

UNIVERSITY REVIEW COMMITTEE
Wednesday, March 30, 2016
1 p.m., Hovey 102

MINUTES

Members present: Angela Bonnell, Rick Boser, Diane Dean, Joe Goodman, Christopher Horvath, Doris Houston, Sheryl Jenkins, Andy Rummel, David Rubin, and Sam Catanzaro (non-voting)

Members not present: None

Others present: Bruce Stoffel (recorder)

I. Call to order

Chairperson Doris Houston called the meeting to order at 1:03 p.m.

II. Discussion of ASPT suggestions and requests from Faculty Caucus

Update on the URC request for an equity review committee

Houston reported that the Faculty Caucus (the “Caucus”) has approved establishment of an equity review committee. She referred committee members to the document titled *2016-2017 Ad Hoc Committee for ASPT Equity Review* (see attached). Houston thanked committee members for their roles in establishing the committee.

Joe Goodman asked how study by the ad hoc committee of equity with respect to protected classes differs from the work done by the Office of Equal Opportunity, Ethics, and Access (OEOEA). Houston explained that OEOEA studies equity with respect to protected classes defined by federal guidelines, but the ad hoc committee could decide to study equity with respect to other classes. Houston also noted that OEOEA reviews hiring and promotion data, but some aspects of the ASPT system such as faculty assignments and merit are beyond the scope of that office.

Goodman asked whether the ad hoc committee will rely on data compiled by OEOEA. Houston responded that the ad hoc committee will likely use OEOEA data but also data from other sources, such as the Office of Planning, Research, and Policy Analysis and academic departments. Diane Dean noted that the ad hoc committee is to decide what data will be used in equity review. She suggested that the ad hoc committee should at least review what OEOEA does and then decide whether that is satisfactory or needs to be changed.

Horvath asked when URC has to elect a member to serve on the ad hoc committee. Bruce Stoffel reported that the committee will not be established until fall 2016. The Academic Senate chairperson is expected to begin working on ad hoc committee membership in August or September 2016.

Section II.D (role of URC in equity review)

Houston noted that URC still needs to make a recommendation to the Caucus regarding Section II.D of the ASPT document (the passage about equity review). She referred committee members to two options for rewording Section II.D (see attached). She explained that both options provide for completing a portion of the equity review every year so equity review would not involve a huge undertaking every five years. She added that OEOEA is to determine the criteria for the affirmative action segment of the equity review.

Goodman asked about the nature of anticipated consultation between OEOEA and URC. Christopher Horvath observed that two processes seem to be involved in the proposed equity review: work done by

OEOEA as prescribed by law and a broader review. Horvath noted that OEOEA will likely participate in that broader review under the direction of URC.

Rick Boser asked why URC is not waiting to recommend wording for Section II.D until the ad hoc committee on equity review reports its findings. Houston responded that Section II.D in the current ASPT document is vague and lacks timelines and, therefore, should be revised for the new edition of the document scheduled for Caucus approval this spring.

Dean stated that she prefers Option A. She noted that completing designated portions of an equity review annually is feasible, because in some years URC does not have as much to do. Horvath said he, too, prefers Option A, noting that whatever wording is approved will eventually be reviewed anyway when the ASPT document is next revised. Angela Bonnell asked what an annual portion of an equity review might include. Horvath responded that equity review might be organized by college or by issue.

Horvath moved to recommend the following passage to the Faculty Caucus as a replacement for Section II.D of the current ASPT document:

Every five years the URC will oversee a University-wide equity review, with designated portions of such review conducted annually. Based on the results of the review, the URC shall develop an appropriate equity distribution plan. This plan must be approved by the faculty members of the Academic Senate prior to its implementation. The Office for Equal Opportunity, Ethics, and Access shall determine the criteria for affirmative action equity review in consultation with the URC.

Bonnell seconded the motion. The motion carried on voice vote with all voting in the affirmative.

Article XIII (with concerns from Academic Senate Chairperson Susan Kalter)

Stoffel explained that materials distributed to committee members prior to the meeting include the version of Article XIII (see attached) expected to be considered by the Caucus as an action item on April 6, 2016. He explained that the meeting materials also include concerns (see attached) regarding that version. Caucus Chairperson Susan Kalter has asked URC to consider those concerns so URC representatives attending the April 6, 2016 Caucus meeting are prepared to respond to them.

Caucus Concern #1

Committee members discussed whether there is a reason why URC would not want to recommend replacing the phrase “sufficient time to finalize” in Section XIII.A.3.c-d with either a specific date or number of days. Catanzaro said he could not think of any implications other than adding deadlines to the ASPT calendar.

Goodman noted that, while the Caucus concern relates to Section XIII.A.3.c-d, the phrase “sufficient time to finalize” is also used in Section XIII.A.3.a-b.

Horvath noted the differences in time between the deadlines cited in Section XIII.A.3.a through Section XIII.A.3.d. He said that URC might consider replacing the phrase “sufficient time to finalize” with reference to five working days. Catanzaro noted that those differences might not be pertinent since Sections XIII.A.3.c and XIII.A.3.d refer to different processes.

Dean said she prefers retaining the phrase “sufficient time to finalize,” because the circumstances related to requests for a formal meeting may differ. She suggested allowing the committee and faculty member flexibility to make meeting arrangements appropriate to the unique circumstances of each case.

Horvath noted that, if the concern is that a CFSC would keep delaying the formal meeting so it does not happen, language in the ASPT document states that the CFSC cannot avoid holding a formal meeting. He said if a committee were to avoid holding a formal meeting, such action could appropriately lead to an ethics complaint from the faculty member.

