



**Bradley University Senate
First Regular Meeting of the 2019-2020 Senate**

3:10 p.m. – 5:00 p.m., September 19, 2019
Michel Student Center, Ballroom A



MISSION:

Bradley University empowers students for immediate and sustained success in their personal and professional endeavors by combining professional preparation, liberal arts and sciences and co-curricular experiences. Alongside our dedication to students, we embrace the generation, application and interpretation of knowledge.

Agenda

- I. Call to Order**
- II. Announcements**
- III. Approval of Minutes (See Attachment 1)**
- IV. Reports from Administrators**
 - A. President Roberts**
 - B. Senior Vice President of Academic Affairs and Provost Zakahi**
- V. Report from Student Body President Megan Brezka**
- VI. Report from Senate President Ahmad Fakheri**
- VII. Approval of the membership of the Core Practices Committee**
 - Jon Neidy (2022)
 - Meg Frazier (2022)
 - Seth Katz (2022)
 - Susan Rapp (2022)
- VIII. Approval of the membership of the Academic Calendar (See Attachments 2 and 3)**
- IX. Handbook Language Change Contractual Arrangement Committee (See Attachments 4)**
- X. New Business**
- XI. Adjournment**



**Bradley University Senate
Eight Regular Meeting of the 2018-2019 Senate
Minutes**

3:10 p.m. – 5:00 p.m., May 8, 2019

Student Center Marty Theatre



MISSION:

Bradley University empowers students for immediate and sustained success in their personal and professional endeavors by combining professional preparation, liberal arts and sciences and co-curricular experiences. Alongside our dedication to students, we embrace the generation, application and interpretation of knowledge.

Minutes

I. Call to Order at 3:11

II. Announcements

III. Approval of Minutes (See Attachment 1)

1st Senator Banning; 2nd Senator Lukowiak

Approved

IV. Reports from Administrators

A. Senior Vice President of Academic Affairs and Provost Zakahi

Provost Zakahi's comments are summarized as follows:

The provost outlined his plan for an aspect of the blueprint focused on online programs that he believes will draw students. It was presented verbally, as a timeline.

- Late spring 2019: Demand analysis received from Gray. Deans solicit programs for inclusion in this analysis. There will be analysis of CIP (Classification of Instructional Program) because all programs have to be aligned with Federal codes. Pearson will be partner on these programs.
 - Summer 2019: Begin work to develop programs to constitute "Bradley Online" (a working title; hereafter "BO" in these minutes) which will focus on serving non-traditional undergrads without cannibalizing current programs.
 - Fall 2019: Online (built w/ Pearson) EdD program launches through EHS; increase enrollment in DPT program by 20 next year with a goal to increase to 150 total enrolled over time.
 - Also 2019: BS in Chemical Engineering will launch.
 - Also 2019: Develop other new undergrad programs (unspecified) to launch in 2021.
 - Spring 2020: Open interdisciplinary Data Science program and Analytics Graduate degree program.
 - Fall 2020: Working with Meteor Learning, Business College will launch 2 masters programs and 1 certificate program.
 - Fall 2021: Launch new undergraduate programs for traditional students and new graduate online programs.
- The goal is to bring in new students we wouldn't normally enroll.
 - None of this is an abandonment of traditional primary identity. However, by itself, the traditional body of students won't pay to support the institution. Decreases in numbers of traditional students concern all and competition is fierce. We are not going out blind. Instead via Gray and Pearson we'll identify programs we'll be successful with.

Questions included the following:

- How will we exclude tradition undergrads from online enrollment?
- What will the admission requirements for BO be?
- What measures are being taken to deal with the impact on faculty of the transition to BO?

- What analysis has been done to examine large drop in AEP enrollments for this year? The numbers of applications and acceptances were not far off from last year but deposits dropped disproportionately.

Answers included the following:

- BO will be a separate entity. Our traditional undergraduate students will not even be able to see the BO classes. Students for BO will be a different market group. They will receive the same quality education but in a virtual experience.
- BO might require new hires, but Management will also be looking at what the current workload is. If BO is a very successful, more faculty and staff will be needed, but, right now dwindling numbers mean that the worry is to have enough students.
- AEP declines in numbers are attributed to parents' reluctance to pay private school tuition without clear paths to jobs; also there is more competition from similar programs. This is stated to have been a 10-year trend.

V. Report from Student Body President Megan Brezka

Freshman – Emma Hoyhtya – Chief of Staff

Sophomore—Isaiah Harlan – Director of Administration

Senior and incoming Grad Student – Pierre Paul – Speaker of the Assembly

Cabinet is filled, and strong slate for next year.

VI. Consent Agenda (see Attachment 2) – Curriculum and Regulations

No motion needed as this is from committee.

Items pulled for discussion – none.

Approved.

