



**MEMORANDUM**

**To:** Donna E. Shalala, President

**From:** Richard L. Williamson  
Chair, Faculty Senate

**Date:** February 25, 2010

**Subject:** Faculty Senate Legislation #2009-16(B) – Charge Changes for the Faculty Senate Committee on Rank, Salary and Conditions of Employment

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At its February 24, 2010 meeting, the Faculty Senate unanimously approved the proposal to modify the charge of the Faculty Senate Committee on Rank, Salary and Conditions as explained:

1. B4.10(a)(ii) currently says that the committee’s jurisdiction can only be invoked if “the appeal is filed within 120 calendar days of the action being appealed or within 90 calendar days of the petitioner's reasonably being expected to have become aware of it, whichever is later.”

**We propose adding the following language at the end of this section:**

**This time limit can be stayed if the petitioner has been making reasonable efforts to resolve the issues, where the reasonableness of these efforts shall be determined by the Chair of the Faculty Senate or the Chair of the Committee or by appeal of that determination to the General Welfare Committee filed with the Secretary of the Faculty Senate;**

This is designed to avoid a conflict with section (a)(i) and to encourage informal resolution, with or without the facilitation of the Senate or CRSCE Chair, without risking the loss of CRSCE jurisdiction.

2. B4.10 (b): currently says “any petitioner may be represented by academic counsel;”

**We propose changing this to say “any petitioner may be advised by academic counsel;”**

To the best of our knowledge no petitioner has brought an academic counsel into our proceedings to make arguments to the committee and we think current practice is appropriate. [We would not have suggested legislation simply to deal with what may not be an issue of practical importance, but as long as we are doing other changes, this seemed to better indicate the appropriate role of academic counsel.]

3. B4.10(f) currently says that “the basis of the adverse administrative decision shall be made known to petitioners so that they can fairly present their position to the committee.”

It is unclear if the charge language refers to information that should be provided by the administration to the petitioner prior to the petition (which is ordinarily appropriate) or to an obligation of the Committee to communicate to the petitioner what we have learned from our meetings with administrators in the process of investigation.

Insofar as it is the latter, the Committee feels itself caught in a dilemma. On the one hand, it is hard for the petitioner to provide the best informed argument without knowing the University’s explanation. On the other, those explanations sometimes involve information that it would be inappropriate to pass on (for example a case where the petitioner’s claim of being underpaid was answered by the administrator’s credible explanation that someone else was overpaid, so that it would be inappropriate to match salary). There is also concern that the administrators who present to the Committee are unlikely to be as open if they believe their statements will be transmitted to the petitioner.

**We propose changing this to say** “The appropriate administrators shall make known to petitioners the basis of the adverse administrative decision so that petitioners can fairly present their position to the committee.”

4. The Manual currently does not have a provision permitting the Committee to communicate back to the petitioner. We (or at least the majority of us) believe there are situations in which this might be appropriate. We think the following proposed language responds to that concern. (Note that if this were the only proposed change it might more readily be handled by D legislation; however point 1, above, could not, since the proposal is to change the rules rather than interpret them.)

**Proposed new language:**

**The Committee may, but need not, communicate directly to the Petitioner regarding its recommendation. This power should ordinarily be used only where the recommendation to the President will not urge a change in the administrative action that was the subject of the petition. Any such communication will be forwarded to the Chair of the Faculty Senate, who must concur before it is sent to the Petitioner.**

The proposed revised charge is enclosed. This legislation is sent for your action.

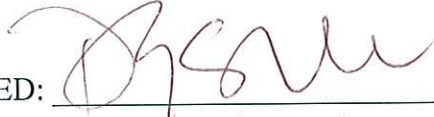
RW/rh

Enclosure

cc: Thomas LeBlanc, Executive Vice President and Provost  
Mary Coombs, Chair, Committee on Rank, Salary and Conditions of Employment

CAPSULE: Faculty Senate #2009-16(B) – Charge Changes for the Faculty Senate Committee  
on Rank, Salary and Conditions of Employment

**PRESIDENT'S RESPONSE**

APPROVED:  DATE: 3/12/2010  
(President's Signature)

OFFICE OR INDIVIDUAL TO IMPLEMENT: FACULTY SENATE OFFICE

EFFECTIVE DATE OF LEGISLATION: \_\_\_\_\_  
(if other than June 1 next following)

