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## OREGON UNIVERSITY SYSTEM

### DIVISION 22

#### ACADEMIC FREEDOM

##### 580-022-0005

###### Academic Freedom

(1) All teachers in Department institutions are entitled to freedom in the classroom in discussing subjects, but they should be careful not to introduce into their teaching controversial matter that has no relation to the subject.

(2) As a matter of policy the Board neither attempts to control, sway nor limit the personal opinion or expression of that opinion of any person on the faculty or otherwise on the Department's payroll. In the exercise of this freedom of expression, faculty members should manifest appropriate restraint, should show respect for the opinions of others, and should make every effort to indicate that they do not speak on behalf of the Department or institution.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: HEB 3-1978, f. & ef. 6-5-78; HEB 1-1993, f. & cert. ef. 2-5-93; HEB 5-1996, f. & cert. ef. 12-18-96

#### Political Activities

##### 580-022-0010

###### Public Activities

(1) Although there is no prohibition against active participation by Department employees in various community and public affairs, it is expected that time given to such activities shall not interfere with the duties of the employees concerned.

(2) No employee shall take action that might be construed as committing the institution or the Board to a position on public issues.

Stat. Auth.: ORS 351.070

Stats. Implemented:

Hist.: HEB 3-1978, f. & ef. 6-5-78; HEB 1-1993, f. & cert. ef. 2-5-93

##### 580-022-0015

###### Candidates for Public Office

(1) In accordance with the Oregon Constitution, it is Board policy to allow employees to seek political office and to serve in the event of election. Before an employee shall become a candidate for any public office, whether for a salaried or nonsalaried position, the employee is expected to consult with the president.

(2) Political activity shall in no way interfere with the performance of the major duties prescribed by the Board and the presidents.

(3) Because circumstances under which a campaign is conducted will vary widely depending on the nature of the elective office and the extent of opposition, the determination of whether an employee may continue full-time duties while conducting or engaged in a campaign rests with

the employee's president. In the event of election to the State Legislature, an employee normally will be placed on leave of absence without pay during the period of full-time responsibility. If elected or appointed to a full-time salaried office, the employee may be placed on leave of absence without pay during the term of office or may be required to resign.

Stat. Auth.: ORS 351.070

Stats. Implemented:

Hist.: HEB 3-1978, f. & ef. 6-5-78; HEB 1-1993, f. & cert. ef. 2-5-93

#### **580-022-0020**

##### **Relationships with State Government**

(1) Except for the Chancellor and designees, no employee of the Department is authorized to represent the Department, including any institution or other activity thereof, to the Legislature, its members or committees, to the Office of the Governor, and to the Executive Department and its Divisions.

(2) Nothing in this rule shall be construed as inhibiting an employee of the Department from exercising the right of citizenship in a personal capacity, or be construed as inhibiting any employee of the Department from appearing before a body of state government identified in this rule in response to a request from that body.

(3) Faculty members are authorized to visit the Legislative Sessions and Hearings with students in the interests of furthering the effectiveness of organized class work, or to respond to requests from the Legislature for establishment and maintenance of special involvements such as student intern programs.

Stat. Auth.: ORS 351.070

Stats. Implemented:

Hist.: HEB 3-1978, f. & ef. 6-5-78; HEB 1-1993, f. & cert. ef. 2-5-93

##### **Holidays and Miscellaneous Privileges**

#### **580-022-0025**

##### **Academic Staff Holidays**

(1) The following are institution holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day. The institutions will be closed on these days. However, units deemed by the institution to provide a necessary function may remain open at the discretion of the institution. Other holidays designated by state law, such as Veteran's Day, Presidents' Day and Martin Luther King, Jr.'s Birthday, are not institution holidays unless the institution is closed by a discretionary act of the president. Institution presidents may designate the day after Thanksgiving as an institution holiday in lieu of one of the listed discretionary holidays.

(2) Any business transaction required or permitted to be performed on a holiday designated by state law may be performed on the next succeeding business day without penalty, even though the institution may be open on the holiday.