VII. Motion to adopt Evaluation Process for Associate Provost for Research/Dean of the Graduate School: (see Attachment 3)

1st Past Senate President Timm, 2nd Senator Nanyes

Senate President Fakheri: Brief history on the document: Realizing there was no mechanism for evaluating the Dean of Graduate School, this is forwarded to be added to the Handbook. It parallels the existing evaluation process and documents produced in Dean evaluations. It will start next Fall and will be conducted every three years.

Approved.

VIII. Addition of a Standing Committee on International Initiatives to the University Senate (see attachment 4).

Motion: Pursuant to recommendations from strategic planning, the ad hoc committee on International Initiatives proposes **a motion to add a standing committee on International Initiatives.**

1st Senator J. Bukowski; 2nd Senator Lukowiak.

Motion: to approve this motion today.

1st Senator Banning

Approved .

Discussion of motion to add Standing Committee on International Initiatives included several concerns:

- The need to clarify where this committee should be listed in the handbook
- Questions about whether such a committee is needed and concern that it might create a bottleneck.
- The need to include international recruitment.

Answers to these concerns included:

- The ad hoc committee's conviction that this area has not been given attention and that current Initiatives have been scattered across campus.
- A standing committee would will help to coordinate efforts and to create a strategy as well as pushing initiatives forward by bringing together all relevant entities, including recruitment.

Motion: to amend the current motion to add placement in the Handbook to Article 4, # 19, on page 31.

1st Past Senate President Timm; 2nd Senator Zakahi:

Approved

Return to discussion of the original motion:

- It was noted that the grad school is not on the list of entities to be represented on this committee.

Motion to allow Christine Blouch to speak

1st Past Senate President Timm, 2nd Senator O'Brien.

Approved

- There's not a budget line for international recruitment – the committee will help the need for budget for recruitment to move forward. Recruitment should be part of this chart.

Approved: Motion to create a standing Committee on International Initiatives

IX. Senate Committees' Annual Reports (see attachment 5)

Informational – no questions.

X. Approval of the ARB membership

1. Ross Fink
2. Phil Horvath
3. Jana Hunzicker
4. David Olds
5. B.J. Lawrence
6. Sara Netzley
7. K. Krishnamoorthi
8. Jing Wang

9. Mark Gobeyn
10. Kevin Swafford
11. Anne Hollis.
12. Jobie Skaggs
13. Rob Prescott

Motion to approve membership of reconstituted ARB.

1st. Senator Zakahi; 2nd not noted.

Discussion included the following:

Concern was voiced that, in the past, this committee's decisions about reinstatement have been hampered because there is no one on the committee able to access students' financial information. It was suggested that the representative from the Provost Office (that is, the Associate Provost) on the committee can be charged with that task.

Approved.

XI. President Roberts and CFO Gandhi's report on the financial state of the University

President Robert's comments are summarized as follows:

After noting the May 1 deadline for freshman deposit numbers, President Roberts spoke about the urgency of financial matters in light of the need to give the Board the proposed budget at the May 18-19 Board meeting. Deposits predict a serious deficit budget. He remains optimistic for the long term due to the blueprint's focus on growth and strength and reiterates his belief that no one can cut their way to greatness. But for this short-term problem Swords Hall is in crisis mode. Management wants to manage the situation following a defensible process and being as collaborative and inclusive as possible. But BOT Finance Committee will, in a scheduled conference call, want to learn how we plan to get this deficit down.

The president praised the administrative team, noting that our decline is lower than our competitors (down 4% in contrast to an overall average enrollment decline in private schools of 5.1 % with some declines as high as 19%; in contrast some have increased enrollment as high as 18% but with discounts of 60% to regain market share). There is general deterioration in the market.

Q: Where are the numbers being quoted from?

A: Midwest Private Competitors Data Sharing Consortium (per Justin Ball).

President Roberts: This is a bleak picture which could be worse if retention is like last year. Budgeting is based on assumption of a slight rebound in retention rates. The Board has called for 3 million to be cut from the proposed budget. However, next years' numbers are constrained because there are contracts and obligations that can't be avoided. So Management has assigned numbers to each division and unit. Everyone is being asked to cut something. Swords does not want to micromanage. While some things will be denied because of appearance, mostly Management is engaging in conversation to make these savings. For instance, there is not a hard hiring freeze – but only crucial hires will be made. We are already very lean so people will feel the pinch.

There will be short term cuts for this year. Long term, the focus needs to be on growing revenue. For instance, program prioritization will be in place by mid-year. He hopes that in future there will be more flexibility. But we have to generate resources, and then use them carefully and take the blueprint seriously. He hopes the new building will recruit, but new programs, new methods of recruitment, and more, need to be focused on as well.

Administrator cuts will be addressed, but these units have been cut for years. Examples of Advancement office and Admissions and Counseling were given. Advancement and Admissions have far fewer people in them than our competitors. There is a tension: BOT wants quick results, but the process takes time. “No one is more determined to stick to the process than Walter.” But there is pressure from one side to get things done and from the other to stick to the process.

