

**University of Puget Sound
Faculty Meeting Minutes
January 28, 2008**

1. President Thomas called the meeting to order at 4:06 p.m. Twenty-seven members of the faculty were present at 4:30 p.m.
2. Minutes of December 4, 2007 were approved with the following correction to the amendment to Chapter III Section 5 d of the Faculty Code:

From the minutes of Dec. 4, 2007

The dean or a member of the Faculty Advancement Committee shall review the file, write a letter of evaluation, and forward it to the head officer.”

Corrected language (correction is in brackets):

“The dean or a [designated] member of the Faculty Advancement Committee shall review the file, write a letter of evaluation, and forward it to the head officer.”

3. There were no announcements.
4. President Thomas reported that the Board of Trustees will meet in three weeks. Events will include a presentation of the 2008-2009 budget, a workshop on student recruitment, and presentations by faculty who have received teaching awards.

Spring travel will include visits to Nashville, Honolulu, San Diego, Los Angeles, Chicago, Minneapolis and Denver as part of the parent-alumni program. 38 class representatives have enrolled in this program.

An alumni tour in March will feature faculty members. The first event will occur in Chicago, with an event in Minneapolis in April.

The University received an award in January from Citizens for a Healthy Bay Award for Excellence in Environmental Education.

The University has received a Mellon grant to support a new faculty position in international environmental policy and decision-making. This award was the second one the university had received from the Mellon Foundation in three months. Given the competition for these awards, it is extraordinary to receive two awards in the same year. The President viewed these awards as a vote of confidence in the University’s strategic plan and capital campaign. This position will complement the Luce Foundation professorship in environmental policy and decision-making, which is focused domestically.

Applications for the class of 2012 are ahead of last year's, which was a record year. We anticipate another record year of prospective freshman interest. Graduate applications also have increased, particularly in physical therapy. Although the number of applicants for the MAT program is lagging, several University agencies are engaged in an aggressive effort to increase applicants and enrollments in the program. The application deadline for this program is March 15.

The University is attempting to respond pro-actively to an increase in student sensitivity to cost as a factor in enrollment decisions. Overall enrollments for this semester are above budgeted FTE thanks to the best fall to spring retention in 15 years.

The capital campaign has surpassed \$23.6 million in gifts and pledges for the 2007-2008 academic year, well above the projected trend line. The campaign should meet or exceed the first-year the first-year trend line, thanks in no small part to the generosity of members of the Board of Trustees. The Puget Sound Fund continues to exceed the previous year's success. This year the Fund has exceeded the total contributions for 2003-2004 academic year, which was itself an all-time record. Giving from both alumni and parents has increased significantly.

5. Dean Bartanen reported that the department chairs' meeting on Wednesday, January 30 would include a report from Fumio Sugihara, Director of Admission, regarding special strategies to increase the university's yield of matriculants from admitted students.

The search for a Library Director is entering its final phase; on-campus interviews with finalists will be scheduled in the near future.

6. Senate Chair Cannon reported that the Senate had concluded its deliberations regarding proposed Faculty Code amendments on December 10, 2007, and that one item on the agenda for this meeting is a result of those deliberations. The Senate also considered the "Principles on Which to Base the Schedule of Classes" document at the December 10, 2007 meeting and forwarded a "Sense of the Senate" motion affirming the revised "principles" document and forwarding that document to the Registrar. The final draft of that document will appear attached to the December 10, 2007 Faculty Senate minutes. Most of the deliberation centered on the question of late afternoon (4-6 p.m.) classes.

Cannon announced that the Budget Task Force would be reporting to the Senate on February 4, 2008 and invited faculty to attend that meeting. He indicated that the Senate's recommendations regarding the grievance process, based on the work of the Professional Standards Committee, would be introduced at today's Faculty Meeting. He indicated that the Senate would be reviewing criteria for selecting candidates for the designation Distinguished Professor at a future meeting. He announced the names of faculty who would be serving on the Senate this semester to replace elected Senators unavailable to serve. Those faculty are: Jim McCullough, Business and Leadership School; Rob Hutchinson, School of Music; Leslie Saucedo, Biology Department; and Yvonne Swinth, School of Occupational Therapy.