(3) Holidays for academic staff shall be those days designated as institution holidays (as described in section (1) of this rule), holidays designated by faculty collective bargaining agreements, and any additional day designated by the Governor.

(4) Holidays observed by classified employees are established by the Executive Department or by collective bargaining agreements.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: HEB 3-1978, f. & ef. 6-5-78; HEB 5-1988, f. & cert. ef. 5-13-88; HEB 1-1993, f. & cert. ef. 2-5-93; HEB 5-1996, f. & cert. ef. 12-18-9

#### **580-022-0030**

##### **Staff Fee Privileges**

Employees of the Department of Higher Education may register for courses at special rates subject to the following conditions:

(1) Graduate teaching and research assistants may register for credit hours during any term of their appointment and during an intervening summer term under the terms and conditions approved by the Board and described in the Academic Year Fee Book. Graduate assistants are students admitted to a graduate degree program and appointed to an assistantship while working toward a graduate degree. Appointment as an assistant may not be for less than .15 FTE for the term of appointment. Institutions may establish minimum and maximum numbers of

credit hours for which graduate assistants may register, provided that the president's or designee's approval is required prior to registering for credit hours in excess of 16 in any one term.

(2) On approval of the president or designee, employees of the Oregon University System, appointed at half-time or more (not including temporary classified employees, graduate assistants, and other student employees), may register for a maximum of twelve hours of credit per term at the staff fee rate under the terms and conditions approved by the Board and described in the Academic Year Fee Book. Chancellor's Office employees must have approval of the Chancellor or designee before registering for courses at the staff fee rate.

(3) Auditor privileges are accorded to employees under the terms and conditions approved by the Board and described in the Academic Year Fee Book.

(4) For purposes of this rule, the term "employee" may include persons with full-time courtesy appointments who provide a benefit to the institution in the form of teaching, research, or counseling, under the direction of the institution and using the facilities of the institution.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: HEB 3-1978, f. & ef. 6-5-78; HEB 8-1979, f. & ef. 8-22-79; HEB 1-1981, f. & ef. 6-4-81; HEB 4-1982, f. & ef. 7-14-82; HEB 10-1986, f. & ef. 7-16-86; HEB 1-1993, f. & cert. ef. 2-5-93; OSSHE 4-2002(Temp), f. & cert. ef. 5-28-02 thru 11-15-02; OSSHE 6-2002, f. & cert. ef. 7-30-02; OSSHE 4-2006, f. & cert. ef. 6-27-06

### **580-022-0031**

#### **Transfer of Staff Fee Privileges**

Employees of the Department of Higher Education eligible for staff fee privileges (as defined in 580-022-0030) may transfer such privileges to family members or domestic partners consistent with the following terms and conditions:

(1) Persons eligible to receive a transfer of staff fee privileges must be either:

(a) A family member, to include spouse or dependent children, in accordance with applicable Internal Revenue Service (IRS) code; or

(b) A "domestic partner," as defined in the Affidavit of Domestic Partnership, or the dependent child of a domestic partner.

(2) Staff fee privileges:

(a) Are usable only by either the employee or transferee;

(b) May not be subdivided among family members or domestic partners and their dependents during a term;

(c) Are limited to one transfer per term;

(d) Are limited to no more than twelve (12) academic credits per term; and

(e) There is no fee plateau at any campus for staff members, domestic partners, or eligible dependents.

(3) Employee qualification is verified through Human Resource System Records at each institution; recipient status (spousal, dependent, or domestic partner) must be established no later than the first day of classes of the term of enrollment.

(4) Recipients of transferred staff fee privileges may register for courses at any Oregon University System institution, subject to policies of the instructing institution. Institutions reserve the right to exclude programs from eligibility for the privilege.

(5) Mandatory enrollment fees including, but not limited to, Resource, Health Service, Building, and Incidental, will apply.

