

## **Rules, Policies, and Procedures Committee Report April 23, 2018**

The 2017-18 charge to the Rules, Policies, and Procedures Committee presented three issues:<sup>1</sup>

1. The “definition of faculty for purposes of: 1) qualifying for RB 5.09 protections (for "teaching staff"), 2) access to the unit grievance procedures (for "faculty"), and 3) invoking the SACUA Faculty Hearing Committee (for "faculty").”
2. Problems associated with the difficulty of achieving Senate and Senate Assembly quorums.
3. The size and composition of the Senate.

The committee’s conclusions regarding the eligibility of faculty for protections and procedures identified in item (1) are reported below.

Regarding item (2), the committee discussed (i) ways to increase attendance at Senate and Senate Assembly meetings; (ii) possibilities for conducting business in the absence of Senate quorums within the existing Senate Rules; and (iii) potential amendments to Senate Rules and the amendment process in the existing Rules. Reinterpretations and amendment of the current Rules have potentially far-reaching consequences for faculty governance at the University and should be pursued only after careful consideration. The committee intends to make this issue its top priority in its upcoming term.

Finally, the committee revisited the question of the composition of the Senate, specifically, whether Senate membership should be expanded to include other groups within the University. Issues raised in our discussion of this question mirror those discussed in the May 2006 Report of the Rules Committee. The current RPP Committee is not prepared to make a recommendation on this issue at this time.

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<sup>1</sup> The 2017-18 charge was a holdover from the previous year, during which the committee did not meet.

## **APPLICATION AND ELIGIBILITY OF FACULTY FOR PROTECTIONS AND PROCEDURES**

In response to the request that the Rules, Policies, and Procedures Committee consider “the definition of faculty for purposes of: 1) qualifying for RB 5.09 protections (for “teaching staff”), 2) access to the unit grievance procedures (for “faculty”), and 3) invoking the SACUA Faculty Hearing Committee (for “faculty),” the committee investigated the applicable rules and offers the following guidance.

**(1). Qualifications for Regent Bylaw 5.09 protections.** Section 5.09.1 explicitly identifies three classes of faculty covered by the procedure:

5.09.1. Applicability. The procedures prescribed in this section shall be followed (a) before recommendation is made to the Board of Regents of dismissal or demotion of a tenured member of the university teaching staff or of any member of the teaching staff during the term for which any member of the teaching staff is appointed; or (b) before recommendation is made to the Board of Regents of dismissal, demotion, or terminal appointment of a teaching staff member holding appointments with the university for a total of ten years in the rank of full-time instructor or higher.

Covered faculty thus consist of

- i. tenured faculty;
- ii. members of the teaching staff (“professors, associate professors, assistant professors, instructors, lecturers, and teaching fellows”) during an appointment term (i.e., by contract); and
- iii. members of the teaching staff holding rank of full-time instructor or higher for ten years or more (i.e., those who possess de facto tenure).

**(2) Access to Grievance Procedures.** Each academic unit adopts its own grievance procedures. Most, however, have adopted in whole or in majority the Model Grievance procedures, which define applicability as follows:

Sec. 1.02. The procedure applies only to those instructional faculty who are tenured, tenure-track, or clinical faculty; research faculty, including those in the research scientists track and those in the research professors track; librarians; curators; and archivists. The procedure does not apply to supplemental faculty such as adjunct faculty or visiting faculty.

Grievance procedures thus generally cover a broader set of employees than does Bylaw 5.09, but that coverage is unit-specific and may be altered over time within individual units.

**(3) Access to the SACUA Faculty Hearing Committee.** SACUA created the SACUA Faculty Hearing Committee on March 30, 1987, on the recommendation of the Academic Affairs Advisory Committee. The proposal as adopted read:

That a subcommittee of SACUA be created to advise on faculty complaints or grievances which do not fall readily into established school and college grievance procedures. The composition of the subcommittee should consist of one member from each SACUA class. After initial formation, one member of the incoming class should be appointed annually by the chair. Inquiries, complaints, and grievances addressed to SACUA from individual faculty members and groups of faculty members (e.g. school or college executive committees, programs slated for discontinuance) should be referred to the subcommittee for consideration. The subcommittee should then advise SACUA and counsel a course of action. The name of the subcommittee should be SACUA Faculty Hearing Committee. SACUA approved the proposal.

The role of the Faculty Hearing Committee in the resolution of disputes was subsequently recognized by the Provost and incorporated into the Faculty Handbook ([Section 10.H](#)).<sup>2</sup>

Neither its enabling resolution nor reported discussions define which faculty SACUA and the Senate Assembly intended the FHC to cover.<sup>3</sup> Because the FHC is a creation of SACUA and the Assembly, these bodies have the authority to refine the definition of covered faculty if so desired. We offer the following observations on some of the options and their implications potentially relevant to that decision.

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<sup>2</sup> The Model Grievance Procedure states, imprecisely, “The SACUA Faculty Hearing Committee was created by the Senate Assembly in 1987 to address issues between or among faculty members” (p.1, footnote 1). Although such disputes presumably fall within the domain of the FHC, the FHC was not created solely for, nor limited to, hearing disputes among faculty.

<sup>3</sup> Senate Assembly minutes for Sept. 21, 1987, record the following exchange regarding the role of the Faculty Hearing Committee:

With regard to the SACUA Faculty Hearing Committee, Professor Ketefian asked what kind of authority it would have. Professor McClamroch explained that some problems arise which fall outside of unit procedures. No case has arisen as yet, but the subcommittee could act in an advisory way through advice of its own and through SACUA's access to the Executive Officers. The committee's powers are not spelled out.

## 1. Narrow coverage

Inasmuch as SACUA and the Senate Assembly are bodies representing the Senate, a reasonable presumption is that these bodies intended the domain of the Faculty Hearing Committee to be members of the Senate. More narrowly still, to the extent that the FHC finds its authority in the section 10.H of the Faculty Handbook, which only covers Ann Arbor faculty, an argument could be (as has been) made that the FHC should only hear cases brought by faculty on the Ann Arbor campus.<sup>4</sup> In terms of practical benefits, limiting the scope of FHC inquiries to complaints from either Senate members or Ann Arbor faculty increases clarity on coverage and reduces the burden on FHC members (and SACUA) by reducing the set of disputes eligible for hearings.

## 2. Broaden coverage

The Regents Bylaws (Sec. 4.01, 4.04) and Senate Rules (Sec. I.2, II.2) authorize the Senate and Senate Assembly “to consider any subject pertaining to the interest of the University.” Adopting a narrow definition of covered faculty (as in option 1) risks precluding consideration of complaints from uncovered faculty or others in the University that affect “the interests of the University.” To avoid this while maintaining clarity, SACUA could, for example, define FHC coverage to coincide with that of the Grievance Procedure, which includes clinical faculty and some others who are not members of the Senate (see above). Broadening coverage potentially raises the burden on the FHC and SACUA.

## 3. Retain the status quo

For more than 30 years since the creation of the Faculty Hearing Committee, SACUA has considered referrals to the FHC on a case-by-case basis. Leaving FHC coverage to the discretion of SACUA provides flexibility at the cost of clarity about when and for whom the FHC process is available and the criteria SACUA may use to decide which cases merit coverage.

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<sup>4</sup> The Office of the Provost, which produces the Faculty Handbook, has authority only over the Ann Arbor campus, and the Preface to the Handbook states “this handbook is written for Ann Arbor faculty.”