7. Old business

Professor George Tomlin, Chair of the Professional Standards Committee distributed an updated list of “Housekeeping” amendments to the Faculty. Tomlin (See Attachment “Code Amendments 1”) stated that five of the original proposed amendments had been deleted because they related to PSC interpretations of the Code. The remaining items were not substantive. He noted that substitution of the phrase “working days” for “days” had been a part of a PSC interpretation; it was included in the proposed set of amendments to avoid confusion.

Tomlin M/S adoption of these amendments. The motion carried by voice vote.

8. New business

Professor John Hanson from the Faculty Senate introduced a series of Faculty Code Amendments for a first reading (see attachments “Senate Code Revisions 1207” and “Senate Code Changes”). Hanson reported that these amendments were the culmination of several years’ work by the faculty focusing on the role of grievances in the Faculty Code. The present document, which was based on the work of two separate ad hoc faculty committees followed by Senate deliberation, is a consensus document from the work of these three groups. The Senate brings these changes forward for faculty ratification while recognizing that other proposed changes are still subject of discussion.

Hanson began to review the “Senate Code Revisions 1207” document and asked for questions from the floor regarding the proposed changes. The amendments are divided into three sections as presented in the “Senate Code Changes” document. Hanson responded to questions from the floor and took suggestions under advisement.

The first set of “housekeeping” changes addressed problems of language and cross-referencing to other sections of the Code.

The second change, regarding recusal of a PSC member from an issue in which he or she may have a conflict of interest, involved reprinting language from the Faculty B-Laws in the Faculty Code.

The third change regarded distribution of reports of grievance decisions by the PSC and the President to all parties involved in the grievance.

The fourth change inaugurated a specific sequence of steps for addressing questions regarding the professional ethics of a faculty member.

The fifth change proposed a process to address the specific situation of a question of professional ethics being raised during an evaluation.

As Hanson was reviewing this proposed change, the hour reached 5:30. Although a majority of faculty present indicated a desire to continue the meeting, the fact that another group had scheduled the room led to adjournment at 5:30 p.m.

Respectfully Submitted,

David Droge,
Secretary of the Faculty

Housekeeping Amendments for Faculty Meeting on January 28, 2008

requested by the Professional Standards Committee

(revised list of December 4, 2007)

Overview

The Professional Standards Committee proposes the following amendments in order to remedy minor problems in the Faculty Code. Over years the PSC has become aware of a series of incorrect internal Code references, outdated or inconsistent terms, typos, and miscellaneous errors. (Omitted from the list below are items found in past PSC interpretations of the Code. The PSC is seeking to correct them by means other than the Code amendment process.)

The PSC is also recommending some stylistic changes that seek to make the Code more user-friendly.

1. Working Days

In order to conform to the PSC interpretation of January 31, 2005, the following references in the Faculty Code to “days” will be changed to “working days.”

Page #	Line #'s	Content
17	14	Chapter III, Section 4, e (3)
31	19	Chapter V, Section 3, Procedures for dismissal
36	8, 14, 15	Chapter VI, Grievances

2. Housekeeping (typos, incorrect internal citations, etc.)

Page #	Line #'s	Content
8	34	Remove “p. 7.”
10	29	Change internal citation from “Chapter III, Section 9” to “Chapter III, Section 8”
10	32	Change “associate professors” to “associate professor.”
14	2	Change internal citation from “7” to “section 8”
14	33	The language “including a claim under Chapter III, Section 4.b.(4)” is a vestigial reference that should be deleted.
14	5-28	Indent text to be in alignment with the text on line 21 of page 13.

