

University of Nebraska-Lincoln Faculty Code of Conduct

[As Approved by UNL Faculty Senate February 6, 2024]

Table of Contents

Preamble

Part I Professional Rights of Faculty

Part II Professional Responsibilities, Ethical Principles, and Unacceptable Faculty Conduct

A: Instructional Activity

B: Scholarly and Creative Work

C: The University Community

D: The Civic Community

Part III Filing Misconduct Complaints and Due Process Rights

A: Ethical Principles

B: Pathways for Filing and Investigating Misconduct Investigations

C: Consultation with Relevant Authorities and Offices

D: Finding Relevant Standards and Policies

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 wisdom. Effective performance of these central functions requires that faculty members be free within their respective fields of competence to pursue and teach the truth in accord with appropriate standards of scholarly inquiry. The faculty's privileges and protections rest on the mutually supportive relationships between the faculty's special professional competence, its academic freedom, and the central functions of the University. These relationships are also the source of the professional responsibilities of faculty members.

This code applies to all academic personnel engaged in teaching, research, extension or service as well as anyone with an academic appointment who has a supervisory role overseeing faculty, staff, or students at UNL. Drawing on NU Board of Regents Bylaws (Sect 3.1.1.1 and 3.1.1.2) and NU Executive Memorandum #7, the term "faculty" as used in this code includes: administrative officers (chancellor, vice chancellors, deans, school directors, department chairs, etc.); faculty with tenure (on continuous appointments), on specific term (pre-tenure) appointments, on faculty practice appointments, on faculty research appointments; and faculty with special appointments (such as instructor, lecturer, postdoctoral associate, adjunct, extension educator, extension specialist, visiting scholar, courtesy, affiliated, emeritus). This document explains the provisions of the Bylaws of the Board of Regents of the University of Nebraska and the Bylaws of the University of Nebraska-Lincoln concerning professional conduct. Although graduate students are not faculty, this code should be applied to graduate assistants as well, for conduct in their capacity as university employees who engage in teaching, research, extension, or service.

The Faculty Code of Conduct is designed to protect academic freedom, preserve the highest standards of teaching and scholarship, and advance the mission of the University as an institution of higher learning. Faculty acting within the scope of their rights and responsibilities are not engaging in misconduct. For example, behavior that falls within a faculty member's First Amendment rights or right to academic freedom cannot be characterized as misconduct. This code also defines professional misconduct. When faculty members fail to uphold their responsibilities, they are engaging in professional misconduct.

This code applies to Academic Personnel on or off campus, only when they are engaged in work for the university or explicitly identify themselves as a member of the campus community acting in some official capacity. This code does not apply to the private lives of Academic Personnel except (as in the case of sexual misconduct) when the conduct was intentional and caused injury to a university employee or student or results in a criminal conviction for an act which clearly demonstrates unfitness to continue as a member of faculty.

Part I of this Code defines academic freedom and sets forth the responsibility of the University to support the faculty's pursuit of the University's central functions.

Part II of this Code presents standards of professional conduct, derived from general professional consensus about acceptable faculty behavior. Conduct which departs from these standards is

unacceptable because it is inconsistent with the mission of the University. Identifying types of unacceptable faculty conduct is appropriate both to confirm that a consensus about minimally acceptable standards exists and to give fair notice that departures from these minimal standards may give rise to disciplinary proceedings.

In Part II, a clear distinction is made between statements of (1) ethical principles and (2) types of unacceptable conduct.

1. Ethical Principles

The ethical principles affirm the highest professional ideals. They are aspirational in character and represent objectives toward which faculty members should strive. Behavior in accordance with these principles clearly precludes the application of a disciplinary sanction.

These ethical principles are to be distinguished from types of unacceptable faculty conduct referred to in the following paragraph. The types of unacceptable faculty conduct, unlike the ethical principles, are mandatory in character, and state minimum levels of conduct below which a faculty member cannot fall without being subject to University discipline.

The ethical principles are drawn from UNL Faculty Senate's Professional Ethics Statement (2016), the Statement of Professional Ethics (1966, revised in 2009) of the American Association of University Professors, and NU Board of Regents Bylaws.

2. Types of Unacceptable Conduct

The types of unacceptable conduct identify behavior which is unacceptable and subject to University discipline. The behavior is improper because it both conflicts with the ethical principles and because it significantly interferes with the University's central functions and mission.

