

UNIVERSITY REVIEW COMMITTEE

Tuesday, November 29, 2016
1 p.m., Hovey 401D

MINUTES

Members present: Angela Bonnell, Rick Boser, Diane Dean, Joe Goodman, Christopher Horvath, Sheryl Jenkins, Sarah Smelser

Members not present: Sam Catanzaro, Doris Houston

Others present: Bruce Stoffel (recorder)

Note: In the minutes that follow, "URC" refers to the University Review Committee at Illinois State University, "Caucus" refers to the Faculty Caucus of the Academic Senate at Illinois State University, "AAUP" refers to the American Association of University Professors, and "AFEGC" refers to the Faculty Academic Freedom, Ethics and Grievance Committee at Illinois State University.

I. Call to order

Chairperson Diane Dean called the meeting to order at 1:03 p.m. A quorum was present.

II. Approval of minutes from the November 15, 2016 meeting

Christopher Horvath moved, Rick Boser seconded approval of minutes of the November 15, 2016 meeting as distributed prior to the meeting. The motion passed on voice vote, with all voting in the affirmative.

III. Proposed ASPT disciplinary articles

The committee continued its review of proposed Article XI (General Considerations). Throughout the ensuing discussion committee members referred to a document with three versions of Article XI side by side (see attached): the version of the article as recommended by URC to the Caucus in August 2015, a revised version reviewed by the Caucus in September 2016, and a version in progress documenting revisions suggested by URC this semester.

Sections XI.A.1 through Section XI.A.3 (re: sanctions and suspensions)

Dean reviewed revisions suggested by URC this semester through the November 15, 2016 URC meeting. She noted an error in Section XI.A.3: use of the word "Sanctions" to begin the second sentence of that section rather than the word "Suspensions." Bruce Stoffel said he would make that change.

Dean reminded committee members that they had agreed to substitute the word "reasons" for "adequate causes" in the sections regarding sanctions and suspensions. She asked if committee members want to continue that practice in passages regarding dismissal. Consensus was to continue doing so. Dean asked if the committee prefers using the term "imposed" or the term "effected." Consensus was to use the term "effected."

Section XI.A.4 (re: dismissals)

Dean then directed the committee discussion to Section XI.A.4, regarding dismissal. She read her proposed re-draft of the section (that she prepared prior to the meeting to facilitate discussion).

A.4 Dismissals are a major disciplinary action terminating the appointment of a probationary or tenured faculty member.

Dismissals may be effected for such reasons as lack of fitness to continue to perform in a faculty member's professional capacity as a teacher or researcher, failure to perform assigned duties in a manner consonant with professional standards, or malfeasance. Specific policies related to dismissals are provided in ASPT XIV.

Horvath asked Dean if she has separately addressed probationary faculty and tenured faculty in her proposed revisions. Referring to her re-draft of Sections XI.A.5 and XI.A.6 (see below), Dean responded that she has done so and has also separately addressed discipline and termination due to financial exigency.

A.5 Recommendations for non-reappointment of probationary faculty for non-disciplinary, performance concerns will follow the process outlined in ASPT XV.

A.6 Termination of the appointment of a probationary or tenured faculty member due to demonstrable University financial exigency or program termination is not disciplinary in nature and will follow the process outlined in the Illinois State University Constitution (Article III, Section 4.B.2) and all applicable policies.

Dean asked if the definition of dismissal in her re-draft of Section XI.A.4 is succinct and adequate. Sarah Smelser suggested that the term "disciplinary action" be changed to "disciplinary actions" to be consistent with Sections XI.A.2 and XI.A.3. Noting that URC has referred in previous sections to use of sanctions and suspensions as steps in a progressive disciplinary process, Horvath asked if Section XI.A.4 should refer to dismissal as the end state of progressive discipline. Smelser noted that the new Section XI.A.1 suggested by the committee does so. Sheryl Jenkins expressed concern that characterizing dismissal as a last act of progressive discipline might preclude the University from dismissing a faculty member as a first act of discipline if necessary.

