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THE UNIVERSITY OF MICHIGAN  
Senate Advisory Committee on University Affairs (SACUA)  
Monday, January 7, 2019 3:15 pm  
4006 Fleming Administration Building  
Ann Arbor, Michigan 48109-1340

Present: Atzmon, Beatty, Conway, Lippert, Malek, Marsh (chair), Schultz (Bluejeans), Spencer, Potter, Schneider, Snyder

Absent: Carlos

Guests:

3:19: Call to Order/ Agenda Approval

The Agenda was approved

The Minutes for November 26, 2018 and December 17, 2018 were approved

3:25: Tri-Campus Committee resolution

Professor Lippert introduced the Tri-Campus committee's resolution on governance (see appendix). She reported that different uses of vocabulary to refer to academic structures on the various campuses has led to problems understanding the applicability of institutional governance standards. For example, UM-Dearborn has "disciplines" in one unit instead of "departments", which may be allowing administrators to get around Regental rules that require the consultation of "departments" as a way of closing programs without having to seek faculty input. The resolution brings forward institutional rules and guidelines that already exist, emphasizing the role of faculty governance on all three campuses. Professor Conway asked how the resolution could be released in a way that will ensure maximal impact, requesting the addition of an executive summary to give faculty additional context for understanding why the resolution has been developed. Professor Lippert agreed that an executive summary would be attached to the resolution so as to clarify the content for public consumption. The revised resolution will be reviewed and voted upon at the January 14 meeting.

3:47: Formation of Davis, Markert, Nikerson (DMN) Lecture Committee

Professor Beatty introduced the following motion to create the committee to administer the DMN lecture:

Be it resolved that a permanent DMN Academic Freedom Lecture Committee of the Senate Assembly be established with a charge to select the annual speaker for the DMN lecture and coordinate the programming elements.

The motion passed unanimously. Senate Assembly will be asked to approve the committee at the January 28 Senate Assembly meeting.

The charge for the committee will be selecting the annual speaker, coordinating any additional programming related to the speaker's visit (e.g., dinner, luncheon, meetings with faculty and/or students), and planning publicity for the event. The Faculty Senate Office will conduct the logistics of planning, including but not limited to issuing the speaker contract, and reserving hotel, airfare, meeting rooms, and catering. Professor Conway raised the issue of introduction to the lecture since it is not anticipated that Academic Freedom Lecture Fund (AFLF) members will be delivering the introduction in the future. It was agreed that this will be a matter for the committee to decide.

Professor Beatty proposed that the committee consist of 2 SACUA members, 2 AFLF members, and 2 or 3 additional faculty. Professor Potter suggested that a faculty member from the Law School be part of the group. Librarian Spencer raised the possibility of inviting members of the Law School from the Civil Liberties Board. Professor Atzmon suggested that Central Student Government be invited to participate in the committee's deliberations.

#### 4:00: Grievance Committee Resolution

Librarian Spencer reviewed the report on grievances processes that she has circulated (see appendix) noting that while schools have formal policies that comply with the University recommendations, there are consistent problems with the way these policies are operationalized (e.g. composition of Grievance Review Boards [GRBs], training of GRBs, the length of time for hearings). Chair Marsh said that the Provost has noted that it has been several years since the policies have been reviewed and that he is willing to discuss the issue. He recommended that SACUA develop a series of recommendations, possibly working in conjunction with members of the Provost's office, which the Provost can review. Librarian Spencer will continue her review of current processes through discussion with faculty grievance monitors and Professor Ortega, the University Faculty Ombuds.

#### 4:30: Executive Session

[Dismissal under ByLaw 5.09]  
[Office of Institutional Equity investigation]

#### 5:18: Adjournment

#### Appendix 1: Tri-Campus Committee Resolution

The TCC has unanimously passed this resolution and requests support for the resolution from SACUA and ultimately the Senate Assembly. The purpose of this resolution is to assist in clarifying misconceptions and challenges related to faculty participation in governance on all three campuses at all levels where faculty responsibilities are met. In some instances an expectation of the ability to create bylaws and/or participate in governance has not been fully understood, even though the expectations of the Regents are clear. This resolution will offer considerable support for faculty, particularly at the department, discipline (Dearborn) or program levels on the Dearborn and Flint campuses. The resolution also reinforces the importance of peer review at the discipline-specific level where appropriate, while preserving the understanding of the hierarchy of policy as outlined in the SPG. This resolution does not create new policy but reaffirms the importance of existing policy that already applies across the three campuses.

