

Faculty Senate Minutes

November 12, 2007

Senators: Rich Anderson-Connolly, Kris Bartanen, Terry Beck, Nancy Bristow, Rebecca Bryant, Doug Cannon (Chair), Robin Foster, Suzanne Holland, John Hanson, Juli McGruder, Hans Ostrom, Amy Ryken, Mike Segawa, Ross Singleton, Stacey Weiss

Guests: Martin Jackson, Don Share, George Tomlin, Keith Ward

Senate Chair Cannon called the meeting to order at 4:03 pm.

I. Approval of minutes of October 29, 2007

M/S/P Postpone approval of the minutes of October 29 to give time for Senators to read and respond to them.

II. Announcements

No announcements.

III. Special Orders

Anderson-Connolly reported that the Comparative Sociology department is in the midst of two faculty searches and that the department was approached by the Chief Diversity Officer inquiring about the possibility of being involved in the search process (e.g., reading files or attending meetings). Anderson-Connolly opined that he didn't feel that this was necessarily a good thing since the administration already has a great deal of control in the hiring process. Anderson-Connolly wondered whether this would be a good topic to put on the agenda of a future Faculty Senate meeting.

Hanson responded that he supported this suggestion. Foster commented that she has been interested in the question of how diversity can be promoted during a search and thought that a discussion around this larger question would be helpful.

McGruder noted that she had participated in a search in the Comparative Sociology department and she felt that the Comparative Sociology department needed to do more than just pay lip service to diversity. She felt that they had not picked the candidate they should have. She supported having another set of eyes reading the files.

Ostrom concurred with Foster that a broader discussion about promoting diversity in searches would be useful. Weiss noted that we should involve the Diversity Committee in any discussions on this topic.

IV. Reports of Committee Liaisons

Bristow reported that the Academic Standards Committee has written up guidelines for exemptions to the Foreign Language graduation requirements and are still working on issues surrounding pass/fail and honors in the major.

Weiss reported that the four guests from the Diversity Committee who attended the last Faculty Senate meeting felt energized by that meeting and were eager to get to work drafting changes to the Bylaws for the Diversity Committee.

Ostrom reported that he has drafted changes to the bylaws that would result in the Chief Diversity Officer being a member of the Diversity Committee. He recommended that this be put on the agenda for next week.

V. Composition of Professional Standards Committee

Hanson commented that this was a chance to hear from Don Share about his recommendation that the Dean should not be a member of the PSC and to get his comments about separating the grievance duties of the PSC into some separate body. Hanson also noted that the intention was to hear Don's rationale and to have some preliminary discussion on the topic, but not to try and enact any specific proposals at this time. The Senate could come back and discuss specific proposals at some later meeting.

Share noted that he has been a frequent member of the PSC since he joined the faculty in 1984 and has served on the PSC under three different deans. He stated that he has long felt that the dean should not be on the PSC due to conflicts of interest that arise from the Dean's multiple duties. He also noted that having the dean, the "boss" of members of the committee, present during deliberations colors the discussion. He further argued that most of the grievances brought before the PSC have been brought by the Dean and that having the Dean bring a grievance and serve on the grievance committee is an inherent conflict of interest and could even cause legal problems. Share feels that having the Dean available in his or her office during PSC meetings would make it possible for the PSC to contact the Dean by phone if the PSC needed information.

Share didn't feel as strongly about the question of having a separate committee deal with grievances. However, he did opine that it might be helpful to have a grievance committee composed of former PSC chairs since, when grievances arise, they torpedo the ongoing work of the PSC.

Anderson-Connolly wondered whether the Dean's involvement was more important for code revisions than for grievances. Share replied that if it is a technical matter about code interpretation then the Dean is not really needed. The members of the PSC do a good job when deliberating on these issues.

Singleton suggested that the two questions that Share was addressing were intertwined since, if the grievance committee was different from the PSC, it might be possible to have the Dean serve as a member of the PSC, but not serve on grievances.