Horvath said he does not usually like inserting quotes from AAUP documents into the ASPT document, but the quote inserted by the Caucus in the third paragraph of Section XI.A.4 makes it clear that dismissal is a severe action rather than a standard action ("A dismissal proceeding is a symptom of failure; no amount of use of removal process will help strengthen higher education as much as will the cultivation of conditions in which dismissals rarely, if ever, need occur."). Angela Bonnell agreed. Dean asked how that statement might be incorporated into the ASPT document without directly quoting AAUP. Boser referred committee members to the second paragraph of the Caucus version of Section XI.A.4 ("Dismissal as a type of disciplinary action is one form of dismissal that may be effected by the University under extraordinary circumstances."). He said that the term "extraordinary circumstances" suggests that dismissal should be pretty rare. He suggested incorporating "extraordinary circumstances" into the URC revision, adding that he does not favor incorporating any more of the wording added by the Caucus in that section. Dean agreed, noting that university legal counsel might express concern regarding the reference in the Caucus version to dismissal as "a symptom of failure." Dean said that reference could be construed as the University having failed a faculty member who has been dismissed.

Dean suggested adding the following passage after the first sentence of her proposed Section XI.A.4, to address concerns expressed by URC members.

Dismissals are effected under extraordinary or egregious circumstances or when other recourses of disciplinary action have been exhausted without effect. They should rarely if ever need occur.

Committee members concurred.

Section XI.A5 and Section XI.A6 (re: dismissal and termination)

Dean then referred committee members to her proposed revisions of Sections XI.A.5 and XI.A.6.

Horvath said the reference to financial exigency processes in Dean's Section XI.A.6 should include a reference to the Board of Trustees Governing Document, because that is where financial exigency policy resides. Horvath said he is unsure why the Caucus has included a reference to appeals in its Section XI.A.5 (regarding financial exigency). Smelser and Boser agreed that appeals should be dealt with later in the disciplinary articles. Horvath added that matters addressed by the Caucus in the second paragraph of its Section XI.A.5 should also be addressed later in the disciplinary articles.

Goodman asked whether this is the section of the disciplinary articles in which designating a separate body for hearing appeals needs to be considered. Horvath explained that, in the case of financial exigency, no appeals body is needed. He added that the Caucus version of Section XI.A.5 is confusing in that it refers to both disciplinary and non-disciplinary separation. He said that URC, in its revisions, has more appropriately cited policies governing disciplinary processes and financial exigency and should address each in more detail in subsequent disciplinary articles.

Goodman reported having discovered a 2012 AAUP policy about accommodating faculty with disabilities. He asked if he should review the policy for its applicability to passages of the disciplinary articles regarding fitness of a faculty member to perform in the faculty member's professional capacity. Dean asked that Goodman do so and report his findings and recommendations to the committee.

Section XI.B (re faculty rights)

Dean next referred committee members to Section XI.B. She noted that the Faculty Rights section recommended by URC in August 2015 had four elements while the version as revised by the Caucus has six elements.

Dean noted that the URC version and the Caucus version of Section XI.B.1 establish that faculty members retain the right to file a grievance with AFEGC if they believe their academic freedom or the Code of Ethics has been violated in a disciplinary action. Horvath asked Dean if the Caucus, through its proposed revisions to the disciplinary articles, intends that a faculty member wanting to appeal a disciplinary action on grounds other than academic freedom or ethics would also appeal to AFEGC. Dean responded that she has asked Caucus chairperson Susan Kalter about the role of AFEGC in disciplinary cases as envisioned by the Caucus. Based on those conversations, Dean said, it is her understanding that the Caucus intends to have AFEGC hear all types of appeals related to disciplinary actions. Dean said it is her understanding that AFEGC is a pool of faculty members from which appeals panels are assembled, with each panel considered a separate body. Dean said it is her understanding that different groups of AFEGC members would be impaneled if there are multiple appeals in the same disciplinary case. Horvath noted that the AFEGC chairperson assigns AFEGC members to panels. Dean asked if it would be possible for an AFEGC chairperson to shape the outcome of an appeals case through the assignments the chairperson makes to the panel assembled for the case. Horvath said that could happen. Dean said an alternative approach to assembling panels for disciplinary cases might be to have an AFEGC member other than the chairperson select members for a second panel if a faculty member appeals to AFEGC a second time. Horvath said another approach would be to make sure that AFEGC members assigned to a second panel in the same disciplinary case are different than the members assigned to the first panel.