Passages below are taken from those existing institution-wide policies: See Chapter 4 of the *University of Michigan Faculty Handbook*: <http://provost.umich.edu/faculty/handbook/4/index.html>; and the *Principles of Faculty Involvement in Institutional and Academic Unit Governance at the University of Michigan*, which also summarize sections 5.01-09 of the *Regents Bylaws* (<http://regents.umich.edu/bylaws/bylaws05a.html>): <http://facultysenate.umich.edu/wp-content/uploads/sites/22/2015/02/Faculty-Senate-Principles-and-Regent-bylaws-updated-.pdf> ; and the SPG: <http://spg.umich.edu/about/policy-hierarchy>.

### **Resolution on Governance at all Levels:**

Whereas the principles of faculty governance apply to all three campuses across the University of Michigan as an institution;

Whereas the *Principles for Faculty Participation in Institutional Governance* state that “*Faculty members are encouraged to use these principles as a basis for ensuring their effective participation in governance at all levels; [...] Agencies for faculty participation in the government of the college/school or university shall be established at each level where faculty responsibility is to be met. A faculty-elected campus-wide body shall exist for the presentation of the views of the whole faculty. The agencies may consist of meetings of all faculty members of a department, school, college, division, or university system, or they may take the form of faculty-elected executive committees in departments and colleges/schools, and a faculty-elected body for larger divisions or for the institution as a whole (Part A.5).*”

Whereas faculty serve in a variety of roles, including through governance within committees, programs, departments, schools, colleges, institutes, divisions, and assemblies;

Whereas the governance structures of the institution vary in number and type by campus;

Whereas an instructional unit may be most often a school or college to the campus, but a department, (including Disciplines at Dearborn) or program (such as those offering curricula that define their own faculty membership) to a school or college, which are most often Regentally established academic structures;

Be it resolved that the U of M Senate Assembly acknowledges the importance, on all U of M campuses, of faculty participation in institutional shared governance at every level of academic responsibility, as well as the faculty’s right (including at the departmental and academic program or Discipline [Dearborn] level) and duty to develop and ratify internal procedures (in accordance with the SPG ‘Hierarchy of Legal and Policy Requirements’), in order to establish mechanisms for their participation at those levels. Those best informed by disciplinary academic expertise should be able to make decisions according to the standards of governance established in the Regents Bylaws and Principles of Governance (Senate Assembly).

### **Appendix 2: Grievance policies**

This report was inspired by a visit to SACUA from Prof. Silke-Maria Weineck. As an experienced Ombuds person for the College of Literature, Science & the Arts, she emphasized the many ways in which a faculty grievant is victimized by the process due to the inherent asymmetry in a variety of instances. I decided to conduct a review of the existing Model Faculty Grievance Procedure in a search for asymmetries, as well as compare the model to the grievance policies of

individual units. In my review of the policies, I discovered that the policies on their face appeared to make an effort to ensure fairness to the grievant. I have identified small discrepancies such as the number of days to file a grievance. I also questioned the enforceability of some of the steps in the process.

While most schools and colleges adhered to the basic premise of the model policy, there were a few deviations from unit to unit, such as the composition of the Faculty Grievance Hearing Boards and Panels. This is reflected in my report. I struggled to find the number of asymmetries which would make a more useful report, so I reached out to Professor Weineck. To quote Professor Weineck “**the problem with the policy is not so much what's in it but what is not - i.e. the holes in it, and the practices those holes have made possible**” She kindly agreed to address a list of questions which I presented to her, and to remind me that these are simply her opinions only. My thought is that her opinions are based on years of experience with the grievance process and would provide a useful guide should we continue to move forward with the process of updating the grievance policies. I will append her comments in red throughout the report.