NOT APPROVED AND REFERRED TO: \_\_\_\_\_

REMARKS (IF NOT APPROVED): \_\_\_\_\_



## CURRENT VERSION, FACULTY MANUAL, JUNE 1, 2009

B4.10 The COMMITTEE ON RANK, SALARY, AND CONDITIONS OF EMPLOYMENT<sup>1</sup> shall: (1) upon appeal by a member of the faculty from an unfavorable decision on promotion or salary, certify to the President whether or not, in its opinion, an unjust decision has been made; (2) report to the Committee on General Welfare any evidence of gross injustice or favoritism; (3) recommend to the Senate legislation on these matters. The committee will not participate in the annual decisions on promotions or merit salary increases. The Chair of the Senate shall insure that, over a period of time, the membership of the committee reflects the social and professional diversity of the faculty. Only tenured full professors are eligible to serve on the Committee<sup>2</sup>. A Vice-Chair of the Faculty Senate shall serve as an *ex officio* non-voting member.<sup>3</sup>

The committee shall, upon the request of a faculty member or the President, hear faculty-administrative problems relating to a faculty member's rights and duties under an employment contract. The committee's jurisdiction shall include the powers to hear and to recommend to the Senate and to advise the President. The committee shall have the power after argument on a request to assume jurisdiction, or to refuse jurisdiction when the petition's resolution is not significant to the general welfare of the University or to the professional career of the affected faculty member.

The procedures the committee follows shall be written and public, and shall include the following requirements:

- (a) the committee's jurisdiction may only be invoked upon a written, factual request and<sup>4</sup> only if four conditions have been satisfied, namely
- i) all reasonable attempts at administrative resolution have failed as determined by the Chair of the Faculty Senate or the Chair of the Committee or by appeal of that determination to the General Welfare Committee filed with the Secretary of the Faculty Senate;
  - ii) the appeal is filed within 120 calendar days of the action being appealed or within 90 calendar days of the petitioner's reasonably being expected to have become aware of it, whichever is later;
  - iii) the petitioner is not currently represented before the University by legal counsel regarding the same matter; and
  - iv) the petitioner is not currently pursuing an action before a court or non-university administrative body against the University regarding the same matter.

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<sup>1</sup> [#93002\(B\)](#)

<sup>2</sup> [#2003-15\(B\)](#)

<sup>3</sup> [#2003-04\(B\)](#)

<sup>4</sup> [#2002-01\(B\)](#)

- (b) any petitioner may be represented by academic counsel;
- (c) the committee, or one of its members, shall take the responsibility of developing the facts of the situation;
- (d) any person affected by the situation may be given an opportunity to make an oral or written statement to the entire committee;
- (e) the committee shall receive relevant oral or written statements upon the request of any petitioner; and
- (f) the basis of the adverse administrative decision shall be made known to petitioners so that they can fairly present their position to the committee.

The Committee shall forward to the Chair of the Faculty Senate a copy of its recommendation to the President. The President shall communicate the decision on each recommendation to the faculty member concerned, to the Chair of the Committee, and to the Chair of the Faculty Senate.

#### **REVISED UNDERLINE/STRIKEOUT VERSION**

B4.10 The COMMITTEE ON RANK, SALARY, AND CONDITIONS OF EMPLOYMENT<sup>5</sup> shall: (1) upon appeal by a member of the faculty from an unfavorable decision on promotion or salary, certify to the President whether or not, in its opinion, an unjust decision has been made; (2) report to the Committee on General Welfare any evidence of gross injustice or favoritism; (3) recommend to the Senate legislation on these matters. The committee will not participate in the annual decisions on promotions or merit salary increases. The Chair of the Senate shall insure that, over a period of time, the membership of the committee reflects the social and professional diversity of the faculty. Only tenured full professors are eligible to serve on the Committee<sup>6</sup>. A Vice-Chair of the Faculty Senate shall serve as an *ex officio* non-voting member.<sup>7</sup>

The committee shall, upon the request of a faculty member or the President, hear faculty-administrative problems relating to a faculty member's rights and duties under an employment contract. The committee's jurisdiction shall include the powers to hear and to recommend to the Senate and to advise the President. The committee shall have the power after argument on a request to assume jurisdiction, or to refuse jurisdiction when the petition's resolution is not significant to the general welfare of the University or to the professional career of the affected faculty member.

The procedures the committee follows shall be written and public, and shall include the following requirements:

- (a) the committee's jurisdiction may only be invoked upon a written, factual request and<sup>8</sup> only if four conditions have been satisfied, namely

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<sup>5</sup> [#93002\(B\)](#)

<sup>6</sup> [#2003-15\(B\)](#)

<sup>7</sup> [#2003-04\(B\)](#)

<sup>8</sup> [#2002-01\(B\)](#)



- i) all reasonable attempts at administrative resolution have failed as determined by the Chair of the Faculty Senate or the Chair of the Committee or by appeal of that determination to the General Welfare Committee filed with the Secretary of the Faculty Senate;
- ii) the appeal is filed within 120 calendar days of the action being appealed or within 90 calendar days of the petitioner's reasonably being expected to have become aware of it, whichever is later. The time limit can be stayed if the petitioner has been making reasonable efforts to resolve the issues, where the reasonableness of these efforts shall be determined by the Chair of the Faculty Senate or the Chair of the Committee or by appeal of that determination to the General Welfare Committee filed with the Secretary of the Faculty Senate;
- iii) the petitioner is not currently represented before the University by legal counsel regarding the same matter; and
- iv) the petitioner is not currently pursuing an action before a court or non-university administrative body against the University regarding the same matter.

