the faculty committee on academic freedom and tenure
- ❑ A suspension that is intended to be final is a dismissal, and should be treated as such.
- ❑ Salary should continue during suspension.



Sanctions

- ❑ **Major sanctions** short of dismissal (such as suspension) require the same procedural safeguards as dismissal for cause.
- ❑ **Minor sanctions** (such as a letter of reprimand) can be imposed by the administration but can be appealed to the grievance committee.



Grievance Policies

Access to an elected grievance committee is a central element of academic due process.

Consideration should be given to informal and formal grievance procedures.

Program Discontinuance

AAUP recommends that the decision to discontinue a program or department should be

- ❑ based essentially upon educational considerations
- OR
- ❑ necessitated by bona fide financial exigency



Educational Considerations

- ❑ Do not include cyclical or temporary variations in enrollment.
- ❑ Are determined primarily by the faculty.
- ❑ Reflect long-range judgments that the educational mission of the institution as a whole will be enhanced by the discontinuance.



Financial Exigency

Definition: Financial exigency is a severe financial crisis that fundamentally compromises the academic integrity of the institution as a whole and that cannot be alleviated by less drastic means

Financial Exigency

AAUP recommendations:

- ❑ Faculty should be involved at every stage of the process.
- ❑ Faculty bodies participating in the process should not be appointed by the administration.
- ❑ All faculty in a program being considered for discontinuance should be informed in writing and given at least thirty days to respond.



Financial Exigency

Faculty should have access to five years of

- audited financial statements, budgets, and detailed cash-flow estimates.
- detailed program, department, and administrative-unit budgets.

The faculty should determine whether all feasible alternatives to termination of appointments have been pursued.



Possible Alternatives to Terminations

- Expenditure of one-time money or reserves as bridge funding
- Furloughs
- Pay cuts
- Deferred-compensation plans
- Early-retirement packages
- Deferral of nonessential capital expenditures
- Cuts to non-educational programs and services, including administration.



Thank You!

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