### I.

The current policy is an upgrade from that of 2006, was updated and endorsed by the Senate Assembly on April, 26, 2010. The categories are Coverage, Filing Grievances, Grievance Hearing Board, Appeals, Structure and Organization, Miscellaneous. The Model Faculty Grievance Procedure of 2010, was revised to enhance mutual fairness within the process. There are checks and balances to ensure that the grievant receives as fair a hearing as possible, and that the respondent doesn't have more advantages than the grievant. The nature of the process, however, has new asymmetries that are built in over time. The original purpose of my review was to further identify points of asymmetry regarding the balance of power between grievant and respondent, and to recommend appropriate changes which might help to level the playing field. The following examples indicate small efforts toward fairness toward the grievant:

1. Sec.2.05 states that *each party* may submit a one-time clarification letter to GHB.
2. In Sec. 3.02 the GBH can refuse to hear a case...”if it concludes, on the basis of the Faculty Grievance Form (FGF) and all other material before the Grievance Hearing Board (GHB) and with all questions of fact assumed in favor of the grievant, that there are no grounds for deciding the case in the grievant’s favor.”

There are, however, opportunities to improve the model and I have included suggestions. For example:

1. Sec. 2.01 The 90 calendar days for a grievance to be filed could be extended to 180 days instead.
2. Sec. 2.01 goes on to state that “In extraordinary circumstances, a GHB may extend the deadline for filing a grievance. The grievant must assert such circumstances in the FGF and provide supporting evidence.
3. The School of Information allows 365 days in which to file a grievance. Other schools and colleges may wish to consider the example of SI and extend the number of days for filing a grievance as well
4. Sec. 2.04 a. “Before filing a formal grievance, a grievant shall seek to resolve the dispute by discussing it informally with the person(s) who made the disputed decision or took the

disputed action...” ---Can these informal meetings be enforced by the school, college? --  
I question why a potential grievant would be interested in participating in the informal  
discussions and are their repercussions for not doing so?

5. Invoking the unit or university ombudsperson or mediation appears to be a more practical option than an informal chat with the would-be respondent.
  - a. Might there be a service to assist the grievant with filing their complaint since this might be beyond the purview of the Ombuds and Mediation offices. This could be useful to the grievant since respondents generally have the luxury of delegating their tasks to others.
  - b. *the policy is quiet on delegation; if anything, it seems to forbid it. but in practice, deans delegate their appearance to associate deans (in LSA every single time), whereas grievants cannot delegate their work (e.g., to a lawyer). To remedy this problem, the policy ought to be specific on delegation: it makes little sense to ban it outright, since deans are very tightly scheduled and requiring them to appear would lead to even more delays, but the policy should specify that either both parties or neither party can delegate their roles*
  
6. The explanatory paragraph on page 1 of Faculty Grievance Application Form indicates that the potential grievant is to sign that he or she has or will explore other informal options. This excerpt is from the form: “Your signature below indicates that you have read the faculty grievance policy of your academic unit... and you will explore (or have explored) resolution of these disputed matters through your unit ombudsperson and through the University’s Faculty Consultation and Conciliation Service [Mediation services], Academic Human Resources...”
  - a. What are the consequences of not following all of the steps in the process, and moving ahead with the grievance, OIE report, law suit, etc.? Again, could a grievant be sanctioned for not following the policy as written?
  
7. In Sec. 3.04 “If the GHB decides the complaint is not grievable, the grievant shall have 15 working days to appeal this decision to SACUA or a faculty body designated by SACUA. The appellate body shall have 20 working days to resolve the issue.”
  - a. I recommend that the grievant and the appellate body both have 20 working days.
  - b. *It is crucial that the policy make ABSOLUTELY CLEAR that in the absence of an appeals process for OIE reports, the grievance hearings ARE the venue to dispute faulty OIE reports General Counsel now claims that OIE reports are not only not subject to appeal but can also not be disputed during grievance hearings. That is unacceptable and must be made explicit.*
  - c. The absence of an appeal does not constitute non-grievability. *(see above: OGC and the dean's office now explicitly claim that OIE findings cannot be disputed in a grievance, that only the sanctions can be grieved while the OIE report is beyond dispute!*

There are two factors which might impact the amount of equity within the grievance process. The first is how the policy is implemented within a particular school, college or academic unit. The second is the passage of time, and how our expectations have evolved regarding what is fair and equitable treatment within the faculty grievance process. At some point it might be beneficial for there to be broad oversight on the application of the grievance procedures.