(6) Transfer of staff fee privileges is not available for retirees of the Oregon University System

(7) For further reference to applicable policies and procedures, see the most current edition of the Academic Year Fee Book.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351

Hist.: OSSHE 2-2000, f. & cert. ef. 6-23-00; OSSHE 5-2002(Temp), f. & cert.ef. 5-28-02 thru 11-15-02; OSSHE 7-2002, f. & cert. ef. 7-30-02; OSSHE 4-2006, f. & cert. ef. 6-27-06

#### **580-022-0035**

##### **Physical Education Privileges**

Insofar as practicable, physical education facilities are available to staff members for recreational purposes on payment of an appropriate fee.

Stat. Auth.: ORS 351  
 Stats. Implemented:  
 Hist.: HEB 3-1978, f. & ef. 6-5-78

#### **580-022-0040**

##### **Student Health Services**

Student health service facilities are not available to staff members.

Stat. Auth.: ORS 351  
 Stats. Implemented:  
 Hist.: HEB 3-1978, f. & ef. 6-5-78

### **Proscribed Conduct**

#### **580-022-0045**

##### **Proscribed Conduct**

Procedures to impose applicable sanctions may be instituted against any person engaging in any of the following proscribed conduct:

(1) Obstruction or disruption of teaching, research, administration, disciplinary procedures, or other institutional activities, including the institution's public service functions or other authorized activities on institutionally owned or controlled property;

(2) Obstruction or disruption interfering with freedom of movement, either pedestrian or vehicular, on institutionally owned or controlled property;

(3) Possession or use of explosives, dangerous chemicals, or other dangerous weapons or instrumentalities on institutionally owned or controlled property, unless authorized by law, Board, or institutional rules or policies;

(4) Detention or physical abuse of any person or conduct intended to threaten imminent bodily harm or endanger the health of any person on any institutionally owned or controlled property;

(5) Malicious damage, misuse or theft of institutional property, or the property of any other person where such property is located on institutionally owned or controlled property, or, regardless of location, is in the care, custody or control of an institution;

(6) Refusal by any person while on institutional property to comply with an order of the president or appropriate authorized official to leave such premises because of conduct proscribed by this rule when such conduct constitutes a danger to personal safety, property, educational, or other appropriate institutional activities on such premises;

(7) Unauthorized entry to or use of institutional facilities, including buildings and grounds;

(8) Illegal use, possession, or distribution of drugs on institutionally owned or controlled property;

(9) Inciting others to engage in any of the conduct or to perform any of the acts prohibited herein. Inciting means that advocacy of proscribed conduct that calls on the person or persons addressed for imminent action, and is coupled with a reasonable apprehension of imminent danger to the functions and purposes of the institution, including the safety of persons, and the protection of its property;

(10) Violating the Board's Policy for Intercollegiate Athletics as described in Section 8 of the Internal Management Directives, specifically including the subsection thereof entitled Code of Ethics.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 351.070  
 Stats. Implemented: ORS 351.070  
 Hist.: HEB 3-1978, f. & ef. 6-5-78; HEB 3-1983, f. & ef. 3-17-83; HEB 1-1991, f. & cert. ef. 2-14-91; HEB 1-1993, f. & cert. ef. 2-5-93; HEB 5-1996, f. & cert. ef. 12-18-96; OUS

3-2012(Temp), f. & cert. ef. 3-16-12 thru 8-31-12; OUS 13-2012, f. & cert. ef. 8-30-12

**580-022-0047**

**Confidentiality and Inadmissibility of Workplace Interpersonal Dispute Mediation Communications**

(1) This rule applies to workplace interpersonal disputes, which are disputes involving the interpersonal relationships between this agency's employees, officials or employees and officials. This rule does not apply to disputes involving the negotiation of labor contracts or matters about which a formal grievance under a labor contract, a tort claim notice or a lawsuit has been filed.

(2) The words and phrases used in this rule have the same meaning as given to them in ORS 36.110 and 36.234.

(3) Nothing in this rule affects any confidentiality created by other law.