The examples of types of unacceptable conduct are not exhaustive. It is expected that case adjudication, the lessons of experience, and evolving standards of the profession will result in reasonable adaptation and modification of this code.

Faculty may be subjected to disciplinary action under this code for unacceptable conduct even if it is not specifically listed in this code. However, no provision of the code provides the basis for judging the propriety or impropriety of collective withholding of services by the faculty.

Part III of this code reviews the principles of due process concerning allegations of misconduct. Any disciplinary process must meet basic standards of fairness, follow relevant procedures and include significant faculty involvement.

Part I Professional Rights of Faculty

A major responsibility of the administration is to protect and encourage the faculty in its teaching, research, creative activity and engagement. The authority to discipline faculty members

in appropriate cases derives from the shared recognition by the faculty and the administration that the purpose of the University is to preserve the academic freedom necessary to develop, vet, disseminate and teach new knowledge. We recognize that, at times, the exercise of these rights may come into conflict with student or faculty opinions and beliefs and may cause discomfort. Because so much learning occurs during encounters with new perspectives and ideas with which we disagree, the centrality of academic freedom to the work of the faculty must be preserved at all times.

Such efforts to preserve academic freedom include protecting:

1. Free inquiry and exchange of ideas.
2. The right to present controversial material relevant to teaching, scholarship and creative activity.
3. Freedom of expression, including the right to participate, as citizens, in activism and advocacy on and off campus.
4. Freedom to address any matter of institutional policy or action without fear of retaliation when acting as a member of the faculty, whether or not as a member of a body of institutional governance.
5. Participation in the governance of the University, including: approval of course content and manner of instruction, establishment of requirements for matriculation and degrees, appointment and promotion of faculty, selection of chairs of departments and academic administrators, discipline of members of the faculty, and the formulation of rules and procedures for discipline of students, establishment of norms for teaching responsibilities and for evaluation of faculty and student achievement, and determination of forms of departmental governance.
6. The right to be judged by one's colleagues, in accordance with fair procedures in matters of promotion, tenure, and discipline, solely on the basis of one's own professional qualifications and conduct.
7. The right to review one's own personnel files; to be informed of changes made to one's own personnel files; and, to notify the appropriate authority of any inaccuracies or missing information.

Part II Professional Responsibilities, Ethical Principles, and Unacceptable Faculty Conduct

This listing of faculty responsibilities, ethical principles, and types of unacceptable conduct is organized around the individual faculty member's relation to teaching, scholarship, the University, students, colleagues, staff members, and the community. Since University discipline is distinguished from other forms of reproof or administrative actions, it should be reserved for

faculty misconduct that is serious by itself or through repetition. The following general principle is intended to govern all instances of its application:

University discipline under this code may be imposed on a faculty member only for conduct that is not justified by the ethical principles and significantly impairs the University's central functions as set forth in the Preamble. The types of unacceptable conduct listed below in Sections A through D are examples of types of conduct which meet the preceding standards and hence are presumptively subject to University discipline. Even if not listed below, other types of serious misconduct may nonetheless be the basis for disciplinary action if they are both are not justified by the ethical principles and significantly impair University functions.

A. Instructional Activity

Ethical Principle. “As teachers, the professors encourage the free pursuit of learning of their students. They hold before them the best scholarly standards of their discipline. Professors demonstrate respect for students as individuals and adhere to their proper roles as intellectual guides and counselors. Professors make every reasonable effort to foster honest academic conduct and to assure that their evaluations of students reflect each student's true merit. They respect the confidential nature of the relationship between professor and student. They avoid any exploitation, harassment, or discriminatory treatment of students. They acknowledge significant academic or scholarly assistance from them. They protect their academic freedom.” (AAUP Statement, 1966; Revised, 2009)

The ethical responsibilities of a faculty member toward a student or mentee are not limited to the classroom setting. The principle also applies to official and unofficial mentorships of post-doctoral students, technicians, visiting scholars, student interns, graduate assistants, and other students at UNL. Any educational or mentoring interaction is governed by the principle, and mentoring is embedded in much professional work at the University, including research, scholarship, teaching, advising and other forms of service.