## II.

There are nineteen schools, colleges and academic units, including the University Library, that have adopted the Model Faculty Grievance Procedure for the most part. Some units have adopted the policy with very little modification. Others may have added a brief introduction or informative addenda. There are logistical commentaries regarding how the members of GHB and similar committees were to be selected. *Conflict of interest should be specifically addressed. The policy needs to specify that the chair of the panel cannot be the member from the same school as the grievant/respondent. Training is already mentioned in the policy; it simply doesn't happen, and it can't be a one-school deal, since panels are drawn from various schools. Meaningful training also takes time and professional expertise. So once again, I'd advocate for a standing panel that gets trained when it is first named.*

I have read each policy, compared it to the model, and indicated how closely it adhered to the model. I also indicated if any information of note was added or subtracted from the model by the unit. Below is a list from each unit and a link to their policy.

1. **Taubman College of Architecture** -Follows the model and concludes with a helpful “Flow Chart Narrative of Revised Faculty Grievance Procedure”, an actual flow chart entitled “Revised Faculty Grievance Procedure (2010)”, a “Form to Withdraw Initiated Faculty Grievance”, and a “Faculty Grievance Application Form.” [A. Alfred Taubman College of Architecture and Urban Planning](#)
2. **Stamps School of Art & Design** --- There were no changes or addenda. It follows the model. [Penny W. Stamps School of Art and Design](#)
3. **Ross School of Business** -- A brief introduction is provided but no changes to the model. [Stephen M. Ross School of Business](#)
4. **School of Dentistry** – There is an introduction regarding the election of faculty to serve on FGHP and GHB. It otherwise follows the model. [School of Dentistry Dentistry appendix](#)
5. **School of Education** – On page 4 under Structure Organization and Miscellaneous, Sec. 5.01 this passage from the model was omitted: “...but the Provost may approve amendments by an individual unit to adapt the procedure to its specific conditions or circumstances.” And on p. 5 Recommendations were made for EC members to serve on FGHP and GHB. [School of Education](#)
6. **College of Engineering** – There are changes on p 5, XC.12 : Added sentence “In all cases the recommendations will be given thoughtful consideration and final decisions on the actions will be made by the appropriate party”., p.6, X.E.2 ”...one person from the Faculty Grievance Hearing Panel (FGHP) to serve on the GHB as Chair. That member shall come from a different academic unit from the grievant.” P 7 “The second and third members of the GHB shall come from the academic unit in which the grievance arises, but not the same academic department.” Appended are new FGF to submit, as well as new FG Withdrawal form. [College of Engineering](#)
7. **School of Information** – It follows the model except that it allows 365 days to file a grievance instead of the standard 90 days. [School of Information](#)
8. **School of Kinesiology** – It follows the model. [School of Kinesiology](#)
9. **Law School** -- It follows the model but adds Standing Tenure Committee, from which to draw candidates for FGHP. (Faculty Grievance Hearing Panel, and there is also a LFGP (Law Faculty Grievance Panel) from which to select members of GHB. p 6. 4.01 b. They added a Sec.4.05 on p. 7 stating that the party who believes there is inequity in the outcome of their case may appeal in writing to the Provost. [Law School](#)
10. **College of LSA**— Omitted from the conclusion of Appeals Sec. 4.01 “Either party may submit an appeal contingent upon the other party’s appealing. If both parties submit contingent

appeals, the appeals shall be treated as withdrawals.” This aspect regarding withdrawals differs from the model but follows the model in most other aspects.