(4) To the extent mediation communications would otherwise compromise negotiations under ORS 40.190 (OEC Rule 408), those mediation communications are not admissible as provided in ORS 40.190 (OEC Rule 408), notwithstanding any provisions to the contrary in section (9) of this rule.

(5) Disclosures by Mediator. A mediator may not disclose or be compelled to disclose mediation communications in a mediation and, if disclosed, such communications may not be introduced into evidence in any subsequent administrative, judicial or arbitration proceeding unless:

(a) All the parties to the mediation and the mediator agree in writing to the disclosure; or

(b) The mediation communication may be disclosed or introduced into evidence in a subsequent proceeding as provided in subsections (c) or (h) – (j) of section (7) of this rule.

(6) Confidentiality and Inadmissibility of Mediation Communications. Except as provided in section (7) of this rule, mediation communications in mediations involving workplace interpersonal disputes are confidential and may not be disclosed to any other person, are not admissible in any subsequent administration, judicial or arbitration proceeding and may not be disclosed during testimony in, or during any discovery conducted as part of a subsequent proceeding, or introduced into evidence by the parties or the mediator in any subsequent proceeding so long as:

(a) The parties to the mediation and the agency have agreed in writing to the confidentiality of the mediation; and

(b) The person agreeing to the confidentiality of the mediation on behalf of the agency:

(A) Is neither a party to the dispute nor the mediator; and

(B) Is designated by the agency to authorize confidentiality for the mediation; and

(C) Is at the same or higher level in the agency than any of the parties to the mediation or who is a person with responsibility for human resources or personnel matters in the agency, unless the agency head or member of the governing board is one of the persons involved in the interpersonal dispute, in which case the Governor or Governor's designee.

(7) Exceptions to confidentiality and inadmissibility.

(a) Any statements, memoranda, work products, documents and other materials, otherwise subject to discovery that were not prepared specifically for use in the mediation are not confidential and may be disclosed or introduced into evidence in a subsequent proceeding.

(b) Any mediation communications that are public records, as defined in ORS 192.410(4) and were not specifically prepared for use in the mediation are not confidential and may be disclosed or introduced into evidence in a subsequent proceeding unless the substance of the communication is confidential or privileged under state or federal law.

(c) A mediation communication is not confidential and may be disclosed by any person receiving the communication to the extent that person reasonably believes that disclosing the communication is necessary to prevent the commission of a crime that is likely to result in death or bodily injury to any person. A mediation communication is not confidential and may be disclosed in a subsequent proceeding to the extent its disclosure may further the investigation or prosecution of a felony crime involving physical violence to a person.

(d) The parties to the mediation may agree in writing that all or part of the mediation communications are not confidential or that all or part of the mediation communications may be disclosed and may be introduced into evidence in a subsequent proceeding unless the substance of the communication is confidential, privileged or otherwise prohibited from

disclosure under state or federal law.

(e) A party to the mediation may disclose confidential mediation communications to a person if the party's communication with that person is privileged under ORS chapter 40 or other provision of law. A party to the mediation may disclose confidential mediation communications to a person for the purpose of obtaining advice concerning the subject matter of the mediation, if all the parties agree.

(f) A written mediation communication may be disclosed or introduced as evidence in a subsequent proceeding at the discretion of the party who prepared the communication so long as the communication is not otherwise confidential under state or federal law and does not contain confidential information from the mediator or another party who does not agree to the disclosure.

(g) In any proceeding to enforce, modify or set aside a mediation agreement, a party to the mediation may disclose mediation communications and such communications may be introduced as evidence to the extent necessary to prosecute or defend the matter. At the request of a party, the court may seal any part of the record of the proceeding to prevent further disclosure of mediation communications or agreements to persons other than the parties to the agreement.

(h) In an action for damages or other relief between a party to the mediation and a mediator or mediation program, mediation communications are not confidential and may be disclosed and may be introduced as evidence to the extent necessary to prosecute or defend the matter. At the request of a party, the court may seal any part of the record of the proceeding to prevent further disclosure of the mediation communications or agreements.