Horvath moved that Section XIII.A.3.c-d not be modified to replace the phrase “sufficient time to finalize” with either a specific date or a count of days. Goodman seconded the motion.

Bonnell asked Goodman if the Caucus concern should also have cited Sections XIII.A.3.a-b. Goodman responded that it probably should have. Horvath noted that whether the request was intended to cite c-d or a-d, the argument is the same, that the committee is required to hold a formal meeting with the faculty member. Catanzaro suggested that c-d might have been cited in the concern rather than a-d because attention had been drawn to c-d in discussions about whether those passages should be reordered.

[Houston excused herself from the meeting. Dean assumed responsibility for facilitating the discussion.]

Dean asked Horvath if his motion related to a-d or c-d. Horvath suggested that URC respond only to passages cited in the concern communicated to URC, i.e., c-d.

Dean called the question. The motion passed on voice vote, all voting in the affirmative.

Caucus concern #2

Dean explained the concern regarding Section XIII.D.4. Horvath said he agrees with Kalter’s point and suggested accepting her recommendation. Bonnell asked who had suggested the change in XIII.D.4 from the version in the current ASPT document to the version recommended by URC in August 2015. Catanzaro said he probably suggested the change, to make a stronger statement about not needing to follow rules of evidence as required in a court of law.

Boser moved to change Section XIII.D.4 as suggested by Kalter. Rummel seconded the motion. The motion passed on voice vote, all voting in the affirmative. As a result of this action, revised Section XIII.D.4 is worded as follows: Formal meetings are not bound by rules of evidence as required in a court of law. Reasonable time should be allowed for formal meetings or appeals hearings.

Caucus concern #3

Dean explained the suggested change to Section XIII.E.1 regarding minority reports. Catanzaro noted that reports from chairpersons and directors in this context are not called minority reports and, therefore, the suggestion need not be entertained by URC. Dean said URC will respond to the Caucus with that clarification, as a point of information.

Caucus concern #4

Dean reviewed the concern communicated by the Caucus regarding the last sentence of Section XIII.K.4. Catanzaro said that Kalter may be concerned that AFEGC have as much time as it needs to make its decision. He noted that the May 1 deadline in Section XIII.K.4 for AFEGC to report its decision is intended to allow the Provost sufficient time to act on a non-reappointment decision by the May 15 deadline.

Goodman asked if a faculty member who has received a non-reappointment notice would go on leave until AFEGC renders its decision. Catanzaro explained that if the faculty member is in the third year of service, the faculty member would be employed as a non-tenure track faculty member the following year, but if the faculty member is in the first or second year of service, non-reappointment is effective May 15. The latter situation would result in uncertainty for the University and the faculty member, Catanzaro added. He said that the University would rather not be in the position of having to decide whether to rehire the faculty member if AGEGC subsequently decides in favor of the faculty member.

Dean asked why the current ASPT document specifies a deadline for AFEGC to report when, in XIII.K.5, there is no deadline for OEOEA to report. Catanzaro responded that OEOEA likely follows reporting deadlines set forth in federal and state regulations.

Horvath noted that if AFEGC does not meet a May 1 deadline it is impossible to convene the committee during the summer, so no action is likely to be taken by AFEGC until August 15. Goodman asked how late in the academic year faculty members contact AFEGC to request a review. Horvath said faculty members usually request a review of their case soon after receiving a notice of non-reappointment. He added that the review process can be lengthy, because AFEGC attempts to resolve the matter informally.

Horvath noted that the word “report” in the passage may be confusing, because the deadline for AFEGC to communicate its decision on individual case reviews and the deadline for AFEGC to report its annual activity to the Caucus is the same date. Bonnell suggested changing the word “report” to minimize the confusion. Dean suggested using the same term used in AFEGC policy, for consistency. Catanzaro then consulted AFEGC policy (3.3.8) and reported that it uses the word “report.”

Boser moved to retain reference in Section XIII.K.4 to a May 1 deadline for AFEGC to submit its report. Goodman seconded the motion. The motion passed on voice vote, with all voting in the affirmative.

Bonnell moved that the word “report” in the last sentence of Section XIII.K.4 be replaced with the phrase “report of its findings and recommendations.” David Rubin seconded the motion. The motion passed on voice vote, all voting in the affirmative. As a result of this action, the last sentence of Section XIII.K.4, as recommended by URC, reads as follows: The Academic Freedom, Ethics, and Grievance Committee must submit its report of its findings and recommendations by May 1 of the academic year in which the appointment terminates.

III. Other business

There was none.

IV. Adjournment

Boser moved, Bonnell seconded that the meeting adjourn. The motion passed on voice vote, all voting in the affirmative. The meeting adjourned at 2:00 p.m.

Respectfully submitted,
Rick Boser, Secretary
Bruce Stoffel, Recorder

Attachments:

Resolution 02.23.16.01, 2016-17 Ad Hoc Committee for ASPT Equity Review, pending before the Faculty Caucus of the Academic Senate, Illinois State University, as of March 25, 2016

Item 50, Section IID, Equity Review, ASPT Status Report, 03-18-16

Concerns Regarding Proposed ASPT Article XIII ... Submitted by Academic Senate Chairperson Susan Kalter to University Review Committee Chairperson Doris Houston via Email Dated March 25, 2016 with Article XIII of the ASPT document as pending before the Faculty Caucus on April 6, 2016

02.23.16.01

Dist. Faculty Caucus 3/2/16

2016-17 AD HOC COMMITTEE FOR ASPT EQUITY REVIEW

Membership:

Three (3) Faculty (as defined in ASPT policy), elected by the Faculty Caucus

Member, Faculty Caucus, elected by the Faculty Caucus

Member, University Research Committee, elected by the URC

Chairperson, Faculty Caucus (or designee)