15	36-37	Indent text to be in alignment with the text on line 1 of page 15
15	45	Strike the reference to Chapter II, Section 3 (it seems that the only relevant reference is Chapter III, Section 3).
16	18	Change “initiate and appeal” to “initiate an appeal”
16	48	Change internal citation from “section 7 below” to “section 8 below”
18	16-17	Change internal citation from “Chapter II, section a (1)” to “Chapter V, Part A, Section 2.a”
28	22	Change internal citation from “see Chapter I, Part B” to “see Chapter I, Part C”
31	43	Change the reference “Chapter III, Section 7.e” to “Chapter III, Sections 6 and 7.”
36	4	Remove page reference to “p. 26”
37	40	Change “by contrary” to “be contrary”

In addition to proposing the adoption of the above housekeeping amendments, the PSC has recommended that the Dean of the University enact the following style changes in order to make the Faculty Code more user-friendly.

- a) Embed all PSC Code interpretations as footnotes on those pages of the Code itself to which the interpretations apply.
- b) Two indexes should be created: one numbering the interpretations chronologically by adoption, and a second listing them by chapter in the order they appear as footnotes.
- c) Have Code chapter numbers appear in the page headers.
- d) In the PDF version of the Code turn all code references into hyperlinks to the relevant passages.

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CHAPTER III
EVALUATION OF FACULTY

Section 4 - Evaluation Procedure

- f. Process for dealing with questions of professional ethics that arise during an evaluation.**
 - (1) If, during an evaluation, a member of the faculty raises a question or a concern regarding the professional ethical behavior of an evaluatee, the faculty member shall initiate a grievance process as described in Chapter I, Part D, Section 4, and the evaluation -- whether at the department, program, school, or Faculty Advancement Committee level -- shall be suspended until the grievance process concludes.**
 - (2) If, during an evaluation, a member of the faculty raises a question or a concern regarding the professional ethical behavior of an evaluator (related to this person's role as an evaluator), the faculty member shall initiate a grievance process as described in Chapter I, Part D, Section 4, and the evaluation -- whether at the department, program, school, or Faculty Advancement Committee level -- shall be suspended until the grievance process concludes.**
 - (3) If the outcome of the grievance process has bearing on the evaluation, the Dean may add information to the evaluation file regarding the result of the grievance.**

1 CHAPTER VI

2
3 GRIEVANCES

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5
6 Section 1 - When Used in this Chapter

- 7
- 8 a. The term "grievance" includes a faculty originated complaint or a university
9 originated complaint.
 - 10
 - 11 b. The term "faculty originated complaint" is a complaint by a faculty member that the
12 university, an officer including another faculty member, or an official body thereof
13 has, by act or omission, violated obligations accorded that faculty member by the
14 contract of employment or by provisions of this faculty code; provided, that a faculty
15 originated complaint does not include obligations conferred by Chapter I, Part F, and
16 Chapters III, IV, and V of this code. Those chapters provide for appeal of the alleged
17 violations.
 - 18
 - 19 c. The term "university administration originated complaint" is a complaint by the
20 university alleging that a faculty member has by act or omission violated obligations
21 conferred by contract of employment with the university or by provisions of this
22 code.
 - 23
 - 24 d. The term "grievant" refers to the originator of the complaint.
 - 25
 - 26 e. The term "respondent" refers to the person(s) complained against.
 - 27
 - 28 f. The term "parties" refers to the grievant, the respondent, and the university.
 - 29
 - 30 g. The term "committee" refers to the Professional Standards Committee.
- 31

32 Section 2 - Prehearing Settlement Conference

- 33
- 34 a. Within thirty (30) working days of the alleged violation, the grievant shall give
35 written notice thereof to the respondent; provided, that the notice may be served on
36 the dean if the grievant is without knowledge of the identify of the respondent.

37

38 A grievance notice presented after thirty working days of the alleged violation will be
39 considered only if the grievant demonstrates that he or she did not know, ~~or could not~~
40 ~~have known,~~ about the alleged violation until a later time. In such an instance, the
41 grievance notice must be given within thirty working days of the date upon which the
42 grievant gained knowledge of the alleged violation.

