

FHRC AGENDA Tuesday, March 15th 2016

Approval of minutes from February 9th 2016

NEW BUSINESS: Update: Faculty Senate Chair Recommendations

1. Regarding per course faculty, the following was submitted to the Faculty Senate Chair:

The FHRC recommends no action of this issue right now. The Vice Provost for Faculty and Academic Affairs and the current Faculty Senate Chair Elect have agreed to collaborate with the incoming Faculty Senate Executive Committee to investigate current per course faculty workload and any potential impact that an increase in hours might have on full-time faculty, course availability, productivity, and quality of instruction. Once they have concluded their work, they will bring the charge back to FHRC for further consideration and perfection.

2. Regarding FH 7.2.1 Sabbatical Leave for Faculty, the following was submitted for a vote. *Only ranked faculty members (but not including ranked faculty members who are serving as Department Heads, School Directors, Associate Deans, Deans, or Associate Provosts) are eligible for sabbatical leave. Eligibility is established by completing 12 semesters of service to Missouri State University (summer teaching excepted). A faculty member granted a sabbatical leave will be entitled to University support amounting to full pay for a half year's leave and no less than one-half pay for a full year's leave. A faculty member on sabbatical leave is still considered a full-time employee. Faculty will participate in the retirement program and will have their benefits paid by the University. The Provost may approve up to three-fourths pay for a full year's leave. Faculty are encouraged to apply for external grants to supplement their funding. Their sabbatical pay will not be decreased if they secure such funding, except, however, that faculty cannot receive more than one hundred per cent of their twelve-month equivalent salary while on sabbatical. Funds provided for travel, housing, and other living expenses are not considered to be "Salary". Since faculty on sabbatical leave are considered full-time employees, faculty are required to adhere to section ten of the Faculty Handbook as it pertains to outside activities and conflict of interest while on sabbatical leave.*

3. Regarding FH 8.4 Consensual Sexual or Romantic Relationship Policy, the following was submitted for a vote. *A consensual sexual or romantic relationship between a faculty member and a student is generally wrong when the faculty member has professional responsibility, such as grading, advising, mentoring, or directing student development, even if that student is not formally enrolled in one of the faculty member's courses. Such a situation increases the chance for abuse of power. The University will view it as unethical if faculty members engage in consensual sexual or romantic relationships with students enrolled in their classes or subject to their supervision. The behavior is, in most cases, unethical even when the relationship is consensual (i.e., both parties have consented), because the voluntary consent of the student is in doubt, given the power imbalance in the student-faculty relationship. Even if consent were to be shown, a clear conflict of interest would still exist which might create the appearance of discrimination or favoritism in grading or access to educational opportunities.*

OLD BUSINESS:

12.3. Academic Personnel Review Commission (APRC)

Final paragraph reads,

The APRC duties shown marked with asterisks also apply to the Professional Practices Review Process (Chapter 13). Decisions made by the APRC must be supported by a majority of the commissioners.

The APRC must inform the Associate Provost for Faculty and Academic Affairs of its activities, but is not required to include the Associate Provost in its discussions.

The FHRC was made aware that in the past, the APRC had “huge” problems with a different Associate Provost. Therefore, the FHRC proposes the following change.

The APRC duties shown marked with asterisks also apply to the Professional Practices Review Process (Chapter 13). Decisions made by the APRC must be supported by a majority of the commissioners.

The APRC must inform the Associate Provost for Faculty and Academic Affairs of its activities, but the Associate Provost shall not be included in APRC discussions.

OR (We need to pick one of these two versions)

The APRC duties shown marked with asterisks also apply to the Professional Practices Review Process (Chapter 13). Decisions made by the APRC must be supported by a majority of the commissioners.

The Associate Provost shall not be included in APRC discussions.

12.3.3. APRC Annual Report to Faculty Senate

The APRC shall make an annual report to Faculty Senate during the first fall meeting, specifying the total number of cases filed in the previous 12 months, the types of cases (e.g., termination of employment, denial of academic freedom of speech, etc.), whether or not there was a prima facie case and whether the grievance was resolved.

Comment from FHRC:

APRC does not need to be recipient of the reports. As noted, the APRC annual report should provide an overview such as x number of cases were resolved; x number are in appeal.

12.3.8. APRC Recommendations

If the parties fail to reach a resolution, the APRC shall produce a report divided into findings of fact and recommendations with supporting reasons. This report is given to the faculty member and the party against whom the grievance has been alleged. The faculty member and APRC should be informed in writing within five business days whether the party against whom the grievance has been alleged agrees to the recommendations. If the parties agree with the recommendations of the APRC, the case is resolved.