Chairperson, University Research Committee (or designee)

Ex Officio, non-voting: Director of the Office of Equal Opportunity, Ethics, and Access

Ex Officio, non-voting: Assistant Vice President for Academic Administration

Ex Officio, non-voting: representative from the Office of Planning, Research, and Policy Analysis

Comment [c1]: Dr. Kalter has confirmed that this reference was intended to be to the University Review Committee not to the University Research Committee. *Bruce Stoffel*

Comment [c2]: Dr. Kalter has confirmed that this reference was intended to be to the University Review Committee not to the University Research Committee. *Bruce Stoffel*

Functions:

The committee will:

1. Elect a faculty chairperson and a secretary.
2. Create a scope, framework, schedule, repeatable cycle, and office(s) and/or departments of lead responsibility whereby internal equity information would be reported to the URC.
 - a. In determining scope, the committee will define the types of equity that can reasonably be studied
 - b. In determining scope, the committee will define the areas of ASPT jurisdiction regarding which equity can reasonably be studied, whether or not short-term adjustment may be possible

3. Forward recommendations for review and approval by the URC (who will then forward the original or revised recommendations to the Faculty Caucus for review and approval).
4. Other tasks as assigned by the University Review Committee.

Reporting: To the University Review Committee and the Faculty Caucus.

Executive Committee recommendations regarding ASPT equity reviews:

The Executive Committee makes the following recommendations to the Faculty Caucus regarding the equity review called for in ASPT policy, Article II.D.

1. We recommend the formation of a Senate “task force” (ad hoc mixed committee) to create a scope, framework, schedule, and office(s) and/or departments of lead responsibility whereby internal equity information would be reported to the URC.
2. Ideally, this *temporary* Senate external committee would create a schedule that divides the work of studying equity into manageable annual reports, each focusing on a distinct matter or matters over a five-year repeatable cycle.
3. In determining scope, the committee would need to define two main areas:
 - a. The types of equity that can reasonably be studied: e.g. gender equity, equity with respect to race/ethnicity; equity with regard to disability status; equity with regard to country of origin, equity with regard to sexual orientation, equity with regard to marital status, climate with regard to religion, climate with regard to military/non-military affiliation, age-ism, compression/inversion, etc.
 - b. The areas of ASPT jurisdiction regarding which equity can reasonably be studied and adjusted: e.g. salary; appointment, non-reappointment, achievement of tenure, tenure denial, achievement of first promotion, retention & attrition/resignation at the junior level; achievement of second promotion, mid-level post-tenure review, retention & attrition/resignation at the mid-level; distribution of assignments within departments, workload issues; performance evaluation criteria & processes; retention and attrition/pre-retirement resignation at the senior level.
 - c. The committee might also need to look at:
 - i. What conversations are happening nationally
 - ii. What else is happening locally at ISU that may need consideration
4. Selection of membership on the ad hoc committee:

- a. Three faculty members from an at-large pool of all faculty covered by ASPT policy:
The Senate office will send out to FAC-L a call for faculty volunteers with skills related to equity review studies who can best help build the scope, framework, annual schedule and five-year cycle, and identify the administrative experts and department-sourced data needed to complete the annual reports. This call for faculty volunteers will require the submission of a one-page CV and a statement of qualifications. (We would ask volunteers to describe their skill set/qualifications as they see fit to define it rather than giving any list of skills needed. The Caucus would receive those and vote for members it deems best fitted to the tasks.)
 - b. Ex-officio members of the committee will be: the Senate chairperson (voting), the URC chairperson (voting), the OEOEA director (non-voting), the Assistant/Associate Vice President for Academic Administration (non-voting), a PRPA representative (non-voting).
 - c. One additional faculty Senator and one additional URC member will serve as voting members.
5. We recommend that receipt of reports and general *oversight* of conducting of the equity reviews as well as development of appropriate equity re-distribution plans in response to reports/findings remain the responsibility of URC, with periodic reports to the Faculty Caucus and approval of proposed equity re-distribution plans by Caucus and the President, as in current policy.
 6. We recommend that the ad hoc mixed committee either be disbanded once the scope, framework, schedule, and offices have been determined or filled only once every five years to review the previously established scope, etc. for possible adjustments as needed.
 7. The initial recommendations of the committee will be reviewed and approved by the URC and forwarded to the Faculty Caucus for review and approval; subsequent revisions shall follow the same process.

Page numbers in this report refer to page numbers in the version of the ASPT document recommended by the University Review Committee in August 2015 rather than to page numbers in the current ASPT document.

Article numbers refer to article numbers in the current version of the ASPT document rather than to article numbers in the version of the document recommended by the University Review Committee in August 2015.