- a. Sec.5.03 a .“...DAHR and FGM shall meet and choose a person from the FGHP to serve on the GHB. This member shall not come from the college(s) of the grievant.
- b. The second member of the GHB shall come from the LSA faculty and must be from a different division than that of the grievant. The third member of GHB shall come from the LSA faculty and the same division as the grievant but not from any program/department in which the grievant has an appointment.” This appears to be a departure from the model. – [College of Literature, Science, and the Arts](#)

11. **Medical School** – It follows the model, but there is an addendum regarding the pool from which GHB members are selected. [Medical School Medical School addendum](#)

12. **School of Music Theater and Dance** –An introduction which begins with Sec 5.07- 5.09 to be recommended to the SMTD Faculty Handbook. An addendum regarding governing faculty and selections to FGHP is also included. Addenda are a Flow Chart of the 2010 Grievance Procedure as well as a narrative of the flow chart. [School of Music, Theatre and Dance School of Music, Theatre and Dance addendum](#)

13. **School of Natural Resources and the Environment** -- The policy follows the model but concludes with a list of Reference Documents which include the Faculty Handbook, Student's Rights, Regents Bylaws, SPG, and sources unique to SNRE [School of Natural Resources and Environment](#)

14. **School of Nursing** – Theirs is a complete re-write of the model in terms of presentation, but the content basically adheres to the model. [U-M School of Nursing](#)

15. **College of Pharmacy** – The policy follows the model. [College of Pharmacy](#)

16. **School of Public Health** – Their policy follows the model in general but includes: – addenda consisting of an Updated FGF and a Withdrawal of FGF form. Appended also is a brief but helpful bibliography to provide guidance in preparation of a grievance. This includes publications by AAUP, UM Faculty Handbook, Regents Bylaws, etc. [School of Public Health](#)

17. **Gerald Ford School** – There is a brief Introduction, and otherwise follows the model. [Gerald R. Ford School of Public Policy](#)

18. **School of Social Work** – The policy follows the model. [School of Social Work](#)

19. **University Library** -- The policy follows the model. [University Library](#)  
<https://www.lib.umich.edu/library-human-resources/staff-manual-faculty-grievance-procedure-university-library>

### III.

In 2015, SACUA reviewed the 2010 Model Grievance Procedures and produced a document entitled “Guidance on Grievability. Under the University of Michigan 2010 Model Grievance Procedures”. The 2015 document clarified some of the language of the policy written in 2010. It sought to provide greater transparency throughout the process, as well as increased accountability with the aim of reducing the likelihood of litigation. See Guidance link below:

[https://facultysenate.umich.edu/wp-content/uploads/sites/22/2015/03/SACUA-Guidance-on-Grievability-4.13.15\\_updated-4.23.15.pdf](https://facultysenate.umich.edu/wp-content/uploads/sites/22/2015/03/SACUA-Guidance-on-Grievability-4.13.15_updated-4.23.15.pdf)

The grievance procedure presumably ensures 'prompt' and 'fair' resolutions of faculty grievances. The policy provides redress when an action or decision against the faculty member violates

university policy or is manifestly unfair. Manifestly unfair, had been open to interpretation, and is now defined as meaning “clearly and obviously” unfair. (See page 3, section III on Standards, Applicable Policies, and Faculty Rights). Many University policies are relevant to grievance disputes and are published in the Standard Practice Guide and the Faculty Handbook.

- a. *The grievance process is not prompt, and the problem is that the current policy requires finding times where 9 people can attend -- which is very difficult. This could only be remedied by a standing grievance hearing panel that has time slots set aside.*

Respectfully submitted,  
David S. Potter  
Senate Secretary

University of Michigan Bylaws of the Board of Regents, Sec. 5.02:  
Governing Bodies in Schools and Colleges  
Sec. 4.01 The University Senate

"...[t]he Senate is authorized to consider any subject pertaining to the interests of the university, and to make recommendations to the Board of Regents in regard thereto. Decisions of the University Senate with respect to matters within its jurisdiction shall constitute the binding action of the university faculties. Jurisdiction over academic policies shall reside in the faculties of the various schools and colleges, but insofar as actions by the several faculties affect university policy as a whole, or schools and colleges other than the one in which they originate, they shall be brought before the University Senate."

Rules of the University Senate, the Senate Assembly and the Senate Advisory Committee on University Affairs:

Senate: "In all cases not covered by rules adopted by the Senate, the procedure in Robert's Rules of Order shall be followed."

Assembly: "The Assembly may adopt rules for the transaction of its business. In appropriate cases not covered by rules of the Assembly, the rules of the University Senate shall apply."

SACUA: "The committee may adopt rules for the transaction of its business."