

UNIVERSITY REVIEW COMMITTEE

Tuesday, April 18, 2017
4 p.m., Hovey 401D

MINUTES

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

Members not present: Rick Boser, Sheryl Jenkins

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; “AFEGC” refers to the Faculty Academic Freedom, Ethics and Grievance Committee at Illinois State University; “FRC” refers to the Faculty Review Committee at Illinois State University; “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; and “SFSC” refers to school faculty status committee. References in the minutes to “DFSC” are intended to refer to both DFSC and SFSC.

I. Call to order

Chairperson Diane Dean called the meeting to order at 4:04 p.m. A quorum was present.

Dean reported that minutes of the February 28, 2017 URC meeting, the March 9, 2017 URC meeting, and the March 21, 2017 URC meeting were approved by committee members via email on April 17, 2017. She noted that minutes of the April 11, 2017 URC meeting will be distributed prior to the April 25, 2017 URC meeting.

Dean reviewed the work scheduled to be completed by URC before the end of the academic year. She said the committee is scheduled to discuss the sanctions article at this meeting. To facilitate the discussion, she drafted the article and asked the sanctions subgroup (Nerida Ellerton and Christopher Horvath) to review it and provide their suggestions to the committee regarding changes to the draft. Dean said she will send similar drafts of the suspensions and dismissals articles to the respective subgroups for review and reporting at upcoming URC meetings. Discussion of Article XIII is scheduled for the April 25, 2017 URC meeting, and discussion of Article XIV is scheduled for the May 4, 2017 URC meeting.

II. Discussion of Article XII: Sanctions

Dean distributed her draft of the sanctions article (see attached) and then yielded the floor to Ellerton and Horvath to report their findings and recommendations.

Referring to Section XII.A.2, Horvath said he and Ellerton suggest replacing the word “corrective” in the first sentence with the phrase “progressive and remedial.” He noted that the word “corrective” as used elsewhere in the disciplinary articles has a different meaning. Horvath said he and Ellerton recommend the change to prevent confusion regarding the intended meaning of the word. Committee members agreed. Dean later noted that the word “corrective” appears in Article XI (General Considerations) at Section XI.A.1. She asked if she should change the word “corrective” there as well. Ellerton and Horvath recommended that she do so.

Horvath said he and Ellerton suggest removing the last clause of the last sentence of Section XII.A.2 because it is unnecessary (“if appropriate to the seriousness of the misconduct”). Committee members agreed.

Referring to Section XII.B (Type of Sanctions), Ellerton asked if the term “level” or the term “type” should be used to categorize sanctions set forth in the section. Catanzaro suggested that the term “level” may be interpreted as implying severity. Horvath added that ordering the levels may be interpreted as suggesting

increasing severity, which may not be the case. Ellerton suggested replacing the phrase “general levels” with “broad categories.” Committee members agreed.

Ellerton said she and Horvath recommend that verbal notices not be considered sanctions and should not be cited in the article. Committee members agreed.

Horvath asked if the references to levels and types of sanctions in Section XII.B.1 should be considered exhaustive or if a DFSC or CFSC should be allowed to impose sanctions not cited in the section. Ellerton said it might be risky to consider the references exhaustive. Horvath said he has mixed views about the issue; allowing a DFSC or CFSC to impose sanctions not cited in the section would allow those committees flexibility in selecting a sanction that best fits each circumstance, however doing so might provide those committees with too much latitude. Horvath suggested that the levels and types of sanctions be considered exhaustive, with the understanding that the committee can consider changing that approach if it becomes problematic. There were no objections to Horvath’s suggestion.

Committee members then discussed Section XII.B.1.d, regarding reassignments. Catanzaro expressed concern about reassignments being considered sanctions. He explained that while he would not want department chairpersons to be haphazard or inappropriately spontaneous with reassignments, he also would not want reassignments to always be considered punitive. Doris Houston suggested modifying the beginning of that section to allow for punitive and non-punitive reassignments, from “Reassignments are disciplinary actions ...” to “Reassignments may be used as a disciplinary action ...” Angela Bonnell agreed, stating that defining a reassignment based on its intent is workable. Horvath cautioned that it needs be clear in the article when a reassignment is considered a disciplinary action and when it is not. He suggested distinguishing between the two based on whether a reassignment is permanent or temporary and whether the assignment being changed had already officially been made by the department chairperson. He recommended that a reassignment be considered a sanction if it is not permanent, further recommending that a temporary reassignment should be limited to not more than one year. He also recommended that taking a course away from a faculty member after it has been officially assigned and advertised should be considered a sanction. There were no objections to Horvath’s recommendations.