PENDING BEFORE URC

50	<p>ARTICLE: II PAGE: 9 SECTION: II.D</p> <p>DATE OF SUGGESTION/REQUEST: February 17, 2016</p> <p>SUGGESTION/REQUEST: Replace this section with wording introduced by Caucus Chairperson Susan Kalter at the February 17, 2016 Caucus meeting.</p> <p><u>Section II.D as it appears in the current ASPT document (effective January 1, 2012):</u></p> <p>The URC may conduct a University-wide equity review. In this case, the URC shall develop an appropriate equity distribution plan. This plan must be approved by the faculty members of the Academic Senate prior to its implementation. The Office for Diversity and Affirmative Action shall determine the criteria for affirmative action equity review in consultation with the URC.</p> <p><u>Section II.D as it appears in the revised ASPT document recommended by URC in August 2015:</u></p> <p>Every six to eight years the URC shall review any equity distribution plans and implementation of the plans to ensure conformity to University policies and procedures.</p> <p><u>Section II.D as introduced by Caucus Chairperson Kalter at the February 17, 2016 Caucus meeting:</u></p> <p>Option A:</p> <p>Every five years the URC will oversee a University-wide equity review, with designated portions of such review conducted annually. Based on the results of the review, the URC shall develop an appropriate equity distribution plan. This plan must be approved by the faculty members of the Academic Senate prior to its implementation. The Office for Equal Opportunity, Ethics, and Access shall determine the criteria for affirmative action equity review in consultation with the URC.</p> <p>Option B:</p> <p>Once every five years the URC will oversee a University-wide equity review, or it will annually oversee designated portions thereof. Based on the results of the review, the URC shall develop an appropriate equity distribution plan. This plan must be approved by the faculty members of the Academic Senate prior to its implementation. The Office for Equal Opportunity, Ethics, and Access shall determine the criteria for affirmative action equity review in consultation with the URC.</p> <p>DATE(S) OF URC REVIEW:</p> <p>URC ACTION:</p> <p>STATUS: Tentatively scheduled for consideration by Caucus, as an action item, on April 6, 2016, subject to confirmation by Faculty Caucus Chairperson Susan Kalter.</p> <p>NOTES: At the March 2, 2016 Caucus meeting, Caucus approved a motion to create an ad hoc committee separate from the Caucus and from URC, to consider the content of an equity review and related issues. The committee is to be formed in fall 2016 and is expected to reports its findings to Caucus prior to the end of the 2016-2017 academic year.</p>
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Concerns Regarding Proposed ASPT Article XIII (See Attached)
Submitted by Academic Senate Chairperson Susan Kalter
To University Review Committee Chairperson Doris Houston
Via Email Dated March 25, 2016

1. For XIII.A.3.c-d, I am quite concerned and I think Senator Cox could be concerned that saying "sufficient time to finalize" could allow especially DFSCs to avoid meetings with chronically disgruntled faculty. I would strongly recommend a day count there or an actual date.
2. For C16, in my view, the alternative "are not bound by" is preferable, as it avoids implying that we don't respect any methodical procedures with regard to evidence whatsoever.
3. I don't recall if Chair/Director and Dean's reports are called minority reports too, or if that term is reserved to dissenting reports by other DFSC and CFSC members. If the former, it might be good to insert the word in XIII.E.1
4. For XIII.K.4, I am quite concerned about the final sentence. Nowhere else in any of our policies do we set hard deadlines for AFEGC processes of any kind. This one appears to be an artifact of the last major ASPT revision. There are provisions in AFEGC for timely adjudication of referrals and complaints, but also allowance for adjustment of those, which could include notification of/consultation with the Provost and/or President if something in a non-reappointment appeal got hung up for a good reason. I think we should strike that sentence to conform with "best practice" and our own practice in every other instance.

Appeals Policies and Procedures

~~XIII~~XVI. Appeals Policies and Procedures

A. Illinois State University encourages the fair and equitable resolution of appeals. Informal resolution of issues is encouraged at the DFSC/SFSC and CFSC levels prior to formal meetings and/or appeals. In contrast to formal meetings as defined in XVI.B, informal resolution of issues can be accomplished through communications that address questions and concerns through provision of information or clarification. An informal resolution may also be effected after a formal meeting has been requested.

Time requirements and deadlines for filing appeals and for other processes are found in ~~Appendix~~ Appendices 1 and 8 to these Policies.

Appeals policies and procedures in this Article address the regularly scheduled processes for promotion, tenure, and annual performance evaluation, cumulative post-tenure review, and non-reappointment recommendations. Appeals procedures for disciplinary actions, which only occur as needed, are provided in the Articles XI through XIV of these policies.

A.B. The Nature of Formal Meetings with DFSCs/SFSCs and CFSCs

1. A formal meeting with a DFSC/SFSC or CFSC is a preliminary step in all appeals. A formal meeting must be requested by a faculty member following a negative recommendation by the DFSC/SFSC or CFSC for promotion and/or tenure prior to appeal to the Faculty Review Committee (FRC). A formal meeting with a DFSC/SFSC must also be requested by a faculty member prior to an appeal of a recommendation for performance evaluation or post-tenure review to the CFSC.

2. All formal meetings must be requested by the faculty member in writing within 5 business days of receipt of the recommendation. Faculty members must state clearly in the written request their reasons for the meeting.

3. The timeline for holding formal meetings is as follows (see Appendix 1 for deadlines):

Comment [SC3]: Again, a reminder that this is a revision to the current Article XIII that is presented in this document.

Comment [SC4]: Sentence moved to end of paragraph with addition of "also."

Comment [SC5]: URC endorsed these new sentences as clarifying the distinction between an informal resolution and a formal meeting.

Comment [SC6]: Sentence moved here from above (see comment 4), "also" inserted.

Comment [SC7]: See XVI.J on Non-reappointment recommendation appeals.

Comment [SC8]: URC approved motion to accept Caucus suggestion to refer specifically to Appendix 8 as well as 1 and to remove the parenthetical phrase "except as noted." Note that Appendix 8 covers the timelines for appeals on procedural grounds of non-reappointment recommendations, which vary by the year of appointment and thus are difficult to include concisely in Appendix 1.

Comment [SC9]: This sentence provides the rationale for separating the appeals processes for disciplinary actions from this Article.

Comment [SC10]: URC discovered some confusion and inconsistency within the text and Appendix 1 in the Beige Book.