(i) To the extent a mediation communication contains information on the substance of which is required to be disclosed by Oregon statute, other than ORS 192.410 to 192.505, that portion of the communication may be disclosed as required by statute.

(j) The mediator may report the disposition of a mediation to the agency at the conclusion of the mediation so long as the report does not disclose specific confidential mediation communications. The agency or the mediator may use or disclose confidential mediation communications for research, training or educational purposes, subject to the provisions of ORS 36.232(4).

(8) The terms of any agreement arising out of the mediation of a workplace interpersonal dispute are confidential so long as the parties and the agency so agree in writing. Any term of an agreement that requires an expenditure of public funds, other than expenditures \$1,000 or less for employee training, employee counseling or purchases of equipment that remain the property of the agency, may not be made confidential.

(9) When a mediation is subject to section (6) of this rule, the agency will provide to all parties to the mediation and to the mediator a copy of this rule or an explanation of where a copy of the rule may be obtained. Violation of this provision does not waive confidentiality or inadmissibility.

Stat. Auth.: ORS 36.224

Stats. Implemented: ORS 36.230(4)

Hist.: OSSHE 6-2000(Temp), f. & cert. ef. 12-21-00 thru 6-15-01; OSSHE 1-2001, f. & cert. ef. 4-27-01

### **Employment Discrimination**

#### **580-022-0050**

#### **Discrimination Based on Race, Color, Religion, National Origin, Disability, Age, Marital Status, Sex, or Sexual Orientation**

No institution or division shall discriminate in employment based on race, color, religion, national origin, disability, age, marital status, sex or sexual orientation.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: HEB 3-1978, f. & ef. 6-5-78; HEB 2-1982, f. & ef. 4-20-82; HEB 2-1988, f. & cert. ef. 3-16-88; HEB 11-1990(Temp), f. & cert. ef. 10-3-90; HEB 15-1990, f. & cert. ef. 11-7-90; HEB 16-1990, f. & cert. ef. 12-18-90; HEB 4-1991, f. & cert. ef. 8-15-91; HEB 1-1993, f. & cert. ef. 2-5-93; HEB 5-1996, f. & cert. ef. 12-18-96

### **Employment of More than One Member of a Household**

#### **580-022-0055**

#### **Employment of More Than One Member of a Household**

(1) In appointing academic staff members, the Department seeks those persons most qualified

to fulfill its teaching, research and service obligations. Accordingly, members of the same family may be appointed to academic staff positions when it has been determined that they are the most qualified candidates for the positions.

(2) No academic staff member, without prior permission of the immediate supervisor, shall participate in employment decisions, supervision or grievance adjustment concerning or involving the staff member's spouse, child or stepchild.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: HEB 3-1978, f. & ef. 6-5-78; HEB 1-1993, f. & cert. ef. 2-5-93; HEB 5-1996, f. & cert. ef. 12-18-96

### **Board Rules Governing Institutional Rules Relating to Faculty Records**

#### **580-022-0060**

##### **Institutional Rules**

(1) The Board delegates to the president responsibility for developing institutional rules governing the form and variety of faculty records to be maintained in the institution, the nature of the information to be collected, the way in which such faculty information is to be recorded, maintained, used and eventually disposed. Such institutional rules shall be consistent with Oregon Laws and the Board's Administrative Rules. Copies of faculty records rules adopted by each institution shall be presented to the Chancellor and shall be maintained on file in the Board's Office.

(2) The Board expects that the presidents will give faculty an important voice in developing these rules, consistent with the nature of the academic community.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: HEB 3-1978, f. & ef. 6-5-78; HEB 1-1993, f. & cert. ef. 2-5-93; HEB 5-1996, f. & cert. ef. 12-18-96

#### **580-022-0065**

##### **Definitions**

(1) "Personal Records" means records containing information kept by the institution, school, division or department concerning a faculty member and furnished by the faculty member or by others, including, but not limited to, information as to discipline, counseling, membership activity, other behavioral records, professional preparation and experience, professional performance (e.g., assignment and workload, quality of teaching, research and service to the institution), personnel data relating to such matters as promotions, tenure, leaves, retirement credits and the like and professional activities external to the institution, including, but not necessarily limited to, awards, recognition, research activities and travel.