The integrity of teaching and mentoring relationships is the foundation of the University's educational mission. These relationships vest considerable trust in the mentoring faculty member who, in turn, bears authority and accountability as educator, advisor and evaluator. The unequal institutional power that often inheres in these relationships heightens the potential for coercion and abuse of power. When a power differential exists in a relationship, the nature of consent is problematic. The heightened vulnerability of the less powerful partner, the potential for coercion and other possible factors may result in a non-consensual relationship even though the person in power may believe it is consensual. It is important to protect the educational relationship between faculty and student (or mentee) from influences or activities that can interfere with learning and professional development as these are central goals and ideals of the University.

In this section, the term “student” refers to individuals under the academic supervision of faculty.

Types of unacceptable conduct:

1. Failure to meet the responsibilities of instruction, including:
 - a) arbitrary denial of access to instruction;
 - b) significant failure to adhere, without legitimate reason, to the rules of the faculty in the conduct of courses, to meet class, to keep office hours, or to hold examinations as scheduled;
 - c) evaluation of student work by criteria not directly reflective of course performance.
2. Use of the position or powers of a faculty member to coerce the judgement or conscience of a student.
3. Violation of university policy that applies to the exercise of instructional responsibility for an individual with whom a faculty member has a romantic or sexual relationship.
4. Failure to maintain the confidentiality of students' academic records in accordance with Family Educational Rights and Privacy Act, which includes exceptions for personnel who require the information to perform their job-related responsibilities.

B. Scholarship

Ethical Principle. Professors are citizens, members of a learned profession, and officers of the University. When they speak or write as citizens, they should be free from institutional censorship or discipline, but their special position in the community imposes special obligations. As scholars and educational officers, they should remember that the public may judge their profession and the University by their utterances. Hence, they should at all times be accurate, should exercise appropriate restraint, should show respect for the opinions of others, and should make every effort to indicate that they are not speaking for the University. (AAUP Statement, 1966; Revised, 2009)

Types of unacceptable conduct:

1. Fabrication or making-up data or results in proposing, performing, reporting, or reviewing research results.
2. Falsification through manipulating research materials, equipment, or process; changing or omitting data or results such that the research is not accurately represented in the research record.
3. Plagiarism of another person's ideas, processes, results, or words without giving appropriate credit.
4. Failure to disclose a conflict of interest or commitment in violation of university policies.

5. Failure to comply with university guidelines in the ethical conduct of animal or human subject research.
6. Serious or continuing failure to comply with Federal or institutional export control regulations and requirements related to internationally collaborative research or data sharing agreements.

C. The University Community

Ethical Principle. “As colleagues, professors have obligations that derive from common membership in the community of scholars. Professors do not discriminate against or harass colleagues. They respect and defend the free inquiry of associates. In the exchange of criticism and ideas professors show due respect for the opinions of others. Professors acknowledge academic debts and strive to be objective in their professional judgment of colleagues. Professors accept their share of faculty responsibilities for the governance of their institution.” (AAUP Statement, 1966; Revised, 2009)

Types of unacceptable conduct:

1. Violation of university policy that applies to nondiscrimination against members of the university community including students, co-workers including staff members, job applicants or people engaged in unpaid university work such as volunteers or interns.
2. Abusing one’s position of power through such means as coercing personal favors, pressuring others to agree with or vote in accordance with one’s viewpoint, reassigning duties in a manner inconsistent with expertise, or otherwise interfering with their ability to work effectively (e.g., by impeding access to information or resources).
3. Violation of university policy that applies to the exercise of administrative or supervisory responsibility for an individual with whom a faculty member has a romantic or sexual relationship.
4. Evaluation of a faculty’s professional competence by criteria not directly reflective of professional performance.
5. Disobeying or incitement of others to disobey University rules when such incitement constitutes an intentional, likely, and imminent threat of violence.
6. Unauthorized use of University resources or facilities on a significant scale for purposes unrelated to professional duties.
7. Forcible detention of, or threats of physical harm to another member of the University community.
8. Sexual harassment, as defined by University policy.

9. Failure to maintain the confidentiality of personnel records except when disclosure of such information is necessary in the conduct of job-related responsibilities.
10. Failure to disclose or consider a potential conflict of interest.
11. Engaging in retaliation against a colleague when they act as a whistleblower.
12. Acting on personal animosity toward another member of the academic or campus community by means that inflict harm via humiliation, ostracization or professional isolation.