Cannon asked Tomlin (current PSC chair) whether he had any input. Tomlin noted that he has only been on the PSC since last year. He sees merit in discussing the organizational framework of the PSC. He suggested that another way to frame the discussion was to consider whether the dean benefited by being on the PSC since then he or she could hear the points of views voiced by other faculty members.

Singleton recalled that the original proposal called for the creation of a subcommittee of the PSC to deal with grievances and in that case members of the grievance committee would also be regular members of the PSC. Bristow responded that there was no original proposal as Singleton thought. The Ad Hoc Committee on Professional Standards had simply discussed some different scenarios (e.g., having the 3rd year members of the PSC serve on the grievance committee). She noted that it was important to have persons familiar with the code serve on grievance committees.

McGruder suggested that inasmuch as the Faculty Code is a contract between the faculty and the university it should be clear and not rely on the institutional memory of the Dean to help determine what it means. We shouldn't be burdened with standard operating procedures of the past when deciding on issues regarding the Code. She argued against the necessity of having the Dean present when deliberating these issues.

Share commented that under a former Dean who appeared to know the Code well, committee members often deferred to the Dean and consequently didn't do their own homework about what the code actually meant.

Ostrom noted that in Share's original letter to the Faculty Senate he had mentioned the importance of providing more detail in the PSC minutes. He asked Share whether this could be handled simply as a change in culture, or whether there should be a change in the Bylaws. Share responded that there has already been a change in culture and the PSC minutes are now much more detailed.

In response to a prompt from Ostrom, Share also noted that there are occasionally activities that the Chair of the PSC is involved with outside of the full PSC. He asserted that the chair should keep the PSC fully informed on any matters that he or she is discussing outside of the committee, and that this might be a good item to be incorporated into the Bylaws.

Bartanen commented that it seemed inappropriate to not have the Dean on the PSC. The Dean's job is to uphold the professional standards of the faculty and consequently should be involved in discussions surrounding these standards. She noted that she knows of no others in her equivalent position at other universities who are not involved in discussions of this sort.

Share responded that Bartanen has been an exemplary Dean in her sensitivity to potential conflicts-of-interest as a member of the PSC. But he didn't know if future Deans would necessarily be as scrupulous. There are many possible conflicts of interest for the Dean. If two faculty members grieve each other, Share was not sure that we wanted the Dean to

know the details of that grievance because of her membership on the Faculty Advancement Committee. Since the Dean is often the one who brings grievances the Dean could be both the prosecutor and the judge.

Foster noted that she had been on the Ad Hoc Committee on Evaluation and that that committee had been concerned about the conflicts of interest that arise when the Dean serves on a grievance committee, but had not been concerned about the Dean with regard to other functions of the PSC.

Share noted that it was very clear that the Dean should not be a part of the grievance committee. With regard to the rest of the work of the PSC it is less crucial. But he still asserted that the PSC attempts to deliberate freely on matters that come before it and the presence of the Dean will influence that discussion. Share was not convinced about the need to have the Dean be in the room for these discussions. If the PSC has questions it can just ask the Dean or invite the Dean in if necessary.

VI. Professional Ethics and the grievance process: proposals from the earlier Ad Hoc Committees on Evaluation and on Professional Standards.

Hanson proposed that we work through the rationale for the proposed changes point by point (as outlined in the document entitled "Proposed Changes to the Faculty Code, Nov. 6, 2007" appended to the end of this document.) He also distributed a copy of the relevant portions of the Faculty Code with changes indicated by strikethroughs (deletions) and boldface (additions). (Also appended at the end of these minutes.)

Housekeeping items outlined in Item 1 in the appended document garnered little comment.

Item 2 dealt with inserting language regarding recusal of grievance committee members into the code as a new Chapter VI, Section 4b. Foster wondered whether there should be a reference to the Bylaws in this proposed new section of the Code. Hanson replied that the section in the Bylaws was more general and applied to any item discussed by the PSC, but that the new section applied specifically to grievances. Singleton suggested that the first sentence of the this new section could be made clearer by modifying it to read "In *grievance* matters brought before the committee" Hanson agreed that this would be an improvement.