(2) For purposes of compliance with ORS 351.065, "records of academic achievement" shall mean the record of credits earned toward a degree or in postdoctoral work and/or certificate(s), diploma(s), license(s) and degree(s) received.

Stat. Auth.: ORS 351

Stats. Implemented: ORS 351.070

Hist.: HEB 3-1978, f. & ef. 6-5-78; HEB 5-1996, f. & cert. ef. 12-18-96

#### **580-022-0070**

##### **Limitation on Records to Be Maintained**

Only records that are demonstrably and substantially relevant to the educational and related purposes of the institution, school, division or department shall be generated and maintained.

Stat. Auth.: ORS 351

Stats. Implemented: ORS 351.070

Hist.: HEB 3-1978, f. & ef. 6-5-78; HEB 5-1996, f. & cert. ef. 12-18-96

#### **580-022-0075**

##### **Confidential Information Relating to Employed Faculty Not to Be Sought Nor Accepted**

When evaluating employed faculty members, the Board, its institutions, schools or departments shall not solicit or accept letters, documents or other materials, given orally or in written form, from individuals or groups who wish their identity kept anonymous or the information they provide kept confidential, except for student evaluations made or received pursuant to OAR

580-022-0100(5).

Stat. Auth.: ORS 351

Stats. Implemented: ORS 351.070

Hist.: HEB 3-1978, f. & ef. 6-5-78; HEB 1-1979, f. & ef. 4-27-79; HEB 5-1996, f. & cert. ef. 12-18-96

#### **580-022-0080**

##### **Certain Information Not Required to Be Given by Faculty Members**

No faculty member shall be required to give, but may voluntarily provide, information as to race, religion, sex, political affiliation or preferences, except such information that may be required by state statute, federal law or valid federal rules, regulations or orders. Where the faculty member is asked for such self-designation for any purpose (including federal requests for information), the request shall state the purpose of the inquiry and shall inform the individual of the right to decline to respond.

Stat. Auth.: ORS 351

Stats. Implemented: ORS 351.070

Hist.: HEB 3-1978, f. & ef. 6-5-78; HEB 5-1996, f. & cert. ef. 12-18-96

#### **580-022-0085**

##### **Locations and Custody of Faculty Records**

Official faculty personal records shall be kept in locations central to the institution, school, division, or department by which they are maintained. Custody shall be assigned to designated personnel specifically charged with maintaining the confidentiality and security of the records in accordance with institutional rules. No institution shall maintain more than three files relating to the evaluation of a faculty member, except that an institution may maintain one additional confidential file that shall contain only material excised from other records as permitted by OAR 580-022-0100. Evaluation files are those referred to in ORS 351.065 as "designated" or "authorized."

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: HEB 3-1978, f. & ef. 6-5-78; HEB 1-1993, f. & cert. ef. 2-5-93; HEB 5-1996, f. & cert. ef. 12-18-96

#### **580-022-0090**

##### **Release of and Access to Faculty Records**

(1) Appropriate information about the faculty member may be released on request and without the faculty member's consent. Such information shall be limited to:

(a) Directory information, that is, information generally needed in identifying or locating a named faculty member including such information as is readily found in published documents such as institutional catalogs;

(b) Objective evidence of a faculty member's academic achievement, limited to information as to the number of credits earned toward a degree or in postdoctoral work, and certificate(s), diploma(s), license(s) and degree(s) received;

(c) Salary information and the record of terms or conditions of employment;

(d) Records tabulated from students' classroom survey evaluations, on a finding by the president that privacy rights in an adequate educational environment would not suffer by disclosure.