Recommendation from FHRC:

Proposal: 12.3.8. APRC Recommendations

If the parties fail to reach a resolution, the APRC shall produce a report divided into findings of fact and recommendations with supporting reasons. This report is given to the faculty member and the party against whom the grievance has been alleged, and the provost. The faculty member and the party against whom the grievance has been alleged must inform the APRC in writing within five business days whether they agree to the recommendations.. If both parties agree with the recommendations of the APRC, the case is resolved.

12.3.9. Right to Initiate Formal Review Process

If the case is not resolved after the APRC report has been disseminated, the faculty member may initiate the formal review process for APGP by filing written notification with the APRC in the Faculty Senate Office and sending a copy to the Provost's Office. The notification must be filed within ten business days of the receipt of the APRC report or conclusion of mediation.

FHRC does not recommend a change in wording regarding opportunity to bring up key documents.

Rationale: Section 12.3.7 provides the faculty member an opportunity to bring up key documents beyond what was submitted in the original grievance. The FHRC feels that the wording "filing written notification" is sufficient.

FHRC proposes a change to address the question, "What if faculty member does not submit any notification?"

Proposal: 12.3.9. Right to Initiate Formal Review Process

If the case is not resolved after the APRC report has been disseminated, the faculty member may initiate the formal review process for APGP by filing written notification with the APRC in the Faculty Senate Office and sending a copy to the Provost's Office. Absent exceptional circumstances, notification must be filed within ten business days of the receipt of the APRC report or the conclusion of mediation, or the APRC report will stand.

12.4.1. Composition of University Hearing Committee and Panels

12.4.1.1. University Hearing Committee

Twenty-four tenured, ranked faculty members shall be elected by the Faculty Senate to serve three-year staggered terms as the University Hearing Committee (UHC). The Faculty Senate shall select one-third of the UHC membership annually in the regular February meeting of the Faculty Senate for service beginning in the next academic year. These faculty members shall be nominated by their College Council, which shall send two names annually to the Faculty Senate Office by February 1st. At least three of the twenty-four faculty members shall be from each college. (Replacements, where necessary, shall be appointed by the Faculty Senate Executive Committee [FSEC] or filled by the Faculty Senate at the next annual appointment period.) A faculty member who is elected to the UHC may be re-elected to successive terms.

FHRC recommends 1) clarification of the replacement issue, 2) an increase in the pool of UHC members, and 3) one additional faculty member from each college. It should be clear that serving on the UHC means that there will be service on the UHP as well. The increase is in response to a lack of available faculty during summers using the current 24 pool.

Proposal: 12.4.1.1. University Hearing Committee

Thirty tenured, ranked faculty members shall be elected by the Faculty Senate to serve three-year staggered terms as the University Hearing Committee (UHC). The Faculty Senate shall select one-third of the UHC membership annually in the regular February meeting of the Faculty Senate for service beginning in the next academic year. These faculty members shall be nominated by their College Council, which shall send two names annually to the Faculty Senate Office by February 1st. At least four of the thirty faculty members shall be from each college. (Replacements, where necessary, shall be appointed by the Faculty Senate Executive Committee [FSEC] or filled by the Faculty Senate at the next annual election.) Replacements appointed by Faculty Executive Committee serve until the next annual election. A faculty member who is elected to the UHC may be re-elected to successive terms.

12.4.1.2. University Hearing Panel

From the 24-member UHC, a five member University Hearing Panel (UHP) shall be selected by the Faculty Senate Executive Committee and empanelled by the APRC as needed. The faculty member and the administrator may request to replace up to three of the selected panelists prior to the first meeting of the UHP.

An orientation of the University Hearing Committee shall be conducted by the APRC and General Counsel annually. UHP decisions must be supported by a majority of the panelists.

FHRC Recommendation

Proposal: 12.4.1.2. University Hearing Panel

From the 30 member UHC, a five member University Hearing Panel (UHP) shall be selected by the Faculty Senate Executive Committee and empanelled by the APRC as needed. The faculty member and the administrator may request to replace up to three of the selected panelists prior to the first meeting of the UHP.

An orientation of the University Hearing Committee shall be conducted by the APRC and General Counsel annually. UHP decisions must

12.4.6. Report

The UHP shall prepare a written report divided into findings of fact and recommendations with supporting reasons. The report shall be presented to the Provost and the faculty member within five business days of the conclusion of the hearing. A minority report may also be prepared.

FHRC recommends that the report should also go to the administrator against whom the grievance was filed.

Proposal: 12.4.6. Report

The UHP shall prepare a written report divided into findings of fact and recommendations with supporting reasons. The report shall be presented to the Provost, the faculty member, **and the administrator against whom the grievance was filed** within five business days of the conclusion of the hearing. A minority report may also be prepared.