Item 3 (adding language stating that reports of grievance decisions at the PSC and Presidential levels be sent to all parties involved in the grievance) generated no comment.

Hanson noted that Item 4 was intended to make it clear that questions of professional ethics should be resolved through the grievance process. Since questions of professional ethics are of concern to the university community as a whole, the Dean should normally handle these grievances on behalf of the university. But if the Dean failed to do this, then any faculty member retained the right to file the grievance.

Ryken noted that in earlier discussions the term "refuses" seemed too strong. After a brief discussion of other possible language, Hanson adopted the suggestion to convert the last sentence to read "In the event that the dean does not file a grievance...."

Beck expressed concern that the new language didn't leave the opportunity for issues surrounding professional ethics to be resolved informally. Hanson noted that Chapter VI, section 2 does describe a "pre-hearing conference" step. Tomlin noted that there is a code interpretation that spells out steps to be taken to work out cases of alleged ethical misconduct. After some discussion it was agreed that the informal committee of the Senate working on these matters would take these suggestions under consideration and propose new language for this section.

Item 5 (specifying a process for dealing with a question of professional ethics that arises during an evaluation) was introduced by Hanson. Foster wondered whether the phrase "Dean of the Faculty" was necessary or whether it could be just "Dean" and whether "Dean" should be capitalized.

Ryken wondered about the phrase "unwilling or unable", and whether it would be possible to strike the word "unwilling". Anderson-Connolly suggested that they do have distinct meanings and we might want to keep both. Hanson and Ostrom agreed that the informal committee could also take this language under advisement and return with a modified proposal.

McGruder requested that the informal Senate committee working on this proposal consider the hypothetical of an alleged ethical violation because a colleague feels that to post bios that are hypothetical on a website without the disclaimer that they are hypothetical is an ethical violation while the other does not? Similarly, to post real bios of actual persons on a website without their permission and consent would be such a violation. And two colleagues do not agree on this in terms of ethics?

After some parliamentary wrangling, it was decided to have the informal committee reconsider their proposal and bring it before the Senate again at a later meeting after incorporating suggested changes. This will delay getting it to the full faculty, but Hanson and Ostrom asserted that there was no rush.

MSP To change the order of the agenda to take up item VIII before item VII.

VIII. Discussion of Faculty Response to Principles on Which to Base the Schedule of Classes

Ostrom's revised "Principles on Which to Base the Schedule of Classes" is appended at the end of these minutes.

Ostrom stated that in response to the faculty discussion at the last Faculty Meeting he had made the following changes:

1. Removed the principle creating a reserved hour.
2. Changed the teaching schedule hours to include 8:00 am to 9:50 pm, instead of 9:00 am to 9:50 pm.
3. Included a new phrase indicating that some issues connected to scheduling are "best addressed individually, with flexibility, cooperation, and practicality in mind."

Ostrom noted that there is a looming discussion about how the hours between 4 and 6 pm should be handled. Some individuals want to expand course scheduling into this time slot while others want to see it reserved for activities such as music and athletics.

Ward argued that if we are going to have a principle that allows classes during the 4-6 pm time slot it should be carefully regulated. We want to make sure that we are not impeding a student's ability to fulfill major or core requirements. Thus, there should be multiple sections of these courses at other hours. Ward suggested that the statement in principle 2 that states "Departments should avoid scheduling required classes for the majors, of which classes there are not multiple sections or alternatives, after 4 pm." should be modified to read "Departments *must* avoid scheduling required classes for majors, *core and elective classes, ...*"

Holland asked Ward what problem this proposal was seeking to fix. Ward replied that by moving a course from another hour during the day into the after 4 pm time slot some students would have conflicts and would no longer be able to take it.

Weiss wondered how Ward's proposal would relate to lab courses that go, for example, from 1-5 pm. Ward replied that his proposal was not intended to apply to courses such as labs that were already scheduled in those hours.