Bonnell then asked Dean if it is her understanding that the AFEGC role in disciplinary appeals has been decided by the Caucus. Dean said the decision has not yet been made. Dean said the URC working group charged with considering the AFEGC role in disciplinary actions is scheduled to report its recommendations to URC next spring, adding that the group has a critical decision to make. Horvath said the working group will need to think carefully about potential conflicts and recusals. Boser said he may have floated the idea of having the Faculty Review Committee (FRC) serve as the appeals body in disciplinary cases but, on further reflection, believes that having FRC assume that role would not be appropriate. Dean said that a new entity may need to be established to hear appeals in disciplinary cases.

Boser asked if URC can proceed with its review of the disciplinary articles without first deciding which body should hear appeals, noting that the committee could spend a lot of time on the issue. Horvath suggested moving forward with the discussion while noting that designation of an appeals body is an issue yet to be resolved. Other committee members agreed.

Horvath asked if disciplinary actions can be taken unilaterally by a chairperson, dean, or the Provost. Dean responded that disciplinary actions cannot be imposed unilaterally. She noted that, depending on the circumstances of a disciplinary case, there could be different levels of review. She added that processes described in the separate articles on sanctions, suspensions, and dismissals can be changed if committee members are not satisfied with them.

Returning to discussion of Section XI.B.1, Dean suggested replacing the parenthetical “including suspension or termination” with “including sanctions, suspensions, or dismissals.” She asked committee members if they are satisfied with the URC version of Section XI.B.1 with that change. Horvath suggested including in a revised Section XI.B.1 the sentence added by the Caucus (beginning “See the ISU Constitution, Article III) but deleting from that sentence “and the Proceedings in Academic Freedom, Dismissal, and Non-reappointment Cases policy.” Dean agreed with Horvath’s suggestion and recommended citing the AFEGC policy number in that sentence. Committee members concurred.

IV. ASPT calendar for 2017-2018

Stoffel explained that URC is responsible for annually establishing a calendar of ASPT activities, which is then sent to the deans, department chairpersons, and school directors and made available to faculty members. Stoffel reviewed the structure of the proposed 2017-2018 ASPT calendar. He said that he used entries in Appendix 1 of the ASPT document verbatim for all action descriptions in the proposed calendar except for actions related to reappointment. For those he drafted descriptions by drawing on text in Article XI (Termination of Appointment of Probationary and Tenured Faculty), in doing so attempting to match the style of other entries in the proposed calendar. Stoffel asked committee members for their feedback.

Horvath said his department was recently asked by its college office to revise department ASPT guidelines to incorporate a March deadline for annually reviewing those guidelines. Horvath asked if that deadline should be cited in the ASPT calendar. URC discussion regarding that requirement ensued, with some committee members recalling discussion by URC and the Caucus of a related requirement that department and school faculty status committees annually report the status of their review to their college faculty status committee. Stoffel said he would review the matter and revise the reporting section of the proposed ASPT calendar if indeed such a reporting requirement is set forth in the ASPT document. He asked committee members to notify him of any other actions that may need to be added to the proposed calendar. Dean tabled further discussion of the proposed calendar until the next URC meeting (scheduled for December 13, 2016).

V. Other business

Dean reported that she has been notified by the dean of the College of Fine Arts that no changes are needed to the college ASPT standards to conform to the new ASPT document (effective January 1, 2017). Dean said the only college standards that will need to be reviewed by URC are standards of the Mennonite College of Nursing. Dean said she expects to receive those standards in time for their review by URC at its next meeting (December 13, 2016).

VI. Adjournment

Goodman moved that the meeting adjourn. Bonnell seconded the motion. The motion carried on voice vote, all voting the affirmative. The meeting adjourned at 2:03 p.m.