Ellerton and Horvath then referred committee members to Section XII.C, regarding procedural considerations related to sanctions. Horvath said the organization of that section is confusing because one subsection refers to sanctions initiated by either a DFSC or the Provost (XII.C.1), one subsection refers to sanctions initiated only by a DFSC (XII.C.2), and one subsection refers to sanctions initiated only by the Provost. He said he and Ellerton suggest simplifying Section XII.C to include one subsection regarding sanctions initiated by a DFSC and one subsection regarding sanctions initiated by the Provost. Ellerton said using the sentence numbered Section XII.C.1 in the draft as an introductory statement rather than as the beginning of a subsection might help. Committee members agreed.

Horvath raised a concern regarding the two sanctioning paths described in Section XII.C (one initiated by the Provost and the other initiated by DFSC). He said in the path initiated by the Provost, the faculty member has two opportunities to appeal, one to the external body that has determined that the faculty member has violated a policy and a second to FRC. However, if sanction proceedings are initiated by a DFSC, the faculty member has only one opportunity to appeal (to FRC). Horvath said he believes this difference may be inequitable. Catanzaro said his interpretation of the path set forth by URC for sanctions initiated by a DFSC is that the DFSC sends the case to the CFSC without deciding whether the faculty member has committed a violation; the CFSC recommends to the Provost whether a violation has been committed by the faculty member and also recommends sanctions to the Provost; the FRC considers an appeal by the faculty member regarding the recommendation whether a violation has been committed, the recommendation regarding sanctions, or both; and the Provost makes a decision based on CFSC recommendations and FRC recommendations (if the faculty member has filed an appeal). Catanzaro suggested that, in his interpretation of the process, the DFSC serves a role analogous to the role served by a grand jury. Dean and Houston agreed. Horvath said he likes that approach. He said he would be more comfortable asking the CFSC to make recommendations than asking the DFSC to do so, because the CFSC is one level removed from the situation. Catanzaro suggested revising Section XII.C.2.b to clarify that the role of the DFSC is to refer the matter to the CFSC, not to act on the matter. He suggested changing the phrase “... then the DFSC will notify the faculty member in writing that sanction

proceedings are being initiated” to “then the DFSC will notify the faculty member in writing that the matter is being referred to the CFSC.” Committee members agreed to the change.

Bonnell pointed out that the CFSC in Milner Library is not removed from the DFSC in the manner described by Horvath. She explained that the Milner Library DFSC and CFSC both consist of library faculty members elected by their peers. She said the same may be true of Mennonite College of Nursing. Houston asked if another level of review should be added for Milner Library and Mennonite College of Nursing. Joe Goodman reminded committee members that a section near the beginning the ASPT document mentions differences between Milner Library and Mennonite College of Nursing and all other colleges. Horvath suggested setting the issue aside for discussion by URC at a future meeting, with the understanding that the issue is significant and needs to be resolved. Bonnell agreed, stating that she would like to talk with her Milner Library colleagues about options for addressing the issue. She added that it is possible that her library colleagues might feel that the process is acceptable as drafted. Catanzaro said an option URC might consider is organizing one ad hoc subcommittee of FRC to fulfill one role and organizing a second ad hoc committee of FRC to fill a second role. He noted there are enough FRC members to populate two ad hoc subcommittees with different members.

Referring to Section XII.C.2.a, Ellerton said she and Horvath suggest ending the second sentence after the word “informally” because the rest of the sentence is redundant (i.e., to delete the clause “when possible, by clarifying the issues involved, resolving misunderstandings and considering alternatives”). Committee members agreed.

Horvath responded to the question posed by Dean, in the comments section of her draft article, regarding whether appeals processes associated with disciplinary actions should be set forth in each disciplinary article or consolidated with the description of other ASPT appeals processes in the existing article titled “Appeals Policies and Processes.” Horvath said he and Ellerton support consolidating the descriptions of appeals processes in one article of the ASPT document. Horvath also responded to the question posed by Dean, in the comments section of her draft article, regarding whether the article should explicitly set forth the opportunity for the faculty member to meet with the CFSC or for the CFSC to request to meet with either the faculty member or the DFSC. Horvath said he and Ellerton find the section as drafted by Dean acceptable. He said adding provisions for those opportunities would require adding another set of rules.