(2) All information in the faculty member's personal record file, apart from that identified in section (1) of this rule, shall be considered personal and subject to restricted access as hereinafter set forth in OAR 580-022-0095 through 580-022-0125.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: HEB 3-1978, f. & ef. 6-5-78; HEB 1-1993, f. & cert. ef. 2-5-93; HEB 5-1996, f. & cert. ef. 12-18-96

#### **580-022-0095**

##### **Confidential Records -- Restrictions on Release**

(1) Personal records designated as subject to restricted access in accordance with authority granted in ORS 351.065 shall be available only to the faculty member who is the subject of the



records as provided for in OAR 580-022-0100 through 580-022-0115 and to institutional personnel, such as faculty, administrators, students and others serving on official institutional committees or in other official institutional capacities. Such institutional personnel shall have a demonstrably legitimate need to review the records in order to fulfill their official, professional responsibilities as defined in institutional rules. These records may not be released to any other person or agency without the faculty member's written consent, unless on receipt of a valid subpoena or other court order or process or as required by state statute, federal law or valid federal or state rules, regulations or orders.

(2) Institutional rules shall provide for designation of institutional officials to appear in court to test the validity of a subpoena or other court order or process relating to release of faculty records when validity is in question.

Stat. Auth.: ORS 351

Stats. Implemented: ORS 351.070

Hist.: HEB 3-1978, f. & ef. 6-5-78; HEB 5-1996, f. & cert. ef. 12-18-96

#### **580-022-0100**

##### **Access to Files by Faculty Members**

(1) Faculty members shall be allowed full access to their own personal files and personal records kept by the institution, school, department or division, except as provided in sections (2) and (3) of this rule.

(2) Letters and other information submitted in confidence to the institution, school, department, or division prior to July 1, 1975, shall be maintained in the evaluation files permitted by OAR 580-022-0085. However, if a faculty member requests access to such letters and other information pertaining to the faculty member, the anonymity of the contributors of letters and other information obtained prior to July 1, 1975, shall be protected. The full text shall be made available to the faculty member except those portions of the text that would serve to identify the contributor, which shall be excised by a faculty committee created pursuant to institutional rules. The excised portions of the documents may be retained in the confidential file permitted by OAR 580-022-0085.

(3) Confidential letters and other information received by the institution, school, department, or division after July 1, 1975, prior to the employment of a faculty member, shall be placed in evaluation files relating to the faculty member. If the applicant is not employed, the confidential information submitted concerning the applicant shall remain confidential. If an applicant who is employed requests access to personal files, the anonymity of the contributors of confidential preemployment letters and other preemployment information shall be protected. The full text shall be made available, except that those portions of the text that would serve to identify the contributor shall be excised and may be retained in the confidential file permitted by OAR 580-022-0085.

(4) Any evaluation received by telephone shall be documented in each of the faculty member's evaluation files by means of a written summary of the conversation with the names of the conversants identified.

(5) If the institution, school, department or division solicits or accepts student survey evaluations of the classroom or laboratory performance of a faculty member, the survey evaluations shall be conducted anonymously. Reports tabulated from student evaluations shall be placed in the evaluation files defined in OAR 580-022-0085. Survey instruments from which evaluation data are obtained shall be delivered to the faculty member. No other evaluative material shall be accepted from students unless the students are first clearly informed that the faculty member will have access to such material and that the anonymity of the student cannot be preserved.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: HEB 3-1978, f. & ef. 6-5-78; HEB 1-1993, f. & cert. ef. 2-5-93; HEB 5-1996, f. & cert. ef. 12-18-96

#### **580-022-0105**

##### **Entry into File of Comments, Explanations, and Rebuttals**

(1) The institutional, school, divisional or departmental official shall, upon request, offer the faculty member opportunity to enter into the evaluation file a rebuttal, refutation, or explanation of any observations contained therein.

(2) On a faculty member's request, an appropriate faculty committee, as defined in institutional rules, shall examine the faculty member's file to verify that all statements therein have been provided. If not, the committee shall require that the information be made available.

(3) On a faculty member's request, the faculty committee shall examine the confidential file to

verify that it contains only those excised portions provided in OAR 580-022-0100. The committee shall have the authority to require that any other material be removed from the confidential file.