Ward also stated that he had a broader problem with having classes after 4 pm. There are a number of programs that make use of this time: music, colloquia (special lectures), athletics. By starting to fill up the time after 4 pm we have more opportunities for conflict with other things going on at the University. Since the hours between 8 am and 4 pm are not yet fully utilized, he doesn't see the value in creating more course times outside of these hours since they will just create more opportunity for conflict with other activities.

McGruder noted that in OT and PT they fully utilize South Hall as well as spill over into other buildings and it would be impossible for them to operate without using the later hours. Ward responded that he didn't mean for his proposal to take away any of the courses that already exist at those times. He just didn't want to add more.

Holland still didn't see how this was a problem. She asserted that students would be better served by giving them more options regarding class times. She wondered whether music courses could happen at other times.

Ward replied that for ensemble groups everyone needs to be there all the time. Bristow noted that this is also true for athletics. She also noted that this is where the conflicts arise. She felt that there was a generally agreed upon middle ground at the faculty meeting with regard to not scheduling any required courses after 4 pm.

Singleton supported Ward's general idea. We need to preserve time for the co-curriculum.

Jackson urged that any movement to open up the 4-6 pm slot should be done conservatively and cautiously. For a course such as Math 160 with 10 sections, it certainly wouldn't be a problem to have one of those at 4-6 pm. But even moving an elective with a single section into the 4-6 pm slot might mean that musicians and athletes are unable to take that course and this restricts their educational opportunities.

Holland asserted that we can't satisfy everyone. She also noted that the fact that science labs are allowed in the 4-6 pm hour and humanities courses aren't makes those in the humanities feel second-class.

The meeting was adjourned at 5:35 pm.

Submitted by,

John Hanson

APPENDIX 1

Description and Rationale for Proposed Changes to the Faculty Code November 6, 2007

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. These changes were discussed at the December 4, 2006 Faculty Senate meeting.

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 hereof" (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.

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. It was discussed in the Senate on 2/19/07.

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.

The informal committee of the Senate charged with reviewing these proposals recommends 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 and was discussed in the senate on 3/5/07.

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 and was discussed in the Senate on 12/4/06. This section may need to be further amended if an ombudsperson is instituted.

a) We recommend that Chapter I, Part D, Section 4 of the Faculty Code be modified so that the last sentences read "Questions related to violations of professional ethics should normally be referred to the dean and handled through the grievance process, with the University responsible for filing the grievance. In the event that the dean refuses to file a grievance, faculty members retain the right to do so."

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. As a result, we recommend a modification of the Code that recognizes professional ethics violations as offenses appropriately 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.

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. This was discussed in the Senate on 3/19/07.

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

If, during an evaluation, a member of the faculty explicitly raises a question or a concern regarding the professional ethical behavior of an evaluatee and is unwilling or unable to resolve the matter with the evaluatee, the faculty-member shall initiate a grievance-process, and the department, program, school, or Faculty Advancement Committee shall suspend the evaluation until the grievance-process concludes. The faculty-member may ask the Dean of the Faculty to initiate the grievance-process instead. Concerning grievances not related to the circumstance described above, please consult Chapter I, Part E, Section 3 and Chapter VI of the *Faculty Code*.

If, during an evaluation, a member of the faculty explicitly raises a question or a concern regarding the professional ethical behavior of an evaluator (related to the this person's role as an evaluator) and is unwilling or unable to resolve the matter with the evaluator, the faculty-member shall initiate a grievance-process, and the department, program, school, or Faculty Advancement Committee shall suspend the evaluation until the grievance-process concludes. The faculty-member may ask the Dean of the Faculty to initiate the grievance-process instead. Concerning grievances not related to an evaluator, in his or her role as an evaluator, please consult Chapter I, Part E, Section 3 and Chapter VI of the *Faculty Code*.

Notes from the AHCPs regarding these changes:

b) If a question regarding the professional ethical behavior of an evaluatee (relating to any of the criteria for evaluation) arises during an evaluation a grievance should be initiated, and the evaluation put on hold, until the resolution of the grievance.