43

- 44 b. The notice shall state the relevant facts with reasonable particularity, cite those
45 portions of the appointment contract or the faculty code alleged to be violated, and
46 include proposed remedies.
 - 47
 - 48 c. Within five (5) working days of notice the respondent shall conduct formal
49 discussions with the grievant and other appropriate persons with the intent of reaching
50 a satisfactory settlement of the grievance, and which, if found, shall terminate the
51 grievance process. Any party may terminate the prehearing settlement conference if
52 they feel that further discussions will be unsuccessful.
- 53

54 Section 3 - Grievance Hearing

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2 a. If the prehearing settlement conference is terminated without settlement of the
3 grievance, then within five working days of said termination the grievant may serve
4 the written notice required in Section 2-~~(p-26)~~ to the dean. Included with said notice
5 shall be identification of the individuals who attended the conference and a demand
6 for a grievance hearing.
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8 b. The dean shall, within five (5) days of the service of said notice, forward the notice
9 and all attendant materials to the committee.

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11 Section 4 - Grievance Procedure

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13 a. **Upon receipt of the grievance from the dean, the committee shall schedule a**
14 **hearing to begin within fifteen (15) working days and give the dean, the grievant,**
15 **and respondent at least five working days notice thereof.**~~Upon receipt of the~~
16 ~~grievance the committee shall fix a time, not later than fifteen (15) days of receipt for~~
17 ~~a hearing and shall give the dean, the grievant, and respondent five days notice~~
18 ~~thereof.~~

19
20 b. **In grievances brought before the committee, the individuals involved or any**
21 **committee member may raise the issue of a conflict of interest concerning a**
22 **member of the committee. If the conflict of interest is disputed, those members**
23 **of the committee who are not involved in the alleged conflict of interest shall**
24 **conduct a confidential, written vote to determine if a conflict of interest may**
25 **exist. If it is determined that a member of the committee may have a conflict of**
26 **interest, that member shall be recused from deliberating and voting. If a**
27 **member of the committee is recused because of an apparent conflict of interest,**
28 **the committee, at its discretion, may appoint a substitute to participate in the**
29 **case. Parties to the grievance are automatically recused from serving on the**
30 **grievance committee.**

31
32 ~~bc.~~ The function of the hearing committee shall be to determine whether there have
33 been violations of the code **or contract of employment**, as alleged by the grievant,
34 and to recommend what sanctions, if any, should be imposed upon the respondent(s).

35
36 ~~ed.~~ Procedures

- 37
38 (1) Presiding Officer. The committee chairperson shall preside, handle
39 administrative duties, and rule on matters of procedure and evidence; provided
40 that decisions by the chairperson are subject to being overruled by a majority of
41 the committee.
42
43 (2) Representation. The university shall be represented by person(s) designated by
44 the dean. The grievant and respondent may attend all hearings in person and be
45 acted for by lawyer or non-lawyer counsel chosen by the grievant/respondent.
46
47 (3) Closed Hearings. Hearings shall not be open to the public, and the only persons
48 present shall be those whose presence is allowed by this chapter. However, at
49 the request of either party, and with the concurrence of the committee, a
50 representative of an educational association or other appropriate association
51 shall be allowed to observe hearings.
52
53 (4) Records. In all cases, the university shall ~~provide~~**make** an electronic verbatim
54 record **of the hearing, and provide to either party, upon their request, a**

1 **copy of that verbatim recording or a verbatim transcript paid for by the**
2 **requesting party. ~~and if requested by either party, a verbatim transcript of the~~**
3 **~~proceedings paid for by the requesting party.~~** Records made of the hearing
4 shall be retained by the university for six years after the committee makes its
5 report.

