

UNIVERSITY REVIEW COMMITTEE

Tuesday, January 31, 2017
4 p.m., Hovey 401D

MINUTES

Members present: Angela Bonnell, Sam Catanzaro, Diane Dean, Nerida Ellerton, Joe Goodman, Christopher Horvath, Doris Houston, Sheryl Jenkins, Sarah Smelser

Members not present: Rick Boser

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; “AFEGC” refers to the Faculty Academic Freedom, Ethics and Grievance Committee at Illinois State University; “ASPT” refers to appointment, salary, promotion, and tenure policies; “ASPT document” refers to *Faculty Appointment, Salary, Promotion, and Tenure Policies* effective January 1, 2017; “CFSC” refers to college faculty status committee; “DFSC” refers to department faculty status committee; “SFSC” refers to school faculty status committee; and “OEOA” refers to the Office of Equal Opportunity and Access at Illinois State University.

I. Call to order

Chairperson Diane Dean called the meeting to order at 4:00 p.m. A quorum was present. Dean welcomed new committee member Nerida Ellerton, Professor in the Department of Mathematics. Ellerton has been appointed to the URC by the College of Arts and Sciences to complete the current three-year term of its Sciences Division representative. The term is scheduled to expire in May 2017.

II. Approval of minutes from the January 19, 2017 meeting

Christopher Horvath moved, Sheryl Jenkins seconded approval of minutes of the January 19, 2017, meeting as distributed prior to the meeting. The motion passed on voice vote, with six voting in the affirmative and two abstaining (Ellerton and Sarah Smelser).

III. Proposed ASPT disciplinary articles

Dean summarized progress made by URC this academic year on review of the Caucus re-draft of the proposed ASPT disciplinary articles. She noted that URC, at its January 19, 2017, meeting, decided to set aside its discussion of Article XI (General Considerations) to discuss the disciplinary processes to which general considerations are to apply. Dean said there are two primary issues the committee needs to consider at this time: what parties should be involved in the disciplinary processes and what role AFEGC should play in disciplinary cases.

Dean reminded the committee of its decision to draft a summary of disciplinary processes to guide committee discussion of them. She distributed a draft document compiled by Bruce Stoffel (see attached) that attempts to outline those processes by addressing five questions regarding sanctions, suspensions, and dismissal: 1) who may initiate the action, 2) what parties are involved in the review of the matter, 3) who makes the final decision whether to impose the disciplinary action, 4) who issues the notification of the action to the faculty member, and 5) to what party or parties may the faculty member appeal.

Dean asked Stoffel to provide a brief overview of the draft document. Stoffel explained that he has chosen to summarize the Caucus version of the disciplinary articles rather than the URC version, since the Caucus has asked URC to review and comment on the Caucus version. Stoffel acknowledged encountering several challenges when attempting to summarize the Caucus version; he pointed out that he has entered the word “unclear” in the table when he was unable to identify a response to a question in the Caucus text. Stoffel

encouraged committee members to carefully review the table for its accuracy in summarizing disciplinary actions, perhaps identifying procedures he could not. Stoffel referred committee members to the Notes field of the table, in which he has described inconsistencies he encountered.

In orienting committee members to the table, Stoffel pointed out that the Sanctions article of the Caucus document establishes procedures for “suspension for a stated period without prejudice” separate from procedures for all other types of sanctions. Stoffel noted that the Sanctions article text includes passages regarding demotion but the list of sanctions set forth in the beginning of the article does not cite demotion as a potential sanction. Stoffel also noted that the Sanctions article states that procedures for “suspension for a stated period without other prejudice” should follow dismissal procedures and must involve AFEGC; however, dismissal procedures in the Caucus version of the policies do not seem to reference involvement by AFEGC. With regard to the Caucus version of the dismissal article, Stoffel noted possible conflation of procedures for dismissal with procedures for termination due to financial exigency or program termination.

Horvath expressed concern that the processes outlined in the draft document provide for initiation of disciplinary actions in matters involving bodies that are not otherwise party to the ASPT system; he said this is particularly concerning to him since those bodies follow different policies, procedures, and standards. Horvath also noted that bodies charged with hearing appeals in disciplinary cases should be independent of bodies that initiate charges; he said he is not sure if that principle is upheld in all processes set forth in the Caucus version of the disciplinary articles.