CFO Gandhi’s comments are summarized below:

CFO Gandhi explained that operations and cash position are inseparable. Our operating margin was negative 3 million. Gross tuition increased but net has not increased at the same level. Expected projection for last year initially was a deficit of 600 -700K and then soon back to a break even. But with enrolment factors and other considerations it is going to be negative 5.5- 6 million. Effect of undergrad decrease and other expenses will be felt for several years. Reiterates president’s focus on actions needed.

FY 2020 budget is a negative margin. Last year proposed budget was based on March and April enrollment figures. That proposed budget is being used to see where some cost savings can be found.

Endowment – in an enabling tool for capital formation and sustainable support. It is 313 million. 55% of that is unrestricted. Spending it is an option, but we must be ready for consequences if it is spent down (for instance external markets, donor confidence and timing).

Debt structure – Debt for BEC was taken on strategically. We have debt of t \$50 million is at 2% till 2022. BU’s creditors want Bradley to prosper and they are open to flexibility. But current operating considerations have to be solid. But some form of plan has to exist before we can talk to creditors.

Revenue enhancements, cost reductions etc. provide room for optimism. But we have a lean operation that has few options for cutting.

Questions:

Q. Why can’t we use part of the unrestricted endowment.

A 1: None of the endowment is collateralized, but a lot is tied up due to loan covenants.

Lots or ratios have to be maintained, leaving roughly 15 million that could be spent all things being equal. But Board will not approve a budget that means cashing in endowment.

A 2: If we reduce endowment, we lose spinoff into operations. Every million renders 55K to operations. So less endowment means less spin off.

A 3: Also if our rating goes down, interest rates go up.

Q. Why not float a loan to cover operating expenses?

A. University has 2 lines of credit – one used only in 07-08. But, yes, that is a possibility.

Q. How do our allowances (discount rates) compare to other universities?

A. Our overall discount rate is about 40%; Butler and others are higher.

A 2. While the Freshman discount rate is 51.2%, the overall student body is about 41%. Some schools are reporting 55-60 % rates.

Q. What is the plan from advancement for offsetting through fundraising?

A. Advancement spokesman – references cutting staff for 10 years. If we are going to raise more money we need to invest money in that. Different opportunities for fundraising have been reviewed. They are looking at the largest needs and references the shift to restricted giving. Folks are giving to specific programs and to gift accounts.

A 2: In the full financials, look at temporary and permanent restricted and unrestricted.

A 3: The trustees will look in the year ahead at questions of when and how to structure a capital campaign. We have potential for major gifts to endowment or for facilities upgrade, but they may be waiting to see what will happen with Interdisciplinary Programs, for instance.

Q. Tulsa – what can we learn?

A: They have a huge endowment, a growing population area, and other differences. Tulsa shut down all kinds of programs and put their money into market-popular programming and that's something we could look at. But he is not sure we would replicate.

Motion: To let Darcy Leach speak.

1st Senator Blair 2nd not noted.

Approved.

Q. Is there a way to gauge which universities will be the first to go under during this demographic shift? Can we just wait it out?

A. President replies that no, we can't wait it out, but he guarantees Bradley won't go under. The question is how the University will have to shift as we restructure. He wants to emerge as a leader not a bottom feeder. Higher education will be very different in 15 years.

A 2: In addition, after 2026 there will be a 12% drop in students. Even if we got by in the short term, at that point we'll be back in the same spot.

A 3: There are 55 colleges fewer this year than last due to closures and mergers and this will accelerate.

A 4: S and P's Higher Ed outlook are projecting the same things.

XII. The impact of Program Prioritization on the University (see attachments 6 and 7)

Postponed.

XIII. New Business

XIV. Adjournment 1st Senator Nanyes.

Adjourned at 4 38.



Bradley University Senate

Special Meeting of the 2018-2019 Senate

Student Center Marty Theatre

Minutes



MISSION:

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I. Call to Order 4 49

II. Election of Senate Officers

Nominations:

President. Ahmad Fakheri.

1st Senator Roos; 2nd Past Senate President Timm.

Approved.

Vice President. Stephen Banning

1st Senator Capie, 2nd Past Senate President Timm.

Approved.

Secretary. Danielle Glassmeyer.

1st Senator Bukowski; 2nd Senator Banning.

Approved

At large. Teresa Drake.

1st Senator Keuster. 2nd Senator Banning
Approved

At large. Bernie Goitein.
1st Past Senate President Timm; 2nd Senator Banning
Approved

III. Confirmation of Senate Committee Memberships
No formal action taken.

IV. Adjournment: 1st Past Senate President Timm. **Approved at 4:43 pm**

**ACADEMIC CALENDAR
2022 - 2023**

FIRST SEMESTER

August 15, Monday	Reporting date for faculty
August 20, Saturday	Residence halls open
August 24, Wednesday	Classes begin
October 8, Saturday	Fall Recess begins
October 12, Wednesday	Classes resume
November 23, Wednesday	Thanksgiving Recess begins (no classes)
November 28, Monday	Classes resume
December 6, Tuesday	Last day of classes
December 7, Wednesday	Study Day
December 8, Thursday	Final Examinations begin
December 14, Wednesday	Final Examinations end
December 17, Saturday	Commencement