Respectfully submitted,
Joe Goodman, Secretary
Bruce Stoffel, Recorder

ATTACHMENTS:

Disciplinary Actions: Article XI. General Considerations, through 11-15-16 URC Meeting

**Disciplinary Actions: Article XI. General Considerations
Through 11-15-16 URC Meeting**

URC 2015	Faculty Caucus 2016	URC 2016-2017
<p>A. Types of Disciplinary Actions</p> <ol style="list-style-type: none"> 1. Faculty may be subject to discipline of varying levels. Disciplinary actions include Sanctions, Suspension, and Dismissal. 2. Sanctions may be imposed for such adequate causes as violations of laws or University policies, including the Code of Ethics and its appendices. Specific policies related to sanctions are provided in ASPT XII. 3. Suspension occurs when a faculty member is temporarily relieved of academic duties, such that the faculty member is not engaged in any teaching, research, or service activities at the University. The faculty member could be on paid or unpaid status. Specific policies related to suspensions are provided in ASPT XIII. 4. It is understood that suspension (with or without pay) of faculty members will only be contemplated in circumstances when there is a reasonable threat of imminent harm to the University, including the faculty member in question, students, and other employees or when credible evidence of adequate cause for dismissal is available. The administration of the University will inform the faculty member of its rationale for judging that suspension is indicated. 5. Dismissal of a tenured faculty member may be effected by the University for such adequate causes as lack of fitness to continue to perform in the faculty member's professional capacity as a teacher or researcher; failure to perform assigned duties in a manner consonant with professional standards; malfeasance; or demonstrable University financial exigency or program termination. Specific policies related to termination of tenured faculty appointments are provided in ASPT XIV.B. 	<p>A. Types of Disciplinary Actions; Conditions under which they may be applied</p> <ol style="list-style-type: none"> 1. Faculty may be subject to discipline of varying levels. Disciplinary actions include Sanctions, Suspension, and Dismissal. 2. Sanctions: As defined by the American Association of University Professors' 1971 guidelines regarding progressive discipline, sanctions that can be imposed upon a faculty member are: oral reprimand, written reprimand, recorded reprimand, requirement to make restitution, loss of prospective benefits for a stated period, fine, reduction in salary for a stated period, and disciplinary suspension for a stated period without other prejudice. Sanctions may be imposed for such reasons as violations of felony and ethics laws pertinent to a faculty member's responsibilities or of University policies, including the Code of Ethics and its appendices. Specific policies related to sanctions are provided in ASPT XII. 3. Suspension: Suspension occurs when a faculty member, as a result of disciplinary findings or allegations, is: <ol style="list-style-type: none"> a. temporarily relieved of academic duties, such that the faculty member is not engaged in any teaching, research, or service activities at the University and is excluded from all or parts of campus and its privileges (e.g. access to email services); or 	<p>A. Types of Disciplinary Actions</p> <ol style="list-style-type: none"> 1. Faculty may be subject to discipline of varying levels. Disciplinary actions include Sanctions, Suspension, and Dismissal. The University normally uses progressive discipline to address possible misconduct. Progressive discipline is intended to be corrective, not punitive in nature. It is designed to provide faculty with notice of deficiencies and an opportunity to improve. However, some violations of policies and procedures, or continued negative behavior, may be of such serious nature that suspension or dismissal may be appropriate. 2. Sanctions are minor disciplinary actions of varying degrees undertaken to address behavioral or performance problems or issues. Sanctions are intended to be corrective. Sanctions may be imposed for such reasons as violations of laws or of University policies, including the Code of Ethics and its appendices. Specific policies related to sanctions are provided in ASPT XII. 3. Suspensions are major disciplinary actions of varying degrees undertaken to temporarily relieve a faculty member from teaching, research, or service activities; on paid or unpaid status; with or without exclusion from campus or parts thereof. Sanctions may be imposed for such reasons as when there is a reasonable threat of imminent harm to the University, including the faculty member in question, students, and other employees, or University property; or as a next step in a progressive disciplinary process; or when credible evidence of adequate cause for dismissal is available. Specific policies related to suspensions are provided in ASPT XIII.