Sarah Smelser asked about underscoring within the text on page four of the draft article. Horvath explained that he and Ellerton recommend embedding a timeline in the article and that underscoring is to be replaced by numbers (of days). He said he and Ellerton recommend that the numbers replacing the underscoring should be consistent with numbers set forth elsewhere in the ASPT document for other processes, such as performance evaluations and promotion or tenure decisions.

Horvath expressed concern about Section XII.D.2, which provides for referral by the faculty member to AFEGC of any allegations of violation within the jurisdiction of AFEGC. He pointed out that, in the case of the sanctioning path initiated by the Provost, the impetus for initiating the case could have been a decision by AFEGC. He said it would then be inappropriate for AFEGC to consider an appeal by that same faculty member in the same case. Catanzaro pointed out that university policies provide that AFEGC may have up to 30 members, in which case AFEGC should have enough members to organize an appeals panel independent from the panel that initially found the faculty member in violation. Horvath noted that, even still, the same AFEGC chairperson would be forming both panels. Catanzaro said a potential conflict of that nature has occurred and was resolved by having the AFEGC vice-chairperson appoint one of the AFEGC panels. Goodman asked if AFEGC is then permitted to review a matter if there is a conflict of interest on the part of a panel member. Horvath said a panel member from the same department as the faculty member filing the appeal would have to recuse herself or himself, but only that faculty member. Catanzaro said he is aware of at least one case that involved such a recusal. Horvath suggested sending a memorandum to the newly-formed AFEGC policy writing group to explain this matter and to ask AFEGC to consider incorporating the approach recommended by URC in the AFEGC policy revisions. Dean asked Horvath if he would be willing to write such a memorandum. Horvath said he would.

Horvath next referred committee members to the draft flow chart on page five of the draft sanctions article. He said the dotted line between “AFEGC” and “Option to appeal to FRC” could be interpreted to mean that a faculty member may appeal an AFEGC decision to FRC, but that is not the case. Horvath suggested adding text to “AFEGC” to explain the role AFEGC has in the process. Dean pointed out missing lines between “FRC Report” and the two “Provost reviews & decides” boxes. She said she will add them.

Dean asked if the draft sanctions article should be revised based on the discussion at this meeting and then circulated to committee members for another review. Horvath said it should. Houston thanked Ellerton and Horvath for their work on the article.

III. Other business

There was none.

IV. Adjournment

Goodman moved to adjourn the meeting. Ellerton seconded the motion. The motion passed on voice vote, all voting in the affirmative. Dean adjourned the meeting at 5:00 p.m.

Respectfully submitted,
Joe Goodman, Secretary
Bruce Stoffel, Recorder

ATTACHMENTS:

Article XII: Sanctions: Draft for consideration & URC group use, based on versions proposed by URC 2015, Faculty Caucus 2016, and the ongoing work of the URC 2017, compiled by Diane Dean, Chairperson, University Review Committee, April 13, 2017

ARTICLE XII: SANCTIONS

Draft for consideration & URC work group use, based on versions proposed by URC 2015, Faculty Caucus 2016, and the ongoing work of the URC 2017

A. General Provisions

1. All parties involved in considering the sanctioning of a faculty member shall refer to the definitions, conditions, and faculty rights set forth in Article XI (General Considerations) in addition to this Article XII.
2. Sanctions are intended to be corrective. Therefore, effort should be made to apply the most minor sanction likely to address the problem or issue and provide faculty with an opportunity to improve. Past disciplinary actions related to the problem or issue, if any, should be taken into consideration when determining sanctions. Repeated cause for discipline may merit progressively increased sanctions, if appropriate to the seriousness of the misconduct.
3. No sanction may be implemented until all appeals are exhausted.