- a. Formal meetings to discuss promotion and tenure recommendations with the DFSC/SFSC must be scheduled to allow the DFSC/SFSC sufficient time to finalize its recommendation and communicate it to the candidate and CFSC by the December 15 deadline.
- b. Formal meetings to discuss annual evaluation recommendations with the DFSC/SFSC must be scheduled to allow the DFSC/SFSC sufficient time to finalize its recommendation and communicate it to the candidate and CFSC by the February 15 deadline.
- a-c. Formal meetings to discuss promotion and tenure recommendations with the CFSC must be scheduled to allow the CFSC sufficient time to finalize its recommendation and communicate it to the candidate, DFSC/SFSC, and Provost by the March 1 deadline.
- d. Formal meetings to discuss cumulative post-tenure reviews and/or remediation plans with the DFSC/SFSC must be scheduled to allow the DFSC/SFSC sufficient time to finalize its review and/or plan, and to communicate it to the faculty member and the appropriate Dean by the March 8 deadline.

Comment [SC11]: Inappropriate reference to "SFSC" deleted here.

Comment [SC12]: CFSC does not ordinarily receive Cumulative Post-Tenure Review material (see X.E in this version, X.D in Beige Book). If there is an appeal, materials can be forwarded to CFSC by Dean, and faculty member has right to supply additional information.

Comment [SC13]: Section XIII.B.2.d (formerly c) edited for clarity – comma added after "and/or plan" and "to" inserted between "and" and "communicate."

Comment [SC14]: Sections XIII.B.2.c and XIII.B.2.d now follow in chronological order, as requested by Faculty Caucus.

~~2-4.~~ All formal meetings with a DFSC/SFSC or CFSC ~~will~~ shall be conducted in accordance with ~~XIII~~XVI. D.

C. Definition of Appeals:

An appeal is here defined as a written statement by a faculty member that explains why a faculty member believes that there has been a misinterpretation, misjudgment, or procedural error relating to a promotion, tenure, or performance evaluation recommendation concerning that faculty member.

D. Procedures Common to Formal Meetings and all Appeals before the CFSC:

- 1. Faculty members ~~must~~shall be afforded a reasonable time to present arguments. The faculty member who believes that relevant factors or materials have been ignored or misinterpreted shall be entitled to present arguments and supplement his or her materials before final recommendation by the DFSC/SFSC or CFSC. Information not originally presented in applications for

tenure/promotion or annual evaluation materials may be considered at the discretion of the DFSC/SFSC or CFSC.

2. Faculty members may be accompanied by a faculty advocate. The advocate may be present to advise the faculty member only and not to address the committee. Although witnesses to specific facts or occurrences or to provide perspective regarding teaching, scholarly or creative productivity or service will not ordinarily be necessary, faculty members will be allowed a reasonable number of witnesses. The DFSC/SFSC or CFSC shall have the discretion to limit the number of witnesses at a formal meeting or appeal hearing.
3. Formal meetings or appeals hearings with the CFSC ~~will shall~~ be closed to all but the DFSC/SFSC and CFSC, the faculty member, and the faculty advocate. The faculty member shall be provided, if requested by the faculty member, a meeting with the CFSC without members of the DFSC/SFSC present. Subsequent to that meeting the CFSC shall meet with the DFSC/SFSC. Students shall be called as witnesses only in extraordinary circumstances.
4. ~~Formal meetings will not follow rules of evidence as required in a court of law. Formal rules of evidence as required in a court of law will not be followed.~~ Reasonable time should be allowed for formal meetings or appeals hearings.
5. Following the formal meeting or appeal hearing, the DFSC/SFSC or CFSC ~~will shall~~ meet to reconsider the earlier decision and ~~will shall~~ promptly issue a communication either (a) affirming the prior recommendation or (b) changing the prior recommendation. If changes to the prior recommendation are made, no reference will be made to the nature of the prior recommendation. The faculty member ~~will shall~~ be notified in writing of the decision promptly and informed of any further rights of appeal.

Comment [SC15]: Faculty Caucus suggested the possibility of clarifying three matters: (1) whether a committee could disallow all witnesses; (2) whether new information was allowed or only discussion of misinterpreted or ignored information; (3) the word "perspective." URC chose to leave this section as is to allow ASPT committee flexibility in determining, on a case-by-case basis, the nature and proceedings of formal meetings and appeal hearings.

Comment [c16]: Attempt at more clear and succinct phrasing. Alternative: "are not bound by"

E. Meeting Procedures Prior to Appealing a Negative Tenure or Promotion Recommendation Submitted by a Chair/Director or Dean

1. In accordance with IV.C.4 and V.C.4, communications of the CFSC and DFSC/SFSC recommendations, as well as

Comment [SC17]: This section title was rewritten so as to be more accessible and clear, at request of Faculty Caucus

Dean and Chair/Director reports, should include a rationale for those recommendations. Thus, the faculty member should know the rationale for the negative recommendation to be able to address the concerns raised in that recommendation and speak to factors or materials that have been ignored or misinterpreted.

2. In the event that a Dean, Chair, or Director submits a report making a different recommendation than the majority of the DFSC/SFSC or CFSC, a candidate may request a Formal Meeting with the full DFSC/SFSC or CFSC, as provided for in ASPT Policies XVI.D. Because the Dean/Chair/Director report is by definition arguing against the majority recommendation of the DFSC/SFSC or CFSC, a Formal Meeting with the full DFSC/SFSC or CFSC is not required.

3. As an alternative to a Formal Meeting with the entire DFSC/SFSC or CFSC, an opportunity to meet with the Chair/Director or Dean shall be provided, to address factors or materials that the faculty member believes to have been ignored or misinterpreted. Information not originally presented in applications for tenure/promotion may be submitted, and will be considered at the discretion of the Chair/Director or Dean.