Disciplinary Actions: Article XI. General Considerations
Through 11-15-16 URC Meeting

URC 2015	Faculty Caucus 2016	URC 2016-2017
<p>6. Termination of faculty due to financial exigency or program termination will follow the process outlined in the ISU Constitution (Article III, Section 4.B.2) and all applicable policies.</p> <p>B. Faculty Rights</p> <p>1. Disciplinary actions (including suspension or termination) or the threat thereof may not be used to restrain faculty members' exercise of academic freedom. Faculty members shall retain their right to file a grievance with the Faculty Academic Freedom, Ethics, and Grievance Committee, if they believe that their academic freedom or the Code of Ethics has been violated.</p> <p>2. In all disciplinary proceedings, faculty members have the rights to due process, to timely notice, to seek advice, to respond to developments in the disciplinary process, and to have an advisor and/or counsel present at discussions, hearings, and appeals. Such advisor/counsel is advisory to the faculty member only.</p> <p>C. Faculty members' duties may be reassigned temporarily while possible causes for disciplinary actions are being investigated or while the due process for a disciplinary action is being followed. The reasons for such reassignment of duties will be provided to the faculty member. Such reassignments shall be made to prevent reasonable threats of harm to the University, the individual faculty member, or other members of the University community; when required by law; or when necessitated by pending criminal investigation or legal proceedings.</p>	<p>b. temporarily relieved of academic duties, such that the faculty member is not engaged in any teaching, research, or service activities at the University but is not excluded from campus; or</p> <p>c. reassigned out of one or more of these three categories of faculty activity, with or without exclusion from campus or parts thereof; or</p> <p>d. reassigned out of some portion thereof (e.g. reassignment out of a particular class for the remainder of a semester; exclusion from a laboratory space).</p> <p>Suspension of faculty members will only be contemplated (i) in circumstances when there is a reasonable threat of imminent harm to the faculty member in question, students, other employees or university property, or (ii) as a sanction under Article XII for a stated period without other prejudice.</p> <p>Specific policies related to the first type of suspension are provided in ASPT XIII. The second type of suspension follows the same process as described for dismissal in ASPT XIV, with due consideration to the protections provided for in ASPT XIII, and may be proposed as an alternative to dismissal or as a penalty unrelated to dismissal.</p>	

Disciplinary Actions: Article XI. General Considerations
Through 11-15-16 URC Meeting

URC 2015	Faculty Caucus 2016	URC 2016-2017
<p>D. Probationary faculty who face disciplinary actions and are either exonerated or required to complete corrective actions may request a one year “stop-the-clock” extension of their probationary period, as described in IX.B.3. The records of the disciplinary process, including documentation of exoneration and completion of any required corrective actions, may be reviewed in the tenure and promotion process as it bears on the faculty member’s performance in teaching, research, and service. The purpose of such review will be to ensure that only the documented facts of the individual’s exoneration and/or corrective actions are considered.</p>	<p>4. Dismissal as a disciplinary action: Dismissal is the termination of the appointment of a probationary or tenured faculty member for cause. Dismissal for cause of a probationary faculty member must be distinguished from non-reappointment for academic reasons and follows different procedures.</p> <p>Dismissal as a type of disciplinary action is one form of dismissal that may be effected by the University under extraordinary circumstances.</p> <p>As noted in the AAUP Statement on Procedural Standards in Faculty Dismissal Proceedings (last updated in 1990), “A dismissal proceeding is a symptom of failure; no amount of use of removal process will help strengthen higher education as much as will the cultivation of conditions in which dismissals rarely, if ever, need occur.” The statement goes on to indicate that a “necessary precondition of a strong faculty is that it have first-hand concern with its own membership [which] is properly reflected both in appointments to and in separations from the faculty body” and that the “faculty must be willing to recommend the dismissal of a colleague when necessary. By the same token, presidents and governing boards must be willing to give full weight to a faculty judgment favorable to a colleague.”</p> <p>Dismissal of a probationary or tenured faculty member may be effected by the University for such adequate causes as lack of fitness to continue to perform in the faculty member's professional capacity as a teacher or researcher; failure to perform assigned duties in a manner consonant with professional standards; malfeasance; or demonstrable University financial exigency or program termination.</p>	

Disciplinary Actions: Article XI. General Considerations
Through 11-15-16 URC Meeting