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.

c) If a question regarding the professional ethical behavior of an evaluator (relating to his or her role as an evaluator) arises during an evaluation a grievance should be initiated, and the evaluation put on hold, until the resolution of the grievance.

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.

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 in order.

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.

APPENDIX 2

UNIVERSITY OF PUGET SOUND FACULTY CODE

CHAPTER I

GENERAL POLICIES

PART D - PROFESSIONAL DUTIES AND RESPONSIBILITIES

Section 4 - Professional Ethics

Professors are bound to observe acceptable standards of professional ethics. In general, a professor should not compromise the interests of the university or of one's students in favor of one's own. Questions related to violations of professional ethics should normally be referred to the dean and handled through the grievance process as provided in Chapter VI, with the University responsible for filing the grievance. In the event that the dean refuses to file a grievance, faculty members retain the right to do so.

PART E - ACADEMIC FREEDOM

Section 3 - Enforcement

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. In case of a dismissal, the faculty member may request a hearing board to review the case as provided in Chapter V of this code.

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 explicitly raises a question or a concern regarding the professional ethical behavior of an evaluatee and is unwilling or unable to resolve the matter with the evaluatee, the faculty-member shall initiate a grievance-process, and the department, program, school, or Faculty Advancement Committee shall suspend the evaluation until the grievance-process concludes. The faculty-member may ask the Dean of the Faculty to initiate the grievance-process instead. Concerning grievances not related to the circumstance described above, please consult Chapter I, Part E, Section 3 and Chapter VI of the *Faculty Code*.
 - (2) If, during an evaluation, a member of the faculty explicitly raises a question or a concern regarding the professional ethical behavior of an evaluator (related to the this person's role as an evaluator) and is unwilling or unable to resolve the matter with the evaluator, the faculty-member shall initiate a grievance-process, and the department, program, school, or Faculty Advancement Committee shall suspend the evaluation until the grievance-process concludes. The faculty-member may ask the Dean of the Faculty to initiate the grievance-process instead. Concerning grievances not related to an evaluator, in his or her role as an evaluator, please consult Chapter I, Part E, Section 3 and Chapter VI of the *Faculty Code*.

CHAPTER VI

GRIEVANCES

Section 1 - When Used in this Chapter

- a. The term "grievance" includes a faculty originated complaint or a university originated complaint.
- b. The term "faculty originated complaint" is a complaint by a faculty member that the university, an officer including another faculty member, or an official body thereof has, by act or omission, violated obligations accorded that faculty member by the contract of employment or by provisions of this faculty code; provided, that a faculty originated complaint does not include obligations conferred by Chapter I, Part F, and Chapters III, IV, and V of this code. Those chapters provide for appeal of the alleged violations.
- c. The term "university administration originated complaint" is a complaint by the university alleging that a faculty member has by act or omission violated obligations conferred by contract of employment with the university or by provisions of this code.
- d. The term "grievant" refers to the originator of the complaint.
- e. The term "respondent" refers to the person(s) complained against.
- f. The term "parties" refers to the grievant, the respondent, and the university.
- g. The term "committee" refers to the Professional Standards Committee.

Section 2 - Prehearing Settlement Conference

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

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

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

Section 3 - Grievance Hearing

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

Section 4 - Grievance Procedure

- a. 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.
- b. In matters brought before the committee, the individuals involved or any committee 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 committee 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 committee may have a conflict of interest, that member shall be recused from deliberating and voting. If a member of the committee is recused because of an apparent conflict of interest, the committee, at its discretion, may appoint a substitute to participate in the case. Parties to the grievance are automatically recused from serving on the grievance committee.
- c. 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).
- d. Procedures
 - (1) Presiding Officer. The committee chairperson shall preside, handle administrative duties, and rule on matters of procedure and evidence; provided that decisions by the chairperson are subject to being overruled by a majority of the committee.
 - (2) Representation. The university shall be represented by person(s) designated by the dean. The grievant and respondent may attend all hearings in person and be acted for by lawyer or non-lawyer counsel chosen by the grievant/respondent.
 - (3) Closed Hearings. Hearings shall not be open to the public, and the only persons present shall be those whose presence is allowed by this chapter. However, at the request of either party, and with the concurrence of the committee, a representative of an educational association or other appropriate association shall be allowed to observe hearings.
 - (4) Records. 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. Records made of the hearings shall be retained by the university for six years after the committee makes its report.