- 6
- 7 (5) Order of Presentation. The grievant shall make the initial presentation to the
8 committee. At the conclusion of that presentation any party may request that
9 the hearing be terminated for lack of any probable merit for the grievance. The
10 committee shall then meet in executive session to approve or reject the request.
11 If the request is approved by a majority of the committee then the grievance
12 shall be dismissed and such dismissal is final. If the request is denied by a
13 majority of the committee then the respondent shall go forward with the
14 respondent's presentation.
- 15
- 16 (6) Evidence. Each party shall offer such evidence as the committee deems
17 relevant, and each party may cross-examine the other's witnesses. Witnesses
18 may be allowed to testify by affidavit if, in the committee's discretion, that is the
19 most feasible way of presenting their evidence and if the opposing party is not
20 substantially prejudiced by lack of cross examination. The committee shall
21 have no duty to seek or to present evidence but may do so if, in its judgment,
22 justice requires. In such a case, the committee shall have right of access to all
23 pertinent materials, ~~regardless of classification~~. The hearsay rule or other
24 exclusionary rules of evidence used in courts of law shall not apply.
- 25
- 26 (7) Discovery. Insofar as practicable, each party shall assist the other in obtaining
27 witnesses and evidence when the party's assistance is necessary or helpful.
28 Each party shall make specifically requested and relevant documents or other
29 tangible evidence in its possession available to the other for presentation to the
30 committee.
- 31
- 32 (8) Public Statements. No person involved in the hearing's proceedings shall make
33 public statements, directly or indirectly, about the matters in the hearings.
- 34
- 35 (9) Final Report. After completion of the hearing, the members of the committee
36 shall meet in executive session to consider their decision on the matters before
37 them. The committee may consider only evidence presented to it in hearing.
38 The decision of the majority shall be transmitted to the president as the
39 committee's decision, but dissenting members may also transmit statements of
40 their position. Said report(s) shall be delivered to the president within ten (10)
41 working days of the termination of the hearing unless the committee extends the
42 time. The committee shall send the president a copy of the grievant's notice of
43 complaint, a summary of their hearings, and tangible items of evidence they
44 received in their hearings. **The committee will send copies of its report(s),**
45 **and other materials transmitted to the president, to the parties in the**
46 **grievance at the same time that it sends them to the president.**

47

48 Section 5 - President's Action

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50 The president shall consider the report and materials submitted therewith. Within twenty
51 (20) working days of receiving the committee's report, the president shall do the
52 following:

53

- 1 a. finally determine what action, if any, the university shall take in response to the
2 grievance complaint;
3
4 b. transmit the final determination to the committee, to the grievant and to the
5 university officer or employees whose actions gave rise to the grievance complaint;
6
7 c. **transmit to the committee and the other parties to the grievance, should the final**
8 **determination be contrary to that reached by the committee, the reasons for the**
9 **determination**~~transmit to the committee, should the final determination be contrary~~
10 ~~to that reached by the committee, the reasons for the determination;~~
11
12 d. direct appropriate university officers to take any required action.
13

14 Section 6 - Respondent's Action
15

16 The respondent shall comply with the decision within thirty (30) working days or sooner.
17 Failure to comply may be considered a violation of contract, and Chapter I, Part C of the
18 faculty code.
19

**Description and Rationale for
Proposed Changes to the Faculty Code Endorsed by the Faculty Senate on 12/10/07**

1. The Ad Hoc Committee on Professional Standards (AHCPS) proposed a number of minor "housekeeping" changes to the Faculty Code to clean up awkward language and correct obvious errors surrounding the grievance process. These changes are described below and were part of recommendation 6 in the AHCPS report. Item d in the original report has been omitted since it involved possibly substantive changes to the code.

a) We recommend that the first sentence of Chapter I, Part E, Section 3 of the Faculty Code be revised to read "If a faculty member's rights regarding academic freedom, as provided in this part of the faculty code, have been denied, that faculty member may initiate a grievance action as provided in Chapter VI."

The only direct reference in the Faculty Code to the current grievance process (outside of Chapter VI) states "If a faculty member's rights as provided by Chapter 1, Part D (p.4) of the faculty code have been denied, that faculty member may initiate a grievance action as provided in Chapter VI herof" (Chapter 1, Part E, Section 3). This reference occurs in a part of the code dealing with academic freedom, and this seems appropriate since a faculty member might wish to file a grievance if he or she feels his or her academic freedom has been abridged. But the reference to Part D and page 4 of the code is harder to understand since Part D deals with "Professional Duties and Responsibilities," not rights of the faculty member. Also, page numbers in documents are hard to keep current and should generally be avoided in the case of the Faculty Code.

b) We recommend that the parenthetical phrase "or could not have known," be removed from Chapter VI, Section 2a.