B. Types of Sanctions

1. Sanctions fall into four general levels: reprimands, penalties, loss of prospective benefits, and reassignments.
 - a. Reprimands include written notices of issues that do not result in overt disciplinary action but that require corrective action by the faculty member.
 - b. Penalties are disciplinary actions that do not impede a faculty member's duties. These may include the removal of honors, reimbursement, restitution or fine, or mandatory training.
 - c. Loss of prospective benefits are the withholding of rewards or support for a stated period. This may include the suspension of regular or merit pay increases, a temporary reduction in salary, or the temporary loss of / ineligibility for institutional support for academic or research activities. Loss of prospective benefits cannot be applied to pension, healthcare, or other benefits provided by the state of Illinois.
 - d. Reassignments are disciplinary actions that modify a faculty member's teaching, research or service activities or administrative assignments for a stated period of time, without completely relieving a faculty member of the entire duty.
2. Sanctions may include corrective actions. The requirements of any corrective action imposed on the faculty member should be communicated with the notification of the sanction and should include a timeline and acceptable documentation of completion.

C. Procedural Considerations Related to Sanctions

1. Sanction proceedings may be initiated by the DFSC / SFSC or the Provost.
 - a. The DFSC / SFSC may initiate sanction proceedings when there is evidence of cause, such as: behavior or performance problems or issues in the faculty member's responsibilities;

Comment [DD1]: Should we provide examples or not?

If we provide examples, is it in order of severity?

This draft uses examples from the prior URC and FC drafts, URC discussions, and examples from Michigan State U. and Northwestern U.

Comment [DD2]: We discussed that a verbal reprimand would be a level of action lower than an official sanction. Also, a verbal reprimand would become "written" by virtue of the sanctioning process described.

Comment [DD3]: I think the committee wanted some form of reassignment left as a possible sanction. How do we clarify the difference between a reassignment as a sanction (e.g. can't teach a specific course for a while) vs. suspension (e.g. can't teach any courses for a while)? Or are they both forms of suspension?

violation of University policies; or violation of laws pertinent to the faculty member's responsibilities.

- b. The Provost, in consultation with the Dean, may initiate sanction proceedings when there is a substantiated finding of violation imposed on a faculty member by an office or entity external to the ASPT system that has withstood the exhaustion of any applicable opportunities for appeal; such as:
 - i. Receipt from the University Ethics officer of a substantiated finding of violation of the State Ethics Act and / or other relevant laws;
 - ii. Receipt from the Office of Equal Opportunity, Ethics and Access of a substantiated finding of violation of the Anti-Harassment and Anti-Discrimination Policy;
 - iii. Receipt from the Office of Research Ethics and Compliance of a substantiated finding of violation of federal, state and/or University policies regarding the conduct of ethical research, academic integrity, or financial practices in sponsored research;
 - iv. Receipt from the Academic Freedom, Ethics and Grievance Committee of a substantiated finding regarding violations of academic freedom or the University Code of Ethics, or a substantiated grievance that is not based in academic freedom concerns or the Code of Ethics.

2. Sanction proceedings initiated by the DFSC / SFSC will be directed to and reviewed by the CFSC.

- a. The DFSC / SFSC will first request to meet with the faculty member to discuss the alleged misconduct and the potential for discipline. The purpose of such consultation is to reconcile disputes early and informally, when possible, by clarifying the issues involved, resolving misunderstandings and considering alternatives.
- b. If the issue is not resolved through informal consultation, then the DFSC/SFSC will notify the faculty member in writing that sanction proceedings are being initiated. The notification will include the alleged misconduct, the evidence supporting the charges, and the relevant University policy or law violated and/or basis for showing that the faculty member has breached acceptable standards for responsible behavior or performance. This information will also be directed to the CFSC, with a request for its review and recommendation.
- c. The faculty member may provide a written response to the charges, to be considered in the CFSC's deliberations.
- d. The CFSC will review the information regarding the allegation and the faculty member's response, and recommend whether a sanction should be imposed. If the CFSC recommends imposing a sanction, the CFSC will also recommend the sanction or sanctions to be imposed. The CFSC shall report the recommendation in writing to the faculty member, the DFSC/SFSC and the Provost.
- e. The faculty member may appeal the CFSC's recommendation to the FRC, following the provisions in (###).

Comment [DD4]: Should we include timelines for each of these steps? What would be appropriate?

Comment [DD5]: Should this review process also include opportunity for faculty member to meet with the CFSC, or for the CFSC to request to meet with either the faculty member and/or the DFSC/SFSC?