4. A faculty advocate may accompany the candidate, to be available to provide advice but not to address the Chair/Director or Dean or otherwise argue on the candidate's behalf. The faculty advocate may answer questions directed to him/her by the Chair/Director or Dean.

5. If the candidate wishes to bring witnesses, then a Formal Meeting with the full DFSC/SFSC or CFSC shall be convened and witnesses may participate as provided in

Comment [SC18]: At suggestion of Faculty Caucus, URC edited this subsection to clarify how faculty will know the rationale for recommendations they might wish to appeal. First sentence is added, note strikethrough of delete language in second sentence.

Comment [SC19]: Here and throughout this section, "CFSC/DFSC/SFSC" has been changed to "DFSC/SFSC or CFSC," reflecting usage throughout the remainder of the document.

Comment [SC20]: Faculty Caucus suggested re-ordering subsections 2 and 3. URC voted against doing so on the grounds that the faculty member has the choice of meeting with the full committee or merely the committee chair, and listing the "full committee" option first might suggest that this option could be viewed, from the faculty member's perspective, as more likely to result in a complete and favorable hearing. The URC notes that the key point is that both options are available.

Comment [SC21]: Parallel change here from "Dean/Chair/Director" for consistency with change noted in Comment 19

Comment [SC22]: Faculty Caucus asked whether this should be "at the discretion of the committee." URC voted to leave the language as proposed in August 2015. In debating the issue, members of URC noted that appeal is always available to faculty who believe a party to the ASPT process did not act in good faith, and also that any information added to a tenure or promotion dossier is available for review by all parties to the process, as noted elsewhere in ASPT policies. Thus, anything submitted to the Chair/Director or Dean is available for review by other committee members.

Comment [SC23]: "to be" inserted at request of Faculty Caucus.

XVI.D.2.

6. The timeline for meeting with the Chair/Director or Dean and subsequent steps in the appeals process shall follow that for Formal Meetings and Appeals provided in Appendix 1.B to these policies.

EE. The Appeals Process:

1. Any negative promotion and/or tenure recommendation by a DFSC/SFSC or CFSC may be appealed. Appeals from the DFSC/SFSC to the FRC may take place only after the decision by the CFSC is made final, and then on the same appeals schedule as appeals from the CFSC. The appeal procedure is outlined in XIII.XVI.DH.
2. Performance evaluations conducted by a DFSC/SFSC may be appealed to the CFSC only. Performance evaluations conducted by a CFSC, in the absence of a DFSC/SFSC, may be appealed to the FRC, which shall perform the functions of the CFSC in this appeal process. (See XIII.XVI.HI.)
3. Separate Dean or Chair/Director reports may be appealed to the FRC on the same appeals schedule as appeals from the CFSC.
4. Minority reports, unless the appellant alleges that violations of ethics or academic freedom have occurred, are not subject to appeal.

Comment [SC24]: This and the first half of the following sentence are current policy, having been approved after the printing of the Beige Book.

Comment [SC25]: This new phrase ("which shall...") makes clear how XVI.I will apply if FRC ever needs to hear a performance evaluation appeal under this provision.

EG. The Nature of Promotion or Tenure Appeals:

1. The system that governs the appeal process in cases involving promotion and tenure recommendations is based on the following points:
 - a. The DFSC/SFSC, CFSC, Provost, and Faculty Review Committee (FRC) may each formulate recommendations regarding promotion and tenure. Only the President, as designated by the Board of Trustees, has the authority to render a University decision.

Comment [SC26]: URC chose not to include language from IV.C.2 and V.A about the disposition of negative DFSC/SFSC recommendations for promotion, because the substance of that language was repeated in the sections describing the duties of the CFSC and the DFSC/SFSC, and further, was not germane to appeals policy and procedures *per se*.

- b. A faculty member may request that the FRC formulate its additional recommendation if a negative recommendation has been forwarded by the DFSC/SFSC or CFSC.
 - c. All recommendations (DFSC/SFSC, CFSC, Provost, and FRC) are forwarded to the President for consideration.
2. If a faculty member wishes to request an appeal of a negative recommendation by the DFSC/SFSC or CFSC with respect to promotion or tenure, he/she may direct the request to the FRC. The faculty member should refer to the Academic Freedom, Ethics and Grievance Committee (AFEGC) any allegations of violation that fall within that committee's jurisdiction.
 3. If the FRC believes that the basis of the appeal is an academic freedom or ethics violation question, the FRC may suspend its proceedings until it receives the report from the AFEGC. However, if the FRC does not receive a report from the AFEGC in time to fulfill the reporting obligation according to the calendar (see Appendix 11.B.) the FRC shall forward an interim report. Likewise it may address itself to other issues raised in its own review and issue an interim report.
 4. Upon completion of AFEGC hearings, if any, reports of the AFEGC, in addition to being processed as outlined in the procedures of the AFEGC, shall also immediately be forwarded to the FRC and shall become a permanent part of the FRC report. If, in the judgment of the AFEGC, a violation of academic freedom has occurred, the FRC ~~must~~ shall decide whether the violation significantly contributed to the decision to deny promotion or tenure. The FRC shall then complete its deliberations and forward its complete report and recommendation.

GH. Initiation of a Promotion or Tenure Appeal:

1. In the case of promotion or tenure recommendations, the faculty member ~~shall~~ must notify the Chairperson of the FRC in writing of an intention to appeal by March 10. ~~This notification must be given within five (5) business days (days when University offices~~

Comment [SC27]: URC was concerned about possible confusion arising from the indeterminacy of the "five business days" rule and inconsistencies between some of the timelines stated in the Policy and the Appendix. March 10 provides more than five business days, to the appellant's advantage, even if March 1 falls on a weekend.