D. The Civic Community

Ethical Principle. “Members of the professional staff are entitled to exercise their right to speak and act as citizens of the United States and of the State of Nebraska. Members of the professional staff shall not suffer sanctions or be discriminated against with respect to the duration of association with the University, pay or other emoluments of their office, appointment, position or their working conditions because of their enjoyment, or exercise of their right of academic freedom, or in any case where such action would constitute a violation of federal or state civil rights laws or regulations. Where the University’s interest as an academic community is clearly involved, the authority of the University may be asserted” (NU Board of Regents Bylaws 4.2)

Types of unacceptable conduct:

1. Intentional misrepresentation of personal views as a statement of position of the University or any of its agencies. (An institutional affiliation appended to a faculty member’s name in a public statement or appearance is permissible, if used solely for purposes of identification.)
2. Conviction of a criminal act in a court of law and which clearly demonstrates unfitness to continue as a member of faculty.

Part III Filing Misconduct Complaints and Due Process Rights Regarding Allegations of Misconduct

A person making a claim of professional misconduct has the right to be heard, such that their allegation is taken seriously and investigated thoroughly. Investigation into misconduct complaints should follow a timely and fair process. Good-faith participation in a complaint process as a complainant or witness is protected from any form of retaliation.

A person accused of professional misconduct has the right to receive notification of the alleged misconduct in writing and be provided an opportunity to respond to the charges. They should be informed of the process by which the allegations will be investigated, especially whether an imposed sanction will be recommended by a faculty committee or may be grieved to a faculty committee. Finally, in accordance with AAUP recommendations, the hearing committee has an

obligation to consider whether an academic penalty less than dismissal or suspension would be appropriate. In general, lesser sanctions should apply to less serious offenses. Major sanctions should apply to more serious offenses or patterns of inappropriate conduct. (AAUP Report of the Joint Subcommittee on Faculty Responsibility 1971; AAUP Report on Termination & Discipline 2004).

A. Pathways for Filing and Investigating Misconduct Investigations

Ethical Principle. No disciplinary action for professional misconduct shall be imposed except in accordance with relevant University procedures. The nature of the misconduct allegation determines which UNL body receives and investigates complaints of professional misconduct. The descriptions below provide a brief overview of major investigating bodies and some of the basic disciplinary procedures observed by these bodies. Anyone accused of misconduct should consult the most recent and complete set of applicable policies, procedures, documents, and websites.

1. **Office of Research and Economic Development (ORED):** Allegations of research misconduct pertaining to fabrication, falsification and plagiarism are reported to and investigated by UNL's ORED. ORED maintains the policy and procedures for research misconduct investigations in the document UNL Policy and Procedures for Responding to Allegations of Research Misconduct. The Research Integrity Officer (RIO) will receive all complaints about research misconduct.
2. **Office of Institutional Equity and Compliance (IEC):** Allegations of discrimination against a person of a protected class (e.g., race, religion, gender, origin, disability) or allegations of sexual misconduct (e.g., sexual harassment, sexual assault, dating/domestic violence, stalking) may be filed with and investigated by Institutional Equity and Compliance (IEC). When filed with IEC, an internal review process will take place that entails fact-finding as well as recommendations for resolution of the conflict.
3. **Academic Rights and Responsibilities Committee (ARRC):** The ARRC is a Faculty Senate committee charged with hearing formal complaints from or about faculty (including those alleging professional misconduct). It also hears grievances by faculty concerning the imposition of sanctions levied against them. A document on the "Procedures for the Academic Rights and Responsibility Committee" details the full range of ARRC responsibilities and processes and is available via the UNL Faculty Senate website. The range of sanctions typically levied are described below but detailed in NU Board of Regents Bylaws. Sanctions less than termination may be characterized as major or minor.
 - a) Termination is the most severe sanction. Termination for cause before the end of a contract must be submitted to the ARRC. The circumstance of non-reappointment or nonrenewal of contract is not termination and as such an ARRC process is not required. However, a person can appeal such a decision to the ARRC. If claims are sufficient to warrant a recommendation of relief or institutional change, then the ARRC will convene a Grievance Special Committee.