JANUARY INTERIM

January 3, Tuesday	First day of classes
January 16, Monday	January Interim Ends

SECOND SEMESTER

January 9, Monday	Reporting date for new faculty
January 15, Sunday	Residence halls open
January 18, Wednesday	Classes begin
March 11, Saturday	Spring Recess begins

2022-2023, continued

SECOND SEMESTER, continued

March 20, Monday	Classes resume
May 2, Tuesday	Last day of classes
May 3, Wednesday	Study Day
May 4, Thursday	Final Examinations begin
May 10, Wednesday	Final Examinations end
May 13, Saturday	Commencement

SUMMER SESSIONS

May 15, Monday	May Interim I begins May Interim II begins
NO CLASSES on Memorial Day Holiday	
June 2, Friday	May Interim I ends
June 5, Monday	Summer Session I begins
NO CLASSES on Fourth of July Holiday	
July 7, Friday	Summer Session I ends May Interim II ends
July 10, Monday	Summer Session II begins
August 11, Friday	Summer Session II ends

2022-2023 Distance Delivery Semesters

2022 FALL	Begins	Ends	BREAK	2023 SPRING	Begins	Ends	BREAK	2023 SUMMER	Begins	Ends	BREAK
15 week full term	8/22/2022	12/4/2022	12/5/22 - 1/1/23	15 week full term	1/2/2023	4/16/2023	4/17/23 - 4/23/23	15 week full term	4/24/2023	8/6/2023	8/7/23 - 8/20/23
<u>7.5 week terms</u>				<u>7.5 week terms</u>				<u>7.5 week terms</u>			
First 7.5-week	8/22/2022	10/12/2022		First 7.5-week	1/2/2023	2/22/2023		First 7.5-week	4/24/2023	6/14/2023	
Second 7.5-week	10/14/2022	12/4/2022		Second 7.5-week	2/24/2023	4/16/2023		Second 7.5-week	6/16/2023	8/6/2023	
<u>5 week terms</u>				<u>5 week terms</u>				<u>5 week terms</u>			
First 5-week	8/22/2022	9/25/2022		First 5-week	1/2/2023	2/5/2023		First 5-week	4/24/2023	5/28/2023	
Second 5-week	9/26/2022	10/30/2022		Second 5-week	2/6/2023	3/12/2023		Second 5-week	5/29/2023	7/2/2023	
Third 5-week	10/31/2022	12/4/2022		Third 5-week	3/13/2023	4/16/2023		Third 5-week	7/3/2023	8/6/2023	
<u>3 week terms</u>				<u>3 week terms</u>				<u>3 week terms</u>			
First 3-week	8/22/2022	9/11/2022		First 3-week	1/2/2023	1/22/2023		First 3-week	4/24/2023	5/14/2023	
Second 3-week	9/12/2022	10/2/2022		Second 3-week	1/23/2023	2/12/2023		Second 3-week	5/15/2023	6/4/2023	
Third 3-week	10/3/2022	10/23/2022		Third 3-week	2/13/2023	3/5/2023		Third 3-week	6/5/2023	6/25/2023	
Fourth 3-week	10/24/2022	11/13/2022		Fourth 3-week	3/6/2023	3/26/2023		Fourth 3-week	6/26/2023	7/16/2023	
Fifth 3-week	11/14/2022	12/4/2022		Fifth 3-week	3/27/2023	4/16/2023		Fifth 3-week	7/17/2023	8/6/2023	
Fall Commencement:	Dec. 17, 2022			Spring Commencement:	May 13, 2023			Summer Commencement:	Aug. 14, 2023 (no ceremony)		

Updated 4/9/19

Statement of Purpose and Intent to Accompany Proposed revisions to the Faculty Handbook from the University Senate Committee on Tenure, Promotion, & Dismissal

In the aftermath of the last appeal to the Tenure, Promotion, & Dismissal Committee, it became apparent to the President of the University as well as the members of the Committee that the appeals process was flawed. The proposed language for revision that was submitted in the spring of 2018 did not address the core concerns of the Committee and the President. The existing system provides little in the way of guidance on the purpose of the appeals process. To that end, the following goals are set for the revisions submitted to the University Senate Executive Committee for their consideration.

Goal One: To provide a clear purpose for the appeals process.

Under the old system, a faculty member who believes that the decision not to tenure or promote was unjustified could, after consultation with the Ombuds, file an appeal. Evidence would be gathered and the Committee would deliberate, but ultimately the review was limited to whether “adequate consideration” was given in the process. If the Committee did not think “adequate consideration” was given, it was limited to recommending that the President ask the Provost to reconsider his or her decision. At best, this served to establish that all administrative remedies had been exhausted prior to litigation, but provided little hope of substantive relief to the applicant whose case was justified. The Committee was neither able to consider the merits of the appeal nor provide a recommendation that the decision be reversed or reconsidered.