Sam Catanzaro explained that faculty members are subject to numerous state laws governing actions of state employees. He cited ethics and anti-discrimination policies as examples. Catanzaro reported having attempted to find information on state websites regarding appeals processes set forth in such policies. He said he has not been able to find appeals processes posted on those sites. Catanzaro said it is also unclear whether state agencies impose penalties for violation of such laws by university employees or if the universities impose the penalties. He noted that this lack of clarity is a problem for Illinois State University and for all universities in the state. Catanzaro cited as an example the state ethics body. If that body brings findings in a case involving an Illinois State University faculty member, the body notifies university administrators who, in turn, notify the appropriate DFSC. How DFSC is to make sense of such findings from a body that is not part of the ASPT system at the University is uncertain. What is reality, Catanzaro suggested, is that the University can become aware from multiple sources that there is a problem with a university employee that can come to bear on that employee’s status at the University. He said the new disciplinary policies being developed by URC and the Caucus should help clarify the processes involved in investigations by parties external to the ASPT system, help ensure that reactions by the University in such cases are appropriate, and help ensure that faculty has input into any additional penalties that are recommended in such cases.

Catanzaro explained that in cases involving a faculty member and either AFEGC or OEOA, findings of violations are received by the Provost. The Provost then writes a letter to the faculty member informing the faculty member of the findings and, if deemed appropriate by the Provost, setting forth remedies. The letter is placed in the DFSC file of that faculty member for DFSC to consider in ASPT deliberations concerning that faculty member. Horvath expressed concern that the process Catanzaro described may result in a faculty member being punished twice, once by a body that is not part of the ASPT system and a second time through the ASPT system. Joe Goodman suggested that university documents applicable to other employee classifications might provide guidance for how the University is to handle disciplinary cases involving both internal and external bodies. After consulting the current union contract, Goodman reported that it does not address the issue.

Ellerton said it is important that sanctions are transparent. She added that policies need to allow for flexibility to resolve matters informally at the department level without threatening a sanction or consulting the Provost. Dean agreed. Ellerton cited a situation in which a department chairperson and DFSC listened to a faculty member and then resolved the matter with no consequences. She cited another example in which professional development assistance was extended to a faculty member without sanctions being levied; in that case the faculty member is still with the institution, she said. Horvath said he believes that allowing for that level of flexibility can work but only if the parties involved are predisposed to resolving matters in a rational manner.

He argued for more transparency in disciplinary policies but with less freedom for a chairperson, dean, or Provost to revolve a disciplinary issue without faculty input.

Dean asked if the disciplinary policies should be written to permit a department to impose disciplinary actions above and beyond those imposed by a party external to the ASPT system, like OEOA, or if actions by external parties should be kept completely separate from ASPT processes. Horvath responded that, while he is concerned about placing a faculty member in double jeopardy, there may be some cases in which URC may not want to exclude that possibility.

Horvath expressed concern about a DFSC/SFSC being informed of a determination by an external body that a faculty member has not violated a provision under the jurisdiction of the body. He said URC may need to consider stating in the disciplinary articles that a DFSC/SFSC shall not be informed of such decisions, including decisions in which the external body has expressed the opinion that the faculty member has engaged in unprofessional behavior. Horvath added that if it is decided that a DFSC should be informed of such a decision, he feels strongly that the DFSC/SFSC should be directed to conduct an independent review of the alleged unprofessional behavior rather than accept the opinion of the external body without question.

Catanzaro suggested that URC might consider addressing AFEGC and OEOA actions in the disciplinary articles while omitting from the articles any references to cases involving the state ethics body. Catanzaro suggested that in ethics cases administrators might instead be permitted to work directly with faculty members when disciplinary actions beyond those assessed by the state ethics board may be warranted. Horvath said, while doing so could make the disciplinary policies clearer, he remains concerned that each external body investigating actions by a faculty member or hearing an appeal has different standards and procedures, rendering any attempts to incorporate actions of those bodies into ASPT policies problematic. Doris Houston suggested identifying in the ASPT document matters under the jurisdiction of both external bodies and the ASPT system and matters subject to one or the other but not both.

Horvath reiterated his concern that the Caucus version of the disciplinary articles allows for a chairperson, DFSC, or SFSC to initiate a disciplinary action while also potentially serving as judge or appeals body. Dean reminded committee members that the committee need not consider only existing bodies for roles in disciplinary cases but should be open to the possibility of creating new bodies for those roles.

