

# Regents' Bylaws 5.09/5.10 Working Group Town Hall

Senate Assembly Town Hall, February 3, 2020

*These slides reflect changes responsive to feedback received at the previous town halls, and from surveys and emails.*



**New  
&  
Improved!**

# What are Regents' Bylaws 5.09/5.10?

Specify process by which TT faculty can be fired and lose tenure (5.09) and receive one year of compensation after termination (5.10).

Instituted in McCarthy era to ensure strong protections for academic freedom.

*Are mostly unchanged since written.*



# Regents considering changes to RB 5.09/5.10

Our current Bylaws dictate:

- A two-tiered process that is complicated, ambiguous, and long.
- Faculty receive full compensation until 5.09 process concludes with termination, regardless of egregiousness of alleged misconduct.
- In most cases, terminated faculty members receive one year of severance pay, regardless of egregiousness of alleged misconduct.

**As written, our 5.09 process applies to the type of egregious misconduct that was *never meant to be afforded the protections of tenure.***



# Regents considering changes to RB 5.09/5.10

In response, the three Provosts (AA, Flint, Dearborn) appointed a faculty working group to recommend changes in the Bylaws for consideration by the Regents.

***Very tight timeline, with recommendations delivered to Provosts by February 16, 2020.***



# 5.09/5.10 Working Group Members

- Sharon Glotzer (Chair), Professor and Chair, Chemical Engineering (Ann Arbor)
- Bruce Maxim, Professor, Engineering and Computer Science, (Dearborn)
- Lynda Oswald, Professor, Ross School of Business (Ann Arbor)
- David Potter, Professor, Classical Studies, LS&A (Ann Arbor)
- Sarah Rosaen, Professor, Communication Studies, Arts and Sciences, (Flint)
- Richard Simon, Professor & Vice Chair for Faculty Affairs, Internal Med (Med School)
- Twila Tardif, Professor, Psychology, LS&A (Ann Arbor)
- Kentaro Toyama, Professor, School of Information (Ann Arbor)
- Camille Wilson, Professor, School of Education (Ann Arbor)

Support from the General Counsel's Office and AA Office of the Provost:

James Burkel, Christine Gerdes, Gloria Hage

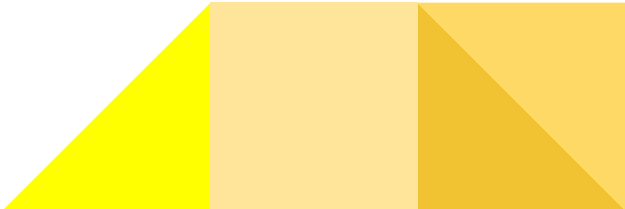


# Provosts' Charge to Working Group

## Part I

- To gather information and assess the current state of similar policies at peer institutions;
- To develop recommendations for additions/amendments to RB 5.09 and 5.10 that **allow for expedited proceedings and interim measures in cases involving manifestly egregious misconduct;**

## Part II

- To comprehensively review RB 5.09 and RB 5.10;
  - To make recommendations for revisions to RB 5.09 and RB 5.10 that ***“reflect our community values, protect our commitment to due process, and promote the fair, transparent, and efficient resolution of cases.”***
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# WG Guiding Principles, Values & Touchstones

- Academic freedom, fairness and protection of due process, welfare of university community, protection of university mission, reflection of our shared values, responsible stewardship...
- Efficient but fair and transparent process is good both for accused faculty member and for university
- Our recommendations must aspire to preserve the intended protections of tenure



# Key Changes We Are Considering(1/3)

- A single, timely and unambiguous 5.09 process
  - Hearing completed within 84 calendar days of notification
    - Option for procedural review by SACUA and/or written comments
  - Process *ordinarily* completed in ~ 150 calendar days (21 weeks) or less!





# Key Changes We Are Considering(2/3)

- 5+ person Hearing Committee
  - Minimum of 3 from SACUA-appointed **Standing Judicial Committee**
  - Minimum of 2 chosen by unit elected exec comm or equivalent
  
- Clear timelines for every step of process on both sides.



## For your consideration...

Should the Working Group recommend removal of severance clause from 5.10 process, resulting in no severance if 5.09 results in termination for cause?

- AAUP - “...severance except in cases of **moral turpitude**...”

What do you see as the pros and cons?




# Additional Considerations (3/3)

In cases of “**manifestly egregious misconduct,**”

No expedited process (no change)

- All 5.09 cases should have the same (efficient, expeditious & fair) process.

Possible pay suspension process as “interim measure”

- Pay suspension should be extremely rare, have a high bar and not prejudice tenure removal hearing.
  - Two dissenting members of Working Group.
  - ***Based on town halls and survey responses largely indicating dissent, WG is re-examining the idea.***
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# Most Popular Feedback Received from Town Halls at AA(Central, North), Dearborn and Flint Campuses, & from Faculty-Wide Survey: No pay suspension

- Trigger for pay suspension (MEM) difficult to define
- Removing pay before there is a finding to terminate and remove tenure is problematic for many reasons
  - “Innocent until proven guilty,” prejudicial (firewall impractical), unintended consequences, potential for bias in application, etc.
- Two parallel hearings is clunky and burdensome
- If shortening 5.09, why bother with pay suspension?

# Questions for Faculty from the Working Group (WG)

- What are your thoughts on the WG's considerations as summarized?
- Do our considerations align with stated principles and values?
- Are there things the WG is overlooking in its deliberations?
- What additional feedback you would like to provide to the WG?

Provide your written comments through our survey  
[link here.](#)

Alternatively, or if you've already filled out the survey,  
email us at [working.group.outreach@umich.edu](mailto:working.group.outreach@umich.edu)..