- b) Major sanctions include substantial disciplinary actions such as suspension, demotion in rank, decrease in salary, forgoing salary increase, or mandatory counseling. Imposing a major sanction requires filing a complaint through the ARRC.
- c) Minor sanctions include the least severe disciplinary actions such as a letter of expectation, written reprimands submitted to individual's personnel file, and mandatory monitoring of teaching or research performance beyond the typical the annual evaluation process. These minor sanctions are often imposed by an individual's direct supervisor. Imposing a minor sanction does not require an ARRC process. At a minimum, however, an individual receiving a minor sanction for alleged misconduct shall be:
 - i. given written notice of the alleged misconduct clearly stating the nature and cause of the accusation, the identity of the complainant and the sanction to be imposed;
 - ii. informed of the right to due process and provided the opportunity to consult with relevant authorities and offices, e.g., AARC, Ombuds Services; and,
 - iii. provided an opportunity to be heard on the matter including the right to an appeal for a reconsideration of the minor sanction.

Although a direct supervisor may impose a minor sanction in accordance with these minimal due process rights, the sanctioned individual retains the right to appeal the decision to the ARRC. If claims are sufficient to warrant a recommendation of relief or institutional change, then the ARRC will convene a Grievance Special Committee.

B. Consultation with Relevant Authorities and Offices

A person wishing to report an allegation of misconduct or accused of misconduct may consult with anyone on these matters including but not limited to:

1. UNL Representatives:

- a) The person to whom one reports (e.g., unit Chair, Head or Director) or the first level of supervision above one's direct supervisor (e.g., Dean)
- b) Administrators with particular knowledge of employment practices (e.g., Associate Deans, Associate Vice Chancellor for Faculty and Academic Affairs)
- c) UNL Faculty Ombuds Services
- d) Chair, Academic Rights and Responsibilities Committee (ARRC)
- e) Office of Institutional Equity and Compliance, including the Title IX Office

2. Persons Outside of UNL:

- a) President, UNL AAUP Chapter
- b) Professional Academic Association
- c) A private attorney

- d) Local law enforcement agencies
- e) Director of the Office for Civil Rights, Department of Education, Washington, D.C.
20202

C. Finding Relevant Standards and Policies

In addition, to the ethical principles and types of misconduct outlined in this document, there are numerous standards that might apply in any given circumstance including applicable state and federal law; university, college or department bylaws or policies; discipline-based standards; employee contracts; or academic principles and tradition. In general, if there is a conflict between university, college or department bylaws or policies, the bylaws and policies of the NU Board of Regents supersedes those of the university, college or department; the university bylaws and policies supersede those of a college or department and college bylaws and policies supersede those of a department or unit. In short, the policies of the broader institutional unit prevail. Below are some sources of information that may be relevant in professional conduct cases:

1. Board of Regents Bylaws and Policies and NU Executive Memoranda
2. UNL Bylaws, Chancellor's Policy Memoranda, and Statements
3. College Handbooks or Bylaws
4. Academic Unit/Department Bylaws or Policies
5. American Association of University Professors (AAUP) Guidelines and Statements
6. Discipline-Based Statements and Practices

Faculty Code of Conduct Drafting Timeline

In fall 2019, the Faculty Senate Executive Committee voted to charge a committee with developing a code of conduct for faculty. Ideally, such a code would serve the campus by:

- clarifying the grounds for determining whether misconduct has happened,
- identifying in a single concise document the spheres of conduct and the offices/committees that are involved in adjudicating conduct concerns or appeals, and
- directing faculty to the policies/resources related to professional conduct concerns.

In November 2019, Faculty Senate President Kevin Hanrahan charges committee to develop faculty code of conduct.

Committee members included:
Debbie Minter (Exec Committee member, English, Chair)
Chirstina Falci (ARRC chair, Sociology)
Ari Kohen (Poli Sci)
John Raible (Education/CEHS)
Valerie Thomas Lee (Journalism)
Sydney Everhart (IANR)
Steve Willborn (Law)
Sharon Teo-Gooding (HLFPA)
Gwen Combs (CBA)
Jena Asgarpoor (Engineering)

In June 2020, a preliminary draft was approved by the committee to go to the Faculty Senate Executive Committee, the Academic Rights and Responsibilities Committee (ARRC) and the Research Compliance Committee. Debbie Minter, committee chair, met with representatives from each of those committees and with a representative from the UNL chapter of AAUP.

The Board of Regents Consensual Relationship Policy (approved 2021) necessitated a significant revision of the initial draft. The pandemic also slowed progress. In spring 2022, a revised draft was circulated to ARRC, Academic Affairs and General Counsel. The Faculty Senate Executive Committee voted at its November 28, 2023 meeting to forward this document to the full Faculty Senate for a vote.