The first step is to change the ultimate decision maker for decisions regarding tenure and promotion. Under current rules, the Provost merely recommends a decision to the President. The decision-maker should be the Provost. The Provost is the chief academic officer of the University and should have the ultimate authority in most cases. The reason for this shift is so that the Committee, should it determine that a recommendation of reconsideration is appropriate, can then compel the President to look at the decision anew. The President would then be able to review the Provost’s decision and the recommendations of the Committee. The weight to be given to each recommendation is dependent on the reasons for the Committee’s decision, with greater weight being given to the Committee’s recommendation that the process be repeated with all mandated procedures followed than to the Committee’s recommendation that the decision be reconsidered as not justified by the applicant’s record.

The second step is to give the Committee the authority to review the substantive decision by the Provost. Currently, the Committee is limited to a review of whether the Provost, or other deciding official, gave “adequate consideration” to all the factors and evidence presented in the portfolio. The term “adequate consideration” is not defined in the handbook. Rather, there is a reference to an AAUP document which itself, is imprecise.

The Committee should recommend reconsideration when, in its judgment, the applicant for tenure or promotion was not given due process as laid out in the Tenure and Promotion provisions of the department, college, or university level. If the proper procedures were not followed, the recommendation would be for the tenure and promotion process to be repeated, following all the mandated procedures. It is hoped that that President would, in such cases, be

reluctant to make a decision rejecting the recommendations of the Committee unless he or she disagrees with the finding that proper procedures were not followed. In cases where it is alleged that proper procedures were not followed, the process for the investigation by the Committee should be limited to testimony and documents detailing the procedures followed. Both the applicant and the administrative officer alleged to have failed to follow proper procedures should have access to all documents and records considered by the Committee.

The Committee may recommend reconsideration when, in its judgment, the decision not to grant tenure and/or promotion, was not justified by the applicant's record of teaching, research, and/or service. In such cases, the Committee shall have access to the full binder of the applicant as well as testimony by decisions makers at all levels of the process. If, in the judgement of the Committee, the decision to deny promotion or tenure was not justified, that shall be communicated to the President who then will consider the reasons offered by the Provost as well as the reasons offered by the Committee.

It should be noted that the standard of review for consideration of the merits of the decision is "clearly erroneous." Just because some members of the committee would have made a different decision is not sufficient to justify a recommendation that the decision be reconsidered. A decision by the Provost should be accorded significant weight. A recommendation to overturn such a decision should not be taken lightly.

In making its decision on the merits of the decision to deny tenure and/or promotion, the Committee shall attempt to follow the tenure and promotion guidelines of the particular department and college. Where there is evidence that the written tenure and promotion guidelines are not the complete criteria used in the making of such decisions, the Committee shall have the ability to consider unspoken rules or norms if it has sufficient evidence of their existence. An example of such a rule would be the unspoken requirement that a scholarly monograph be published as a pre-condition of a positive recommendation for promotion to full professor when no such requirement appears in the written tenure and promotion guidelines. In cases where there is dispute regarding the existence of such unspoken norms, the Committee shall act as a finder of fact.

Because the weights to be assigned to the Committee's recommendations to the President depends, in part, on the type of case, and because the type of evidence to be considered also depends on the type of case, the appellant shall have the burden of declaring the basis of his appeal at the time the appeal is filed. An appellant may claim that both procedural and substantive errors were made, in which case the Committee will consider the procedural complaint first. If that complaint is found to be meritorious, then the committee must recommend that the decision process be redone, this time following all the mandated procedures. If not, then the committee can proceed to consider the substantive complaint.

In cases where a substantive error is alleged, the applicant shall provide specific allegations regarding the errors, indicating whether the matter is one of teaching, research, or service, or any combination of these.

Goal Two: To clarify the procedures and criteria to be followed in tenure and promotion decisions, and appeals therefrom.

Step one is to harmonize the language used to define the tenure, promotion and dismissal procedures with the language used in the procedures and process for grievances submitted to

the Faculty Grievance Committee. Following the same procedures for both will simplify the process for both, since more people will be familiar with it. Consistent procedures are also easier to justify in court in case of litigation.

The existing procedures for grievances allow for a formal hearing. In keeping that procedure, which is quite involved, it is useful for the Committee to have the ability to conduct a quick review of the merits of the complaint to make sure that only serious complaints get the full treatment, which is burdensome on all involved. As such, an initial review had been added that allows the Committee to look at the complaint and the Ombuds' Report and make a determination of whether the complaint has merit. This is analogous to the motion for a summary judgment in a real trial. The Committee would assume that everything in the complaint is true for purposes of making the determination of whether to proceed to a formal hearing. If, assuming that everything in the complaint is true, the committee still does not see evidence of a clearly erroneous decision, the matter is over and the Committee reports that to the parties involved. If the Committee believes a case for the decision being clearly erroneous could be made, then a formal hearing is granted.

Step two is to clarify some of the uncertainties regarding the meaning of certain types of decisions at each level of the process.