Dean thanked Horvath for suggesting that the committee defer its discussion of general considerations to instead address the broader questions discussed by the committee at this meeting. Dean asked committee members to carefully study the table distributed at this meeting and come prepared to discuss it again at the next committee meeting.

IV. Other business

Dean announced that the next URC meeting is scheduled for February 16, 2017, which is Founders Day. She asked if committee members would be available to meet on February 9 or February 23 instead. Committee members agreed to resolve this question via email communication.

Houston asked if there are issues committee members should particularly prepare to discuss at the next meeting. Dean said the committee ultimately needs to decide how to structure the disciplinary processes, such as deciding who takes what actions in disciplinary cases. Houston asked Catanzaro if there are other AAUP guidelines the committee might consult. Catanzaro responded that he does not think so, that the committee already has all relevant AAUP documents. Horvath added that the sub-group charged with investigating disciplinary policies adopted by other universities has concluded that none of those other policies provide URC meaningful guidance; he explained that those policies are either very similar to the policies that have been proposed for Illinois State or they are so different as to not be helpful. Dean concurred, noting that being able to report that finding to the Caucus is important.

V. Adjournment

Goodman moved to adjourn the meeting. Ellerton seconded the motion. The motion passed on voice vote, all voting in the affirmative. The meeting adjourned at 5:04 p.m.

Respectfully submitted,
Joe Goodman, Secretary
Bruce Stoffel, Recorder

ATTACHMENT: *Summary of Faculty Caucus Disciplinary Actions Proposal, September 2016*

SUMMARY OF FACULTY CAUCUS DISCIPLINARY ACTIONS PROPOSAL, SEPTEMBER 2016

Who may initiate the action?		DISCIPLINARY ACTION		DISMISSAL Excluding non-reappointment of probationary faculty
		SANCTIONS	SUSPENSIONS	
		<p>SANCTIONS</p> <p>Oral reprimand, written reprimand, recorded reprimand, restitution, loss of prospective benefits for a stated period, fine, reduction in salary for a stated period</p> <p>DEPARTMENT CHAIRPERSON-SCHOOL DIRECTOR Through a proposal presented to the DFSC-SFSC under the following circumstances.</p> <p>1. Receipt from the University Ethics Officer of a substantiated finding of violation of the State Ethics Act or other relevant laws, following the opportunity to appeal to the relevant state agency; OR</p> <p>2. Receipt from OEOA of a substantiated finding of violation of the Anti-Harassment and Anti-Discrimination Policy, following the opportunity to exhaust all university and state-level appeals; OR</p> <p>3. Chairperson-director becoming aware of credible evidence potentially substantiating cause of a sanction (reference to XI.A.2*) unrelated to suspension due to reasonable threat of imminent harm and short of dismissal.</p> <p>**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.*</p>	<p>[unclear]</p> <p>[Informal discussion is to take place involving the faculty member and either the chairperson-director, the dean, the Provost, or the Provost's designee.]</p>	<p>[unclear]</p> <p>[Prior to initiation of formal proceedings, informal discussion is to take place between the faculty member and the chairperson-director, with other administrators present if appropriate. If a mutually agreeable solution does not result from the informal discussions, DFSC-SFSC is charged with inquiring into the situation.]</p>