URC 2015	Faculty Caucus 2016	URC 2016-2017
	<p>Specific policies related to dismissal are provided in ASPT XIV, the ISU Constitution (Article III, Section 4.B), ISU Board of Trustees Governing Documents and all applicable policies including the right of appeal.</p> <p>5. Note regarding dismissals that might be considered under non-disciplinary circumstances: Termination of a faculty member's appointment due to financial exigency or program termination follows the process outlined in ASPT XIV, the ISU Constitution (Article III, Section 4.B), ISU Board of Trustees Governing Documents, and all applicable policies including the right of appeal, and must not be used, construed or disguised as a disciplinary action process. Faculty may appeal termination proceedings on the basis that disciplinary issues are being alleged in order to effect a dismissal for reasons of financial exigency or program termination, or vice versa.</p> <p>Non-disciplinary termination of a faculty member's appointment on the grounds either of lack of fitness to continue to perform in the faculty member's professional capacity as a teacher or researcher or failure to perform assigned duties in a manner consonant with professional standards also follows the process outlined in ASPT XIV, the ISU Constitution (Article III, Section 4.B), ISU Board of Trustees Governing Documents, and all applicable policies including the right of appeal.</p>	

Disciplinary Actions: Article XI. General Considerations
Through 11-15-16 URC Meeting

URC 2015	Faculty Caucus 2016	URC 2016-2017
	<p>B. Faculty Rights</p> <ol style="list-style-type: none"> 1. Disciplinary actions (including suspension or dismissal for disciplinary reasons) or the threat thereof may not be used to restrain faculty members' exercise of academic freedom. Faculty members shall retain their right to file a grievance with the Faculty Academic Freedom, Ethics, and Grievance Committee, if they believe that their academic freedom or the Code of Ethics has been violated. See the ISU Constitution, Article III, the Academic Freedom Ethics and Grievance policy and the Proceedings in Academic Freedom, Dismissal, and Non-reappointment Cases policy. 2. Suspension, as defined in XI.A.3, shall not be effected without a recommendation to the President from a three-member hearing committee of the Academic Freedom, Ethics, and Grievance Committee convened by the chairperson of that committee. The written recommendation from the hearing committee shall including i) a recommendation for or against suspension, ii) a recommendation regarding the length of any recommended suspension, and iii) recommendations regarding other aspects of any recommended suspension, including the nature and scope of the suspension (e.g. restriction only from a single course, banishment from campus pending felony criminal investigation, etc.). If immediate action must be taken due to a reasonable threat of imminent harm, consultation with the AFEGC must occur within 24 hours and a preliminary written recommendation formulated within 3 business days. The faculty member shall have the same rights to a full hearing and set of appeals as in other AFEGC cases. 	

Disciplinary Actions: Article XI. General Considerations
Through 11-15-16 URC Meeting

URC 2015	Faculty Caucus 2016	URC 2016-2017
	<ol style="list-style-type: none"> <li data-bbox="850 272 1377 516">3. In all disciplinary proceedings, faculty members have the right to academic due process, to timely notice, to seek advice, and to respond to developments in the disciplinary process. Faculty members also have the right to have an advisor present and/or to have counsel present at discussions, hearings, and appeals. Such advisor/counsel is advisory to the faculty member and to no other party. <li data-bbox="850 548 1377 654">4. Probationary faculty who face disciplinary actions whether exonerated or not may request a one year “stop-the-clock” extension of their probationary period, as described in IX.B.3. <li data-bbox="850 686 1377 979">5. The records of the disciplinary process, including documentation of exoneration and/or imposition of sanctions, may not be reviewed in the tenure and/or promotion process except when necessary to affirm exoneration or imposition of sanctions, and then only as it bears on the faculty member’s performance in teaching, research, and service. The purpose of such review will be to ensure that only the documented facts of the individual’s exoneration and/or sanctions are considered and not held against the faculty member. <li data-bbox="850 1011 1377 1367">6. Only in cases of alleged criminal misconduct shall uniformed police or security officers be engaged in enforcing a preliminary suspension or a suspension recommended or reviewed and affirmed by the Academic Freedom, Ethics, and Grievance Committee. Faculty shall not be denied access to materials stored on campus property that they might need to exonerate themselves; if access to such material poses a high risk to campus security, alternative arrangements shall be made to provide the faculty member with all reasonable access to materials to be used in his or her defense. 	