One of the issues that arose out of the last appeal heard by the Committee was the meaning of an abstention by a member of a departmental tenure, promotion, and review committee (TPR). An abstention is to be taken as a negative vote. A positive vote by a majority of the entire committee should be required for the process to move to the next level. In cases of clear conflict of interest, the decision maker must resign from the departmental committee instead of abstaining from a vote.

Another issue that arose out of the last appeal heard by the Committee was the meaning of a split vote. Under the current rules, the recommendation by a department or college committee, or the counsel of Deans, is dichotomous. It is either negative or positive. While the Committee cannot control the weight assigned to split votes by decision makers at each level of the process, the Committee will consider a split vote as a weaker endorsement of the merits of the applicant when making decisions regarding the substantive merits of applicants.

A last issue which arose out of the Committee's current deliberations is the status of the Department Chair in this process. Currently, a department chair may serve on the department's TPR committee as a voting member, or may not. There should be clarity on this issue. A department's TPR committee should be required to make it clear whether the Chair is a voting member of its TPR committee or not.

Proposed Modifications to the Faculty handbook

Item One: The Jurisdiction of the Committee on Tenure, Promotion, & Dismissal

Handbook, p. 23

7. The Committee on Tenure, Promotion and Dismissal

1. The Committee on Tenure, Promotion and Dismissal shall ~~function~~ **consider a petition for review of an adverse decision on tenure, promotion, or dismissal** only after the Faculty Ombuds has reviewed the case and a mutual settlement has not been reached between the faculty member and the administration. At this time in the case of the dismissal of a tenured faculty member, it will be incumbent upon the administration to provide this Committee and the faculty member with a statement of charges stated with reasonable particularity by the President or President's delegate. The burden of proof for these charges lies with the administration. Notice of the formal hearing by the Committee on Tenure, Promotion and Dismissal shall be given at least 20 days prior to the hearing. The Committee on Tenure, Promotion and Dismissal shall submit a written recommendation to the President and the faculty member following the hearing.

....

4. The Committee on Tenure, Promotion and Dismissal shall regularly review their operating procedures and handbook provisions governing their operations and makes suggestions for revision, if needed, to the Executive Committee of the University Senate.

Item 2: Giving the Provost final decision authority, subject to appeals.

Handbook, pp. 75

f. The chairperson will forward the recommendation to the Dean of the College, who will add a recommendation to the recommendatory package, and forward the whole to the Provost and Vice President for Academic Affairs, **who shall make the decision, subject to the appeals process as specified in the sections on the Faculty Ombuds, the Faculty Grievance Procedure, and the Procedures of the University Senate Committee on Tenure, Promotion, and Dismissal.**

Items 3 & 4: Harmonizing the operating procedures of the Tenure, Promotion, and Dismissal Committee with the language in the Grievance process and clarifying the purpose of the appeals process.

Handbook, p. 96

3. Tenure, Promotion, and Dismissal Committee Operating Procedures

~~a. The primary purpose of the Committee shall be to determine whether proper procedures were followed in cases involving non-renewal (See Termination of Employment), tenure, promotion, or dismissal. The Committee may consider whether "adequate consideration" was given by the decision-making bodies, if the contrary charge is made by the faculty member. (For interpretation of "adequate consideration" see AAUP Policy Documents and Reports, "Complaints of inadequate consideration are likely to relate to matters of Professional judgment, where the department or departmental agency should have primary authority. For this reason, the basic functions of the review committee should be to determine whether the appropriate faculty body gave adequate consideration to the faculty member's candidacy in reaching its~~

decision and, if the review committee determines otherwise, to request reconsideration by that body.")

b. A faculty member seeking review of his or her case by the Committee shall file for review within 15 days of receipt of the Faculty Ombuds's report. Request for a hearing by the Committee shall be made in writing only after consultation with the Faculty Ombuds.

To appeal an adverse decision, the faculty member should take the following steps:

1) Request a written statement of the reasons for non-renewal of contract, dismissal, or denial of promotion from the Provost and Vice President for Academic Affairs;

2) Receive that written statement from the Provost and Vice President for Academic Affairs;

3) Respond in writing to the written statement, including stated reasons for disagreement, to the Provost and Vice President for Academic Affairs;

4) Discuss that decision in succession, as required, with the faculty member's chairperson, dean and the Provost and Vice President for Academic Affairs.

c. The report of the Faculty Ombuds shall be requested by the Committee as soon as the request for a hearing has been received.

d. The faculty member will be consulted on the composition of the Committee. If a conflict of interests exists, or if a member of the Committee is unable to serve, the alternate will serve.

e. A log of committee sessions, briefly stating date and nature of the meetings, witnesses interviewed, oral or written requests for witnesses to appear, etc., shall be kept.

f. Confidentiality concerning a case shall be strictly maintained.

g. The Committee shall request a written statement of the reasons for non-renewal of contract, dismissal, or denial of promotion from the Provost and Vice President for Academic Affairs. The faculty member shall be requested to respond in writing to the Committee concerning this statement.