(4) A copy of the periodic, regular written evaluation of the faculty member containing or having attached to it a statement to the effect that the faculty member may discuss the evaluative statement with the evaluating administrator, shall be given the faculty member. A copy of the evaluative statement, signed by the faculty member signifying receipt of a copy thereof, shall be placed in the faculty member's evaluation file. The faculty member may enter into the evaluation file such comments, explanations, or rebuttals as desired. A copy of such comments, explanations or rebuttals made by the faculty member shall be attached to each copy of the evaluative statement retained by the institution, school, division or department.

Stat. Auth.: ORS 351

Stats. Implemented: ORS 351.070

Hist.: HEB 3-1978, f. & ef. 6-5-78; HEB 5-1996, f. & cert. ef. 12-18-96

#### **580-022-0110**

##### **Retention of Evaluative Materials Concerning Candidates for Possible Employment**

(1) If an individual is not employed, it is expected that the evaluative materials brought together by the institution as it evaluates an individual's qualifications in connection with possible employment will be retained as long as may be necessary to respond to affirmative action investigations and investigations of any claimed violation of the civil rights of any person in connection with employment. Thereafter, they will be disposed of in a manner designed to assure confidentiality, in accordance with rules of the State Archivist.

(2) When federal rules or orders require certain personal records to be compiled before the employment of a faculty member and retained thereafter, such records pertaining to persons not employed that have been obtained with the promise of confidentiality will be closed to all persons except as required by federal rules or orders.

Stat. Auth.: ORS 351.070

Stats. Implemented:

Hist.: HEB 3-1978, f. & ef. 6-5-78; HEB 1-1993, f. & cert. ef. 2-5-93

#### **580-022-0115**

##### **Availability to Faculty Members of Objective Information Concerning Categories of Staff**

Institutional rules shall establish procedures through which the faculty member who feels adversely affected by the institutional, school, divisional or departmental personnel action or lack thereof may request from designated institutional officials objective or quantitative information contained in limited access files concerning personnel actions affecting categories of faculty members, where such actions appear to have relevance to the case of the faculty member requesting the information. Information may include but need not be limited to: assignment, load, list of publications. It shall not include any evaluative statements concerning faculty members.

Stat. Auth.: ORS 351

Stats. Implemented: ORS 351.070

Hist.: HEB 3-1978, f. & ef. 6-5-78; HEB 5-1996, f. & cert. ef. 12-18-96

#### **580-022-0120**

##### **Availability of Faculty Records for Research Purposes**

The need for educational institutions to make information about the faculty member available for research purposes shall be acknowledged and provided for, providing the institution has adequate provisions to conceal the identity of the faculty member whose personal data or information are being included in the research. If the confidentiality of faculty records would be jeopardized in any way by the release of the information for research purposes, institutional rules shall provide that the institution obtain written consent of the faculty member prior to releasing personal information for research purposes.

Stat. Auth.: ORS 351

Stats. Implemented:

Hist.: HEB 3-1978, f. & ef. 6-5-78

#### **580-022-0125**

##### **Permanence, Duplication, and Disposal of Faculty Records**

(1) The individual faculty member's record shall be maintained only for the time required to serve the basic official functions of the office that generates and maintains it. It should then be disposed of in a manner designed to assure confidentiality.

(2) The permanent retention of faculty records shall be limited to those that the president or the State Archivist shall determine to be of long-range value to the faculty member, to the institution, or to the public. ORS 351.065 provides that access to personal records more than 25 years old may not be limited.

(3) Duplication of faculty records shall be minimized. Duplicated records that are made shall be destroyed at a time to be determined and set forth in institutional rules and in such manner as to assure confidentiality in accordance with the rules of the State Archivist, or with the Archivist's approval.

Stat. Auth.: ORS 351.070

Stats. Implemented:

Hist.: HEB 3-1978, f. & ef. 6-5-78; HEB 1-1993, f. & cert. ef. 2-5-93

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