Comment [DD6]: Should the appeal processes for disciplinary actions be presented within each article (e.g. sanction, suspension, dismissal)? Or should they be presented within and as an amendment to the existing article XIII, Appeals Policies and Procedures? If they go into the existing article, edits will need to be made to that article.

f. The Provost will review sanctioning recommendations made by the CFSC and any appeal recommendations made by the FRC, and make a decision regarding the disciplinary action. The Provost will notify the faculty member, DFSC and CFSC of the decision in writing. The sanction will then take effect.

3. Sanction proceedings initiated by the Provost will be directed to and reviewed by the DFSC / SFSC.

a. The Provost, in consultation with the Dean, will notify the faculty member in writing that sanction proceedings are being initiated. The notification will include the alleged misconduct, the substantiated findings of violation supporting the charges, and the office or entity issuing the findings. This information will also be directed to the DFSC, with a request for its review and recommendation.

b. The faculty member will have an opportunity to provide a written response to the charges, to be considered in DFSC/SFSC deliberations.

c. The DFSC/SFSC will review the information regarding the allegation and the faculty member's response, and recommend whether a sanction should be imposed. If the DFSC/SFSC recommends imposing a sanction, the DFSC/SFSC will also recommend the sanction or sanctions to be imposed. A DFSC/SFSC recommendation shall be based on a majority vote of the members of the committee.

d. The DFSC/SFSC shall report the recommendation in writing to the faculty member and the Provost.

e. The faculty member may appeal the DFSC/SFSC's recommendation, following the provisions in (####).

f. The Provost will review sanctioning recommendations made by the DFSC/SFSC and any appeal recommendations made by the FRC, and make a decision regarding the disciplinary action. The Provost will notify the faculty member, DFSC and Dean of the decision in writing. The sanction will then take effect.

4. If the sanctions include corrective actions, the requirements of these corrective actions, including timeline and acceptable documentation will be described in the same notification from the Provost and copied to the personnel / ASPT file. The faculty member may request, and shall receive, clarification of such requirements.

5. An overview of the sanctions process is found in Appendix #

D. Appeals Procedures Related to Sanctions

1. 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 sanctioning recommendation concerning that faculty member.

2. Upon receipt of a sanctioning recommendation from the CFSC or DFSC/SFSC, the faculty member may appeal the recommendation to the FRC. The faculty member should refer to the Academic Freedom Ethics and Grievance Committee (AFEGC) any allegations of violation that would fall within that committee's jurisdiction.

Comment [DD7]: Should this review process also include opportunity for faculty member to meet with the DFSC/SFSC, or vice versa?

Comment [DD8]: See previous question re: location of appeals information.

Comment [DD9]: This section largely borrows from ASPT XIII.H. (promotion or tenure appeals). If you think another model is more appropriate, please substitute.

Comment [DD10]: Note: We will need to change sections in ASPT III. "Faculty Review Committee" to reflect this new responsibility.

3. The faculty member shall notify the Chairperson of the FRC in writing of an intention to appeal within ____ days of receipt of the sanctioning recommendation.
4. The Chairperson of the FRC shall respond to the faculty member within _____ business days following the receipt of a written intent to appeal, and shall notify the Provost and the recommending CFSC (IX.C.2.d.) or DFSC/SFSC (IX.C.3.c.) of a faculty member's intent to appeal. The FRC shall initiate consideration of an appeal as expeditiously as possible.
5. In sanctioning cases, the FRC must receive from the faculty member an appeal as defined in XII.D.1, including written information supporting the request for an appeal, within _____ days of submitting an intent to appeal. This information shall also be made available to the recommending CFSC or DFSC/SFSC. The faculty member may request appropriate information regarding the case. This information shall include any official document used to support a decision regarding the case.
6. In order to effect a just and efficient appeal, the FRC shall be provided any documents used by the CFSC or DFSC/SFSC in the process of making recommendations. The FRC may request the parties in 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. If the FRC believes that the basis of the appeal is an academic freedom or ethics violation question, then the FRC may suspend its proceedings until it receives a report from the AFEGC.
7. Upon completion of the 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 or ethics has occurred, the FRC must decide whether the violation significantly contributed to the recommendation to initiate and/or recommend sanctions. The FRC shall then complete its deliberations.
8. 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 recommending DFSC/SFSC or CFSC, and the Provost.

APPENDIX ##

Overview of the Sanctions Process