(b) any petitioner may be ~~represented~~ advised by academic counsel;

(c) the committee, or one of its members, shall take the responsibility of developing the facts of the situation;

(d) any person affected by the situation may be given an opportunity to make an oral or written statement to the entire committee;

(e) the committee shall receive relevant oral or written statements upon the request of any petitioner; and

(f) “The appropriate administrators shall make known to petitioners the basis of the adverse administrative decision so that petitioners can fairly present their position to the committee.”

The Committee shall forward to the Chair of the Faculty Senate a copy of its recommendation to the President. The President shall communicate the decision on each recommendation to the faculty member concerned, to the Chair of the Committee, and to the Chair of the Faculty Senate.

The Committee may, but need not, communicate directly to the Petitioner regarding its recommendation. This power should ordinarily be used only where the recommendation to the President will not urge a change in the administrative action that was the subject of the petition. Any such communication will be forwarded to the Chair of the Faculty Senate, who must concur before it is sent to the petitioner.

## REVISED CLEAN VERSION

B4.10 The COMMITTEE ON RANK, SALARY, AND CONDITIONS OF EMPLOYMENT<sup>9</sup> shall: (1) upon appeal by a member of the faculty from an unfavorable decision on promotion or salary, certify to the President whether or not, in its opinion, an unjust decision has been made; (2) report to the Committee on General Welfare any evidence of gross injustice or favoritism; (3) recommend to the Senate legislation on these matters. The committee will not participate in the annual decisions on promotions or merit salary increases. The Chair of the Senate shall insure that, over a period of time, the membership of the committee reflects the social and professional diversity of the faculty. Only tenured full professors are eligible to serve on the Committee<sup>10</sup>. A Vice-Chair of the Faculty Senate shall serve as an *ex officio* non-voting member.<sup>11</sup>

The committee shall, upon the request of a faculty member or the President, hear faculty-administrative problems relating to a faculty member's rights and duties under an employment contract. The committee's jurisdiction shall include the powers to hear and to recommend to the Senate and to advise the President. The committee shall have the power after argument on a request to assume jurisdiction, or to refuse jurisdiction when the petition's resolution is not significant to the general welfare of the University or to the professional career of the affected faculty member.

The procedures the committee follows shall be written and public, and shall include the following requirements:

- (a) the committee's jurisdiction may only be invoked upon a written, factual request and<sup>12</sup> only if four conditions have been satisfied, namely
  - i) all reasonable attempts at administrative resolution have failed as determined by the Chair of the Faculty Senate or the Chair of the Committee or by appeal of that determination to the General Welfare Committee filed with the Secretary of the Faculty Senate;
  - ii) the appeal is filed within 120 calendar days of the action being appealed or within 90 calendar days of the petitioner's reasonably being expected to have become aware of it, whichever is later. The time limit can be stayed if the petitioner has been making reasonable efforts to resolve the issues, where the reasonableness of these efforts shall be determined by the Chair of the Faculty Senate or the Chair of the Committee or by appeal of that determination to the General Welfare Committee filed with the Secretary of the Faculty Senate;
  - iii) the petitioner is not currently represented before the University by legal counsel regarding the same matter; and

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<sup>9</sup> [#93002\(B\)](#)

<sup>10</sup> [#2003-15\(B\)](#)

<sup>11</sup> [#2003-04\(B\)](#)

<sup>12</sup> [#2002-01\(B\)](#)



- iv) the petitioner is not currently pursuing an action before a court or non-university administrative body against the University regarding the same matter.
- (b) any petitioner may be advised by academic counsel;
- (c) the committee, or one of its members, shall take the responsibility of developing the facts of the situation;
- (d) any person affected by the situation may be given an opportunity to make an oral or written statement to the entire committee;
- (e) the committee shall receive relevant oral or written statements upon the request of any petitioner; and
- (f) the appropriate administrators shall make known to petitioners the basis of the adverse administrative decision so that petitioners can fairly present their position to the committee.

The Committee shall forward to the Chair of the Faculty Senate a copy of its recommendation to the President. The President shall communicate the decision on each recommendation to the faculty member concerned, to the Chair of the Committee, and to the Chair of the Faculty Senate.

The Committee may, but need not, communicate directly to the Petitioner regarding its recommendation. This power should ordinarily be used only where the recommendation to the President will not urge a change in the administrative action that was the subject of the petition. Any such communication will be forwarded to the Chair of the Faculty Senate, who must concur before it is sent to the petitioner.