Chapter 13 issues:

“The key issue of concern specific to Chapter 13 involves what appears to be a requirement that the President be present as a participant in any PPRP where dismissal is considered as a sanction. The first section shown here, from Chapter 12, is provided to show the contrast in language between the two chapters.”

12.4.4. Hearings

The formal hearing may involve one or more meetings at which witnesses may be examined. Each party shall provide the names of its witnesses to the other party and the UHP in advance of the hearing. The administration and the faculty member will each be allowed to present an opening statement without interruption and orally question the witnesses and parties. The UHP may also orally question the witnesses and parties. The administration and the faculty member may be represented by counsel, but counsel is not permitted to question the witnesses or parties. **If the University is the only respondent, the President will designate a representative who will be allowed to present an opening statement and question the witnesses and parties.** The Missouri Rules of Evidence need not be followed, but the UHP will base its finding on only reliable evidence. A

verbatim record of the hearing will be taken and made available to the parties at the University's cost.

In this section of Chapter 12, it is clear that the President need not participate directly in the APGP hearings, which makes sense. The language in Section 13.4.5 differs.

13.3. Initiation of Formal PPRP

The PPRP is initiated by a Department Head, Dean, Provost, or President if the conduct of a faculty member is considered sufficiently grave to justify imposition of major sanctions and attempts at resolution by informal negotiations have been exhausted. After discussing the situation with the faculty member, the administrator institutes the PPRP by preparing a written complaint and providing it to the faculty member. **Only the President of the University may institute the PPRP if a dismissal is a recommended sanction.** Exercising academic freedom of speech or political speech/affiliation shall not be grounds for dismissal or imposition of major sanctions.

Although the PPRP may be initiated only by administrators, faculty or staff may present allegations of unprofessional conduct against another faculty member to the faculty member's Department Head who should investigate and proceed appropriately. If the Department Head is unable to resolve the complaint, the person alleging the impropriety may take the matter to the Dean of the faculty member's college or the Associate Provost for Faculty and Academic Affairs. If none of the three administrators chooses to initiate the PPRP, the matter is considered resolved.

This section states that in cases involving dismissal as a possible sanction, the PPRP must be initiated by the President. This makes sense because of the President's role in the University. The requirement that the President initiate the process confirms the President's knowledge that the step is being taken and that the President would be willing to present the request for dismissal to the Board of Governors. However, to a great extent, the President is essentially a figurehead in the process – the rationale for dismissing a faculty member is provided primarily by the administrator initiating the PPRP and by the Provost. See next section.

13.4.5. Hearing

The formal hearing may involve one or more meetings at which witnesses may be questioned. Each party shall provide the names of its witnesses to the other party and the UHP in advance of the hearing. **The administrator initiating the PPRP and the faculty member will each be allowed to present an opening statement without interruption and orally question the witnesses and parties.**

The UHP may also orally question the witnesses and parties. The administrator and the faculty member may be represented by counsel, but counsel shall not be permitted to question the witnesses or parties. The Missouri Rules of Evidence need not be followed, but the UHP will base its finding on only reliable evidence. A verbatim record of the hearing will be taken and made available to the parties at the University's cost.

Section 13.3 mandates that the President file the PPRP in any case where dismissal is a potential sanction, and this section requires that the "administrator initiating the PPRP" be a participant in the UHP hearings. It would probably make sense to alter the language to make it more parallel to that of Section 12.4.4, i.e.,

FHRC proposes a change to 13.3

13.3. Initiation of Formal PPRP

The PPRP is initiated by a Department Head, Dean, Provost, or President if the conduct of a faculty member is considered sufficiently grave to justify imposition of major sanctions and attempts at resolution by informal negotiations have been exhausted. After discussing the situation with the faculty member, the administrator institutes the PPRP by preparing a written complaint and providing it to the faculty member. Only the President of the University may institute the PPRP if a dismissal is a recommended sanction. **If the President has initiated the PPRP, the President may designate a representative to fulfill the role of the administrator in the hearings.** Exercising academic freedom of speech or political speech/ affiliation shall not be grounds for dismissal or imposition of major sanctions.

Although the PPRP may be initiated only by administrators, faculty or staff may present allegations of unprofessional conduct against another faculty member to the faculty member's Department Head who should investigate and proceed appropriately. If the Department Head is unable to resolve the complaint, the person alleging the impropriety may take the matter to the Dean of the faculty member's college or the Associate Provost for Faculty and Academic Affairs. If none of the three administrators chooses to initiate the PPRP, the matter is considered resolved.