It doesn't seem necessary to include this phrase, since by demonstrating that they could not have known they would also be demonstrating that they did not know about an alleged violation. Thus this phrase doesn't add any additional meaning.

c) We recommend that the reference to "p.26" in Chapter VI, Section 3a be removed. (This has also been included in the PSC's "Housekeeping Ammendments" dated November 2007.)

Again, references to page numbers in documents are hard to keep current, as evidenced by the observation that this should now read p. 31.

e) We recommend that Chapter VI, Section 4a be revised to read "Upon receipt of the grievance from the dean, the committee shall schedule a hearing to begin within fifteen (15) working days and give the dean, the grievant, and respondent at least five working days notice thereof."

The current language is garbled.

f) We recommend that Chapter VI, Section 4b be revised to read "The function of the hearing committee shall be to determine whether there have been violations of the code or contract of employment, as alleged by the grievant, and to recommend what sanctions, if any, should be imposed upon the respondent(s)."

The current language lacks the phrase "or contract of employment." This phrase has been added to make it parallel with the language in Section 1 of Chapter VI.

g) We recommend that the second sentence of Chapter VI, Section 4c(4) be revised to read "In all cases, the university shall make an electronic verbatim record of the hearing, and provide to either party, upon their request, a copy of that verbatim recording or a verbatim transcript paid for by the requesting party."

The original sentence is unclear.

h) We recommend that Chapter VI, Section 4c(8) be revised to read "Public Statements. No person involved in the hearing's proceedings shall make public statements, directly or indirectly, about the matters in the hearings."

This simply adds a missing comma after the word indirectly. We have chosen not to revisit the faculty's lengthy discussions in the spring of 2006 about the phrasing in this section.

i) We recommend that the phrase "regardless of classification" be dropped from the penultimate sentence in Chapter VI, Section 4c(6).

There is no reference to classes of information elsewhere in this section, so it is unclear what this means.

j) We recommend changing the word "by" to "be" in Chapter VI, Section 5c.

This is a simple typographical error. It will already be fixed if recommendation 5b [of the AHCPS] is adopted.

2. Moving language regarding recusal from a grievance from the bylaws to the code. This was recommendation 2 of the AHCPS. (See page 6 of the proposed faculty code revisions document endorsed by the Faculty Senate on 12/10/07.)

We recommend that the existing language regarding recusal of PSC members during consideration of matters in which they have a conflict of interest (Faculty Bylaws, Article V, Section 6.E.b) should be included in Chapter VI of the Faculty Code. In addition we recommend that any parties to the grievance be automatically recused from serving on the grievance hearing committee.

The Faculty Bylaws (Article V, Section 6.E.b) state:

In matters brought before the Professional Standards Committee (PSC), the individuals involved or any PSC member may raise the issue of a conflict of interest concerning a member of the Committee. If the conflict of interest is disputed, those members of the PSC who are not involved in the alleged conflict of interest shall conduct a confidential, written vote to determine if a conflict of interest may exist. If it is determined that a member of the PSC may have a conflict of interest, that member shall be recused from deliberating and voting. If a member of the PSC is recused because of an apparent conflict of interest, the PSC, at its discretion, may appoint a substitute to participate in the case.

We think that it is important to have this recusal process described in the section of the Faculty Code dealing with grievances since individuals involved in a grievance might not know to look in the Faculty Bylaws. We wish to emphasize that this recommendation is not a response to any concerns on our part that there have been conflicts of interest in grievance hearings in the past. It is simply surprising that the Code's description of the grievance process makes no mention of the mechanism by which an individual could be recused from the grievance hearing committee. We note that the Code description of the appeals hearing board process includes language on recusals.

We recommend inserting this language into Chapter VI, Section 4 between items a and b. This necessitates renumbering of the later sections. The term PSC has been changed to "committee" so that in the future any changes to the body charged with conducting the hearing will only require editing Section 1g. The following sentence has also been added to the end of this recusal section: "Parties to the grievance are automatically recused from serving on the grievance committee."