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

Section 5 - President's Action

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

- a. finally determine what action, if any, the university shall take in response to the grievance complaint;
- b. transmit the final determination to the committee, to the grievant and to the university officer or employees whose actions gave rise to the grievance complaint;

- c. 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;
- d. direct appropriate university officers to take any required action.

Section 6 - Respondent's Action

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

APPENDIX 3

November 2007

Principles on Which to Base the Schedule of Classes

1. The schedule of classes serves the diverse needs of students, faculty members, department-chairs, and program directors. It necessarily reflects the resources and limitations with which the administration, academic advising, the staff, and facilities-services must work, including the physical spaces available for teaching and learning. The process of scheduling is complex and dynamic. By articulating some principles, the faculty intends to contribute productively to this process, but relatively broad principles cannot address all circumstances. Consequently, good communication among students, faculty members, department-chairs, program-directors, staff members, and the administration remains essential. Some issues connected to scheduling may be addressed by articulating principles; others are best addressed individually, with flexibility, cooperation, and practicality in mind.
2. The university's primary mission is to educate the whole student; therefore, in addition to providing an academic education, the university continues to value students' participation in athletics; in the performing, visual, and literary arts; in media; in the ASUPS; and so on. Consequently, those involved with scheduling need to take these elements of academic education into account. At the same time, the core-curriculum, majors, minors, graduate programs, and interdisciplinary curricula form the basis of a Puget Sound education. Departments should avoid scheduling required classes for the majors, *of which classes there are not multiple sections or alternatives*, after 4:00 p.m. Legitimate exceptions to this guideline may arise, and there are different kinds of "required classes," but in general, departments should include this guideline in the several considerations that go into scheduling classes. By the same token, some courses (in the core curriculum and in majors, minors, and graduate programs), to which students may readily find alternatives, may be scheduled after 4:00 p.m. Such courses can serve the needs of many students and faculty-members without undermining athletics, arts, and media.
3. The schedule should reflect an optimal use of the classrooms available, of the five working-days available per week, and of the hours from 8:00 a.m. to 9:50 p.m. It is understood, of course, that there are other teaching-spaces besides actual classrooms, such as laboratories, practice-rooms, and studios. "Classrooms" here is used in a broad sense, therefore. The principles articulated in this document acknowledge the diversity of educational venues and methods at the university.
4. In academia, the 50-minute and 80/90-minute periods remain effective and venerable. It is understood that, for sound pedagogical reasons, some colleagues prefer the former, some the latter, and some a combination of both. It is understood that neither period is inherently better pedagogically even if individual professors strongly prefer one to the other. Personal preference does not reflect

an inherent pedagogical value of either time-slot. Therefore, the schedule should reflect an optimal combination of the 50-minute and 80-minute time-slots for classes.

5. No classes should begin before 8:00 a.m., and no classes should end later than 9:50 p.m. Moreover, as has been the custom at the university, individuals, departments, the staff, and the administration should attempt to accommodate reasonable preferences for a class-schedule. The main scheduling-custom now seems to involve good communication among individuals, departments, associate deans, the advising office, and the Registrar. There appears to be no reason to change this customary practice of reasonable negotiation and accommodation.
6. One-day-per-week, three-hour classes should be limited to 300- and 400-level courses and graduate courses. Except in extraordinary circumstances, no professor should teach more than one of these classes per term. Currently, such classes are rarely scheduled; therefore, debate about the drawbacks and merits of such courses is probably unnecessary and wasteful. However, three-hour slots beginning at 3:00, 4:00, 5:00, and 6:00 should be available to teach in, *as long as scheduling such a class reflects guidelines expressed in item #2 above.*