h. The Committee may seek additional documents pertaining to the case.

i. The Committee will usually begin its formal review by meeting with the Provost and Vice President for Academic Affairs and the faculty member. Other witnesses shall be requested to appear before the Committee. Reasonable notice to present evidence shall be given to all parties. They shall be advised in advance of points the Committee wishes to discuss with them. The faculty member and each witness shall give evidence separately and in private before the Committee, except as provided for in dismissal cases. (See Dismissal Procedures)

j. Audio recordings will be made of Committee sessions in which evidence is provided to the Committee. It shall initially be explained to the witness that such audio recordings will be made, and that they will be held in strict confidence, and that they will be destroyed after the Committee has made its recommendation to the President. A typewritten copy of the audio recorded hearings will be made available to the faculty member only at the faculty member's request in cases of dismissal, as required in Dismissal Procedures.

k. Sessions in which the Committee reviews evidence and makes its decisions will not be taped, unless the Committee decides otherwise. Neither audio recordings nor transcripts of such sessions, if made, will be available to any party and will be erased and/or destroyed by the Committee after making its recommendation to the President.

l. The faculty member may choose to have an advisor and/or counsel at the faculty member's expense. This advisor and/or counsel shall be advisory only and shall not be permitted to speak on behalf of the faculty member. The Committee shall have access to the University attorney on procedural matters.

m. The Committee shall submit in writing its recommendations concerning the case to the President and to the faculty member. The Committee shall request a written statement from the President regarding a rejection of its recommendations.

n. When discrimination on grounds of age, color, creed, disability, ethnicity, gender, gender identity and expression, marital status, national origin, race, religion, sex, sexual orientation,

~~gender identity and expression or veteran status is formally alleged, the faculty member may consult with the Equal Employment Opportunity/Affirmative Action Office.~~

~~e. Every reasonable effort will be made to conclude the Committee's proceedings and to make a recommendation to the President within 45 days after the matter has been formally submitted to the committee. This time period shall not include University holidays and times when the faculty are not under contract, such as during the summer.~~

A. Right to Appeal from an Adverse Decision on Tenure and/or Promotion, or Dismissal

In cases where the faculty member has just cause to believe that the decision to deny tenure and/promotion, or the decision to dismiss, was made in error, appeal shall lie to the University Senate Committee on Tenure, Promotion, and Dismissal. Such appeal may only be made after the faculty member has consulted with the Faculty Ombuds and the Ombuds' report has been communicated to the faculty member.

B. General Procedures

- 1) A petitioner seeking consideration by this Committee shall normally submit a formal petition to the Committee within 45 days of the denial of tenure and/or promotion, or the dismissal;
- 2) The dated and signed formal petition submitted by the petitioner shall include a detailed statement of the basis for appeal, which shall state:
 - a) The petitioner's understanding of the basis of the adverse decision;
 - b) Whether the appeal is based on a failure to follow mandated procedures, disagreement with the substantive decision, or both;
 - b) The factual allegations supporting the appeal;
 - c) The remedy sought; and,
 - d) The Ombuds' Report;
- 3) The Committee shall notify the appropriate administrators of the filing of the appeal and receive any statements that the appropriate administrators wish to submit;
- 4) The petitioner will be consulted on the composition of the Committee. If a conflict of interests exists, or if a member of the Committee is unable to serve, the alternate will serve. Should multiple members of the committee be disqualified or unable to serve, the Executive Committee of the University Senate shall appoint additional members as required to make a full hearing body of five members;
- 5) In the event that an appeal is not completed prior to the close of an academic year, the members of the Committee hearing the original appeal whose terms have expired shall continue to serve with the Committee, provided they remain full-time faculty members, until the entire process has been completed. These continuing members may not participate in the resolution of new appeals after their terms have expired;
- 6) The members of the committee shall maintain the confidentiality of the proceedings;
- 7) A log of activities and committee sessions, briefly stating the date and nature of the meetings, witnesses interviewed, oral or written requests for witnesses to appear, and all documents considered by the committee shall be kept;
- 8) After consideration of all the evidence presented, the Committee shall submit in writing its recommendations concerning the case to the President and to the Petitioner. The President shall notify the Committee, the Petitioner, and the Provost of his or her decision regarding the recommendation. If the President rejects the recommendation of the Committee, he or she shall provide a written statement of the reasons for rejection of the recommendation to the Petitioner, the Committee and to the Provost;

- 8) Every reasonable effort will be made to conclude the Committee's proceedings and to make a recommendation to the President within 45 days after the matter has been formally submitted to the Committee. This time period shall not include University holidays and times when the faculty are not under contract, such as during the summer.