3. Adding language that has the reports of grievance decisions at the PSC and Presidential levels sent to all parties involved in the grievance. This was recommendations 5a and 5b of the AHCPS. (See pages 5 and 6 of the proposed faculty code revisions document endorsed by the Faculty Senate on 12/10/07.)

a) We recommend that Chapter VI. Section 4.c(9) be revised by adding a final sentence that reads "The PSC [committee] will send copies of its report(s), and other materials transmitted to the president, to the parties in the grievance at the same time that it sends them to the president."

The code currently states that the PSC report is sent only to the president. But it seems reasonable that the parties to the grievance should also be able to learn what the PSC decided in the grievance. The FAC is required to send its evaluation letters to evaluatees as well as the president, and this seems a better model than one in which the faculty body reports only to the president.

b) We recommend that Chapter VI. Section 5.c be revised to read "transmit to the committee and the other parties to the grievance, should the final determination be contrary to that reached by the committee, the reasons for the determination."

Section 5 requires the president to transmit his or her final determination to all parties to the grievance as well as the PSC, but requires the president to inform only the PSC of the reasons that he or she reached a decision contrary to that of the committee. We think that all parties should be informed of the reasons for the president's decision to set aside the PSC's recommendation.

4. Specifying that questions of professional ethics of a faculty member should be resolved through the grievance process. This was recommendation 1a of the AHCPS. (See page 1 of the proposed faculty code revisions document endorsed by the Faculty Senate on 12/10/07.)

We recommend that Chapter I, Part D, Section 4 of the Faculty Code be modified to clearly indicate that alleged violations of professional ethics offenses should be handled through the grievance process. We also recommend that in most cases the university, rather than an individual faculty member, file the grievance since a violation of professional ethics is a concern for the whole university community, not just one individual.

This section currently reads "If questions of professional ethical import arise which cannot be resolved, the party or parties may refer the issue to the Professional Standards Committee for recommendation to the parties." This language is unnecessarily vague, and creates a process without providing adequate guidance for that process.

In an interpretation in 1990 (PSC Memorandum, 13 November 1990) the PSC attempted to clarify the appropriate procedures for "those making complaints or allegations" regarding both Chapter I, Part D, Section 4 (Professional Ethics) and Chapter I, Part E, Section 3 (Academic Freedom—Enforcement).

In the spirit of preserving the individual rights of all parties concerned in cases of alleged professional ethical misconduct, the Professional Standards Committee recommends that the following procedures be followed by those making complaints or allegations:

- a. First notify the faculty member of suspected misconduct on his or her part. There may be an explanation that resolves the matter satisfactorily.
- b. Failing to receive an explanation that is satisfactory, or not wishing to deal directly with the person suspected of misconduct, one should take the matter to the Chair of that person's department. The Chair may resolve the matter to everyone's satisfaction.
- c. If these steps do not resolve the problem, the matter may be brought to the attention of the Professional Standards Committee.

Even if a faculty member does not choose to follow steps a. and b., the matter may be brought directly, and in confidence, to the Professional Standards Committee. The Committee considers that every attempt ought to be made to resolve questions of ethical conduct within the procedures established by the Professional Standards Committee.

Unfortunately this interpretation does not clarify the procedure that the PSC should follow in resolving an issue of professional ethical misconduct should it get to part c. Thus we have added language that indicates that it should then be handled through the grievance process.

5. Specifying a process for dealing with a question of professional ethics that arises during an evaluation. These were recommendations 1b and 1c from the AHCPS and recommendations 12A and 12B from the Ad Hoc Committee on Evaluation. (See page 2 of the proposed faculty code revisions document endorsed by the Faculty Senate on 12/10/07.)

We recommend adding a new part f to Chapter III, Section 4 of the Faculty Code:

f. Process for dealing with questions of professional ethics that arise during an evaluation.