~~are open to the public) of the date that the faculty member received official notification of the CFSC recommendation.~~ The Chairperson of the FRC shall respond to the faculty member within five (5) business days following the receipt of a written intent to request additional review.

2. The Chairperson of the FRC shall notify the appropriate college and department/school faculty status committees and the Provost of a faculty member's ~~request intent to file~~ an appeal. The FRC shall initiate consideration of an appeal as expeditiously as possible.
3. The FRC in promotion and tenure cases must receive from the faculty member ~~an appeal as defined in XVI.C, including~~ written information supporting the request for an appeal, ~~by March 15.~~ This information shall also be made available to the DFSC/SFSC and CFSC. The faculty member may request appropriate information regarding the case. This information shall include any official document used to support a decision regarding a faculty member.
4. In order to effect a just and efficient appeal, the FRC shall be provided any documents used by the DFSC/SFSC or CFSC in the process of making recommendations. The FRC may request the parties to the review to appear in person. The FRC may deny an appeal where there is no evidence that a substantial basis for an appeal exists.
5. An FRC recommendation shall be based on a majority vote of the members of the committee. The FRC shall report the recommendation to the faculty member, the appropriate DFSC/SFSC, CFSC, the Provost, and the President (see ~~XIII.XVI.E.G.31.~~ and Appendix ~~11.~~B.). The Provost and President shall consider this recommendation in making a decision.

Comment [SC28]: One attempt to clarify the distinction between the "intent to file" and the actual "written appeal."

Comment [SC29]: Another attempt to clarify distinction between "intent to file" and "written appeal," with distinct appeal deadline noted.

~~II.~~ Initiation of a Performance-Evaluation Appeal:

1. A summative recommendation for a performance-evaluation review of a faculty member conducted by the DFSC/SFSC may be appealed to the CFSC regarding interpretations of faculty performance and/or adherence to ASPT policies. In a performance-evaluation appeal, the CFSC is the sole and final

appellate body. It may support or reverse a recommendation made by the DFSC/SFSC. If the CFSC believes that the basis of the appeal is an academic freedom or ethics violation question, the CFSC may suspend its proceedings until it receives the report from the Academic Freedom, Ethics and Grievance Committee.

2. Before filing a written intent to appeal a performance evaluation with the appropriate CFSC, a faculty member who believes that relevant factors or materials have been ignored or misinterpreted by the DFSC/SFSC is encouraged to seek an informal resolution of the issues with the DFSC/SFSC. If such informal resolution is unsuccessful, the faculty member shall be required to have a formal meeting with that committee to present arguments and additional materials for reconsideration of the decision prior to filing the written appeal. If the attempt of resolution after a formal meeting is unsuccessful, the appeal process shall proceed if the appellant so desires.
3. The appellant ~~shall~~ must notify the appropriate CFSC Chairperson in writing of the intention to appeal the performance evaluation ~~within ten (10) business days (days when University offices are open to the public) of the date on which the appellant received official notification of the department/school action giving rise to the appeal~~ by February 25. The Chairperson of the appropriate CFSC in the case of a performance evaluation appeal shall respond to the appellant within five (5) business days following the receipt of a written intent to appeal.
4. The Chairperson of the appropriate CFSC shall inform the Chairperson/Director of the DFSC/SFSC of ~~an appellant's the faculty member's intent to file a~~ performance evaluation appeal. The appropriate CFSC shall initiate consideration of a performance evaluation appeal (see Appendix 4.C.).
5. The CFSC in performance evaluation cases must receive from the appellant an appeal as defined in XVI.C, including written information supporting the appeal, by March 1. The appellant may request appropriate information regarding the case. This information shall include any official document used to support a decision regarding a faculty member. The appellant has the

Comment [SC30]: As above, a clearer deadline regarding the "intent to file" that extends the timeline just a bit.

Comment [SC31]: See comment 35.

right to address the CFSC in person, and either the appellant or the CFSC can request the DFSC/SFSC to appear in person before the CFSC.

6. The CFSC shall have access to any materials used by the DFSC/SFSC to make a decision. The CFSC may request from the appropriate faculty status committee written information supporting the original decision, which the DFSC/SFSC shall supply. In those rare instances when an event occurs or information becomes available after the initial decision of the DFSC/SFSC and before deliberation of the CFSC, which event or information has direct bearing on the materials under review, such event or information may be considered by the CFSC with full written disclosure to the faculty member and the DFSC/SFSC. The CFSC may deny a hearing on an appeal where there is no showing that a substantial basis for appeal exists.
7. If a hearing is permitted by the CFSC, it ~~will~~ shall be conducted in accordance with ~~XIII~~XVI.D.
8. The CFSC is the sole appeal in the case of performance evaluations. If a CFSC decision results in a change to a DFSC/SFSC recommendation, the DFSC/SFSC recommendation letter shall be revised in accordance with the CFSC decision, and all prior DFSC/SFSC communications shall be purged from the faculty member's record.
9. A majority vote of the CFSC is necessary to sustain or reverse the DFSC/SFSC recommendation.
10. Each CFSC shall submit an annual written report to the URC and to the Provost that enumerates all performance-evaluation appeals and describes their disposition. [See IV.D.3.](#)

H. Initiation of a Cumulative Post-Tenure Review **Appeal** *(The reader should consult the current ASPT calendar for cumulative post-tenure review appeal dates.)*

1. A summative recommendation from a cumulative post-tenure review of a faculty member conducted by the DFSC/SFSC may be appealed to the CFSC regarding interpretations of faculty performance, and/or goals for extending teaching, scholarly and

Comment [SC32]: Deleted sentence deemed redundant with statement in XVI.A referencing Appendix timelines.

creative productivity and service initiatives over the coming three to five years. Failure to adhere to ASPT policies may also be appealed. In a cumulative post-tenure review appeal, the CFSC is the sole and final appellate body. It may support or modify a recommendation made by the DFSC/SFSC. If the CFSC believes that the basis of the appeal is an academic freedom or ethics violation question, the CFSC may suspend its proceedings until it receives the report from the Academic Freedom, Ethics and Grievance Committee.