SUMMARY OF FACULTY CAUCUS DISCIPLINARY ACTIONS PROPOSAL, SEPTEMBER 2016

<p>What parties are involved in review of the matter?</p>	<p>DFSC-SFSC CFSC, if the circumstances leading to initiation of the review by DFSC-SFSC relate to 1 or 2 above AND either no sanction or an oral reprimand has been recommended by DFSC-SFSC; review by CFSC may be initiated by the Dean but the Dean is not required to do so</p>	<p>DFSC-SFSC shall be charged with inquiring into the situation to determine whether formal proceedings should be initiated; reports to faculty member, dean, Provost Provost Independent Review Committee (IRC), if either DFSC-SFSC or the Provost determines that formal proceedings are necessary; IRC must hold a hearing if requested by the faculty member; IRC makes recommendations to the Provost President President</p>	<p>AFEGC (must hold a hearing; must provide a written recommendation) President</p>	<p>DFSC-SFSC shall be charged with inquiring into the situation to determine whether formal proceedings should be initiated; reports to faculty member, dean, Provost Provost Independent Review Committee (IRC), if either DFSC-SFSC or the Provost determines that formal proceedings are necessary; IRC must hold a hearing if requested by the faculty member; IRC makes recommendations to the Provost President President</p>
<p>Who makes the final decision whether to impose the disciplinary action?</p>	<p>DFSC-SFSC CFSC, if the circumstances leading to initiation of the review by DFSC-SFSC relate to 1 or 2 above AND no sanction or an oral reprimand has been recommended by DFSC-SFSC AND the dean has initiated a review of the DFSC-SFSC decision by the CFSC Chairperson-Director of the Department-School {unclear in the case of CFSC involvement} Same as for performance evaluations ... To CFSC, with provisions for appeal to AFEGC initiated by the CFSC or the faculty member</p>	<p>DFSC-SFSC shall be charged with inquiring into the situation to determine whether formal proceedings should be initiated; reports to faculty member, dean, Provost Provost Independent Review Committee (IRC), if either DFSC-SFSC or the Provost determines that formal proceedings are necessary; IRC must hold a hearing if requested by the faculty member; IRC makes recommendations to the Provost President President</p>	<p>AFEGC (must hold a hearing; must provide a written recommendation) President</p>	<p>DFSC-SFSC shall be charged with inquiring into the situation to determine whether formal proceedings should be initiated; reports to faculty member, dean, Provost Provost Independent Review Committee (IRC), if either DFSC-SFSC or the Provost determines that formal proceedings are necessary; IRC must hold a hearing if requested by the faculty member; IRC makes recommendations to the Provost President President</p>
<p>Who issues the notification of the action to the faculty member? To what party or parties may the faculty member appeal?</p>	<p>Chairperson-Director of the Department-School {unclear in the case of CFSC involvement} Same as for performance evaluations ... To CFSC, with provisions for appeal to AFEGC initiated by the CFSC or the faculty member</p>	<p>DFSC-SFSC shall be charged with inquiring into the situation to determine whether formal proceedings should be initiated; reports to faculty member, dean, Provost Provost Independent Review Committee (IRC), if either DFSC-SFSC or the Provost determines that formal proceedings are necessary; IRC must hold a hearing if requested by the faculty member; IRC makes recommendations to the Provost President President</p>	<p>AFEGC (must hold a hearing; must provide a written recommendation) President</p>	<p>DFSC-SFSC shall be charged with inquiring into the situation to determine whether formal proceedings should be initiated; reports to faculty member, dean, Provost Provost Independent Review Committee (IRC), if either DFSC-SFSC or the Provost determines that formal proceedings are necessary; IRC must hold a hearing if requested by the faculty member; IRC makes recommendations to the Provost President President</p>

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<p>NOTES</p> <p><i>Demotion in rank is mentioned in the text as a possible sanction but is not among the eight sanctions in the numbered list of sanctions in Section XII.A of the text. According to the text:</i></p> <p><i>if promotion to associate provost was found to have been obtained by fraud or dishonesty, steps followed in promotion or appointment must be followed to demote a faculty member.</i></p> <p><i>Cases in which demotion is being considered and involves fraud or dishonesty in scholarly and creative productivity should be adjudicated through the integrity in Research and Scholarly Activities policy.</i></p> <p><i>The flow chart included with the Faculty Caucus version does not appear to illustrate what is in the text of that version.</i></p> <p><i>It may be helpful to define each sanction or at least "recorded reprimand."</i></p>	<p><i>It may be helpful to define "suspension for a stated period without prejudice."</i></p> <p><i>There may be conflicting directions in the Caucus re-write of the disciplinary articles.</i></p> <p><i>Section XII.A of the Caucus re-write states:</i></p> <p><i>"... suspension for a stated period without other prejudice - may only be effected through the procedures described in XIV with regard to dismissal and must include recommendations of a hearing committee of the (AFEGC)."</i></p> <p><i>However, the procedures described in XIV with regard to dismissals do not seem to provide for recommendations of a hearing committee of the AFEGC, while the procedures for suspension described in XIII do so.</i></p>	<p><i>This version appears to conflate the procedures for dismissal for cause with the procedures for termination due to financial exigency or program termination.</i></p> <p><i>XI.A.5 of the Caucus version states --</i></p> <p><i>"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 ..."</i></p> <p><i>The reference in that passage to ASPT XIV seems to refer to the Caucus revision of the dismissal policy. If that is the case, which policies of those set forth by the Caucus in its XI.A.5 would apply to a situation involving financial exigency or program termination?</i></p> <p><i>The procedures do not appear to provide for a recommendation by the Provost in these matters (see XIV.C.5.a).</i></p>
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