(1) If, during an evaluation, a member of the faculty raises a question or a concern regarding the professional ethical behavior of an evaluatee, the faculty member shall initiate a grievance process as described in Chapter I, Part D, Section 4, and the evaluation -- whether at the department, program, school, or Faculty Advancement Committee level -- shall be suspended until the grievance process concludes.

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(2) If, during an evaluation, a member of the faculty raises a question or a concern regarding the professional ethical behavior of an evaluator (related to this person's role as an evaluator), the faculty member shall initiate a grievance process as described in Chapter I, Part D, Section 4, and the evaluation -- whether at the department, program, school, or Faculty Advancement Committee level -- shall be suspended until the grievance process concludes.

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(3) If the outcome of the grievance process has bearing on the evaluation, the Dean may add information to the evaluation file regarding the result of the grievance.

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Rationale for part (1)

It is unlikely that an evaluation can proceed adequately and fairly if questions regarding the professional ethical behavior of an evaluatee are raised and remain unresolved. Thus, if any questions of professional ethics relating to any of the criteria for evaluation (teaching, professional growth, service, advising) arise during an evaluation, there should be a process for resolving them before the evaluation proceeds. This process protects the evaluatee against unsubstantiated charges polluting his or her evaluation, and protects the integrity of the evaluation process. However difficult it may be, the grievance process is the best process the faculty has for addressing questions about professional ethics and ensuring that those questions are resolved.

The grievance process is a good mechanism for deciding these issues because it allows all parties a chance to present evidence, and an impartial third party, the PSC, to investigate and decide on these matters. If the evaluatee is found not to have made any professional ethical violations, then the president can inform the evaluators that the charges were unsubstantiated and that they should not consider them in their deliberations. On the other hand, if ethical violations have occurred, the president can take appropriate action and inform the evaluators.

Rationale for part (2)

The language about when the grievance process should be used is a bit difficult to interpret when it refers to "violated obligations accorded that faculty member" or "violated obligations conferred by." But there doesn't seem to be much debate that this means that if a member of the university violates a provision in the faculty code or a provision in a contract of employment, then a grievance may be filed against him or her. However, there is an important exception -- a faculty-originated complaint may not "include obligations conferred by Chapter 1, Part F, and Chapters III, IV, and V of this Code. Those chapters provide for appeal of the alleged violations." This exception suggests that the grievance process is not used if a faculty member is filing a complaint regarding his or her evaluation, tenure and promotion, or separation from the University. The appeals process is used instead.

However, the appeals process differs from the grievance process in that once a decision is made the appeals board may "include a direction that the matter be returned to the department or Advancement Committee for correction of deficiencies." But the appeals board does not have the ability to "take action" the way the president does in the grievance process. In addition, if there is evidence of egregious unprofessional behavior on the part of a faculty evaluator, the appeals process is not designed to reprimand or otherwise deal with that behavior. This would seem to be a situation where a grievance would be more appropriate than an appeal.

The PSC acknowledges this sort of possibility in its year-end report to the Faculty Senate dated April 27, 2006. In a section addressing the question of whether colleagues with inveterate hostility for one another may be recused from participating in the departmental evaluation of each other, the PSC noted that the provision in Chapter III, Section 4.a.(3)(e) could be used for this purpose, but then went on to state:

PSC members also noted that when no agreement can be reached through the formal process described in Chapter III, Section 4.a.(3)(e), a faculty member who feels harmed by a colleague's participation in an evaluation can file a formal grievance.

We want to emphasize that allegations by the evaluatee of violations of the evaluation procedures are not normally grievable; they should go through the appeals process. In addition, an evaluator's professional assessments of a colleague's research, teaching, advising, and university service are neither grievable nor appealable. The types of violations that would be grievable would be those in which an evaluator is alleged to have lied or tried to sabotage the evaluation by subverting the process.

This raises the question of who decides whether an allegation of a violation should be resolved through the appeals process or through the grievance process. We conclude that the best body to decide this issue is the PSC. After receiving a request for a grievance hearing regarding an evaluator the PSC would meet and make a determination as to whether this should be handled as a grievance or whether it should be handled as an appeal.