C. Review When Petitioner Alleges Failure to Follow Mandated Procedures

In all cases in which the petitioner alleges failure to follow mandated procedures, the Committee shall examine this issue first. The Committee shall recommend reconsideration when, in its judgment, the applicant for tenure or promotion was not given due process as laid out in the Tenure and Promotion procedures applicable at the department, college, or university level. The evidence to be considered by the Committee shall be limited to testimony and documents detailing the procedures followed. The determination of whether all applicable procedures were followed shall be based on:

- 1) Review of all written tenure and promotion documents from the department, college, and university;
- 2) Statements from the petitioner;
- 3) Statements from appropriate administrators;
- 4) Written or oral statements from persons involved in the adverse decision;
- 5) Interviews with persons concerned with the appeal.

D. Review When Petitioner Disagrees with the Substance of an Adverse Decision: Initial Review

Once all issues concerning whether mandated procedures are resolved in favor of the university, or in cases where no failure to follow mandated procedures is alleged, but the petitioner has stated disagreement with the substance of an adverse decision, the Committee shall consider the merits of contested decision. The Committee shall recommend reconsideration only when, in its judgment, the adverse decision was clearly erroneous.

- 1) For purposes of initial review, the committee shall review all submissions by the petitioner and the Ombud's Report;
- 2) The Committee's decision to hold or not hold a formal hearing should be based on determining whether there would be a sufficient basis for a Committee recommendation to the President for relief of the petitioner's appeal assuming the petitioner's factual allegations were correct. The Committee's decision at this stage shall not be based on a finding of the truth or falsity of the petitioner's factual allegations.
- 3) If the Committee finds that, even if allegations contained in the petition for review are taken as true, that no basis exists for a finding that the adverse decision was clearly erroneous, it shall deny the appeal and notify all affected parties of that decision;
- 4) If the Committee finds that the petition raises issues that merit consideration of whether a decision was clearly erroneous, it shall hold a formal hearing.

E. Substantive Review: Communication of the Decision to Hold a Formal Hearing

Once the Committee decides that the inquiry should continue beyond the initial review, a formal hearing shall be convened. The Committee decision on whether there should be a formal

hearing shall be reported to the petitioner(s), the respondent(s), and the appropriate administrators.

G. Substantive Review: Procedures for Formal Hearing

If the Committee decides a formal hearing is necessary, the procedures outlined below shall apply:

- 1) During the proceedings the petitioner will be permitted to have an advisor and/or counsel at petitioner's expense. This advisor and/or counsel shall be advisory only and shall not be permitted to speak on the petitioner's behalf. The Committee shall have access to the Vice President for Legal Affairs and General Counsel on procedural matters;
- 2) A verbatim record of the hearing or hearings will be taken and a copy will be made available to the petitioner without cost at the petitioner's request. The Committee will decide choice of recording method;
- 3) The Committee will grant adjournments to enable either party to investigate evidence as to which a valid claim of surprise is made;
- 4) All parties to the proceedings will be afforded an opportunity to obtain necessary witnesses and documentary or other evidence. The Administration and other parties to the proceeding will cooperate with the Committee in securing witnesses and making available documentary and other evidence;
- 5) All parties to the proceeding will be afforded access to the documentary or other evidence conveyed to the Committee;
- 6) All parties to the proceeding will have the right to confront and cross-examine all witnesses. Where the witnesses cannot appear, but the Committee determines that the interests of justice require admission of their statements, the Committee will identify the witnesses, disclose their statements, and if possible, provide for written interrogatories;
- 7) The Committee will not be bound by strict rules of legal evidence, and may admit any evidence that is of probative value in determining the issues involved;
 - a) The Committee will consider any abstention from a vote by the department Tenure, Promotion, and Review committee as a negative vote;
 - b) The existence of split votes at the department, college, or Council of Deans level may be considered in assessing the strength of the recommendation to the next level;
 - c) The committee should be made aware of the voting status, or lack thereof, of the Department Chair on the department's Tenure, Promotion, and Review committee;
 - d) Where there is evidence that the written tenure and promotion guidelines are not the complete criteria used in the making of such decisions, the Committee shall have the ability to consider unspoken rules or norms if it has clear and convincing evidence of their existence;
- 8) The findings of fact and the decision will be based solely on the hearing record;
- 9) Except for such simple announcements as may be required, covering the time of the hearing and similar matters, public statements and publicity about the case either by the petitioner or by the administrative officers will be avoided so far as possible. The President, the appropriate Vice President, the petitioner, the petitioner's dean or supervisor, and the respondent will be notified of the Committee's decision in writing, and a copy of the record of the hearing will go to the appropriate Vice President;
- 10) The Committee shall report its recommendation to the President of the University. If the President rejects the Committee's recommendation, the reasons for doing so should be reported in writing to the Committee and the petitioner. The President should also be

willing to meet with the Committee to explain the reasons for overriding the recommendation of the Committee;

- 11) When discrimination on grounds of age, color, creed, disability, ethnicity, gender, gender identity and expression, marital status, national origin, race, religion, sex, sexual orientation, gender identity and expression or veteran status is alleged, the petitioner may consult with the Equal Employment Opportunity/Affirmative Action Office.

H. Appeal to the Board of Trustees

The petitioner may appeal to the Board of Trustees after all other procedures stated herein have been completed.