2. A faculty member who believes that relevant factors or materials have been ignored or misinterpreted by the DFSC/SFSC is encouraged to seek an informal resolution of the issues with the DFSC/SFSC. If such informal resolution is unsuccessful, the faculty member shall be required to have a formal meeting with the DFSC/SFSC to present arguments and additional materials for reconsideration of the decision (see [Section XVI.D.](#)) If the formal meeting is unsuccessful then the appeal process shall proceed if the appellant so desires.
3. By March 22 a faculty member must file to the CFSC chairperson a written appeal to the cumulative post-tenure review evaluation and/or plan for remediation. The Chairperson of the appropriate CFSC shall acknowledge receipt of the appeal to the appellant and the DFSC/SFSC within five (5) business days and shall refer the faculty member to the appropriate section of the ASPT policy.
4. The appellant may request appropriate information regarding the case. This information shall include any document used to support a decision regarding a faculty member. The appellant has the right to address the CFSC in person, and either the appellant or the CFSC can request the DFSC/SFSC to appear in person before the CFSC.
5. The CFSC shall have access to any materials the DFSC/SFSC used to make its decision. The CFSC may request from the appropriate faculty status committee written information supporting the original decision, which the DFSC/SFSC shall supply. In those rare instances when an event occurs or information becomes available after the initial decision of the DFSC/SFSC and before deliberation of the CFSC, which event or

information has direct bearing on the materials under review, such event or information may be considered by the CFSC with full written disclosure to the faculty member and the DFSC/SFSC. The CFSC may deny a hearing on an appeal where a substantial basis for an appeal has not been demonstrated.

6. If a hearing is permitted by the CFSC, it will be conducted in accordance with ~~XIV~~XVI. D. In no event shall written notification of the CFSC's decision occur later than April 15.
7. The CFSC is the sole appeal in post-tenure reviews. If a CFSC decision results in a change to a DFSC/SFSC recommendation, the DFSC/SFSC recommendation letter shall be revised in accordance with the CFSC decision, and all prior DFSC/SFSC communications shall be purged from the faculty member's record.
8. A majority vote of the CFSC is necessary to sustain or modify the DFSC/SFSC recommendation.
9. By May 1 each CFSC shall submit an annual written report to the URC and to the Provost that enumerates all cumulative post-tenure review appeals and describes their disposition. See IV.D.3.

K. Initiation of a Non-Reappointment Recommendation Appeal:

1. A recommendation for non-reappointment of a probationary faculty member may be appealed to the CFSC to consider whether the DFSC/SFSC provided adequate due process to the non-reappointment decision. In instances when a non-reappointment recommendation is made by a CFSC because of the absence of a DFSC/SFSC, the probationary faculty member may appeal to the FRC. Such appeals shall follow the timelines provided in Appendix 8 to these Policies.
2. In determining whether adequate due process was provided, the CFSC shall restrict its inquiry to procedural issues related to the manner in which the review was conducted. The CFSC shall not substitute its judgment for that of the DFSC/SFSC on the merits of whether the candidate should be reappointed.

Comment [SC33]: Note that this section (previously J) was approved subsequent to initial publication of the Beige Book. Minor clarifications in subsection K.5 have been added. Also, timelines for this appeal process are summarized in a new Appendix 8, because the lack of fixed calendar dates precludes inclusion in Appendix 1 (or at least makes it very awkward to communicate concisely).

Comment [SC34]: URC realized that a timeline had not been developed when the non-reappointment appeal policy was approved. Because the timelines vary depending on year of appointment, and because a non-reappointment recommendation can be made at any time prior to the notice requirements, URC recommends a separate appendix outlining the timelines rather than adding deadlines to Appendix 1.

3. If, using the preponderance of the evidence (more likely than not) test as the standard of review, the CFSC determines due process errors that substantially affected the non-reappointment decision, the CFSC shall refer the recommendation back to the DFSC/SFSC to reassess the merits, remedying any inadequacies of the prior process.
4. If a faculty member believes that the basis for non-reappointment was an academic freedom or ethics violation, the faculty member may request a review by the Academic Freedom, Ethics and Grievance Committee. In order to allow a final decision prior to the end of the faculty member's appointment, the faculty member must file a complaint as required by Academic Freedom, Ethics and Grievance Committee within five (5) business days (days when University offices are open to the public) of the date that the faculty member received the official notification of non-reappointment from the Provost. The Academic Freedom, Ethics, and Grievance Committee must submit its report by May 1 of the academic year in which the appointment terminates.
5. If a faculty member believes that the basis for non-reappointment was a violation of the University's Policy on Anti-Harassment and Non-Discrimination, he/she may seek relief through the Office of Equal Opportunity, Ethics and Access, which will conduct a timely investigation consistent with its standard procedures for addressing such complaints.

Comment [SC35]: A question was raised in Faculty Caucus whether this five-day deadline was too short. URC approved a motion to maintain the five-day deadline.

Comment [SC36]: The word "its" deleted as suggested by Faculty Caucus.

Comment [SC37]: URC recommended that the role of OEOEA be specified.