

**LOYOLA UNIVERSITY CHICAGO  
FACULTY COUNCIL  
April 13, 2005**

To: Members of the Corporate Faculty  
From: Nicholas Lash, Secretary, Faculty Council  
Subject: Meeting held in Rubloff Reception Room, 25 East Pearson, WTC,

**I. Meeting called to order by Dr. Gerard McDonald, Vice Chair, at 3:15 p.m. as Dr. Kim Dell'Angela, was absent due to a family illness.**

A reflection was given by Fr. Bob Bireley from quotes of Cardinal Newman.

**II. Old Business**

**A. Faculty Affairs UPC Proposal – Dr. David Schweickart**

**Motion: That the University Coordinating Committee forward to the Faculty affairs UPC for consideration the following recommendation for policy change:**

In order to integrate effectively elected faculty members into the new university governance structure, the FAUPC will:

- 1) Keep the faculty Council apprised of policy recommendations under consideration by the FAUPC by sending a monthly report to the Faculty Council (FC);
- 2) Submit preliminary recommendations to FC for deliberation and vote before sending them on to the President;
- 3) Revise or withdraw any proposal that is unacceptable to Faculty Council;
- 4) Submit any revised proposal to FC for deliberation and vote;
- 5) Not forward any proposal to the President until it has been endorsed by FC.

Rationale:

- A. At present the status of FC is highly ambiguous. Although the only body of elected faculty that is to consider the interests of the faculty as a whole, the FC has no role in university governance. It can, of course, make recommendations to the UCC, but so can any other person or group in the university.
- B. The suggestion that all faculty members who belong to a UPC be made ex-officio members of FC appears on reflection to be a) unwieldy, b) inconsistent with the nature of FC as an elected body, and c) excessively burdensome on UPC members.

- C. Although an earlier motion passed by FC asked that all recommendations from any UPC relevant to faculty concerns be brought to FC for vote and discussion, this, too, may be unwieldy. Since the concerns of the FAUPC are by definition concerns of the faculty at large, it seems best to establish a formal relationship with this UPC. Other UPC's should be encouraged to keep FC informed of relevant proposals, and should solicit FC input, but FC need not have veto power over such proposals.
- D. The proposed arrangement is formally similar to the standard mechanism in many democratic contexts of having two bodies (e.g., the House and Senate) agree to proposals before they go forward. Recall that selection procedures for FC and the FAUPC are fundamentally different, though complementary: FC members are elected by their schools or divisions to represent their schools or divisions; FAUPC are appointed from the faculty at large, the criterion being relevant expertise.
- E. It may be advisable for the staff Council to have a similar arrangement with the Staff Affairs UPC and student Government with the Student Affairs UPC. In any event, given the central role of faculty in a university, FC should have a more effective role in university governance than it does at present.

**Moved:** Dr. David Schweickart

**Seconded:** Dr. Walter Jay

**Discussion:**

Faculty Council is a body to provide suggestions and recommendations. Faculty Council is the nominating body for Faculty Appeals. Dr. Schweickart reiterated that this motion concerns Faculty Affairs UPC only. If this process works is successful, then it could work for other committees. It was questioned whether the FC has equal status to the UPC. Does Faculty Council send its resolutions to the UPC? Dr. Birely raised the question as to whether this motion would lead to an abdication of FC's role in other issues. In other words, would the FC be taking too narrow an approach? Dr. Schweickart responded that this would not be the case and that the FC could send other issues to the UPC.

FC Dr. Boussy suggested that Paragraph E regarding Staff Council and Student Government be deleted. Dr. Moylan stated that the motion was an appropriate conclusion of the issues previously discussed by FC. The motion is not radical but instead is an attempt to formalize the role of the FC. The FC is a good body to review policies before they approach the President. Dr. Lavelle thought that this motion will help to define and demonstrate the role of the FC and answer the questions of many faculty who are currently unsure about it.

Dr. Moylan stated that all reports from faculty committees to the President are advisory. Dr. Shoenberger stated that it was doubtful that the President would accept such a veto power by the Faculty Council. This

would imply that no proposal would find its way to the President without FC's blessing. What would the motion imply for shared governance?

Dr. Malliaris felt comfortable with Concerns 1 and 2, but felt that 3, 4 and 5 were too strong. Dr. Lash suggested that policy changes be sent to the President even if Faculty Council does not approve. Dr. Schmidt mentioned that there should be no deadlock but a mutual agreement. Dr. Bowers stated that the Rationale should go along with the motion. Dr. Schweickart explained that the motion would go to the UCC first and then to the Faculty Affairs UPC. Dr. Boller asked what document governs Loyola University. Would it be necessary to change this document?

The question was called.

**Moved:** David Schweickart

**Seconded:** Dr. Boller

**Action: Motion passes with the following changes:**

1. Rationale A – Change FC has “no” role to FC has “a minimal” role.
2. Delete paragraph E regarding Staff council.

**18 in favor, two opposed, and no abstentions.**

Dr. McDonald introduced two visitors: Dr. Loretta Stalans, Criminal Justice, and newly elected FC member, Dr. Gordon Ramsey, Physics.

**B. Leaves of Absence/Sabbaticals**

**Motion: that the FAUPC develop a proposal for instituting a regular sabbatical policy for Loyola—including the Medical School.**

**Discussion:**

Dr. Schweickart introduced the motion on sabbatical policy. The motion calls for supplementing the current competitive leave policy with a non-competitive sabbatical every seven years for faculty were granted tenure. The sabbatical would offer either full pay for one semester or one-half pay for the entire academic year. Seven years after faculty were granted faculty, they would be eligible for a sabbatical.

Dr. Schweickart estimated that the proposed sabbatical policy would not be expensive. For those faculty taking a whole year's leave at one-half pay, Loyola would save money. Moreover, not everyone would apply so that the numbers would not be that large. He estimated roughly that the leaves given would be approximately double the current number or 27 more leaves per year. Regarding the clinical faculty at the Medical School, Dr. Jay mentioned that very few clinical faculty are tenured.

This year 36 applied for leaves. 28 were approved. The motion would go first to the UCC and then to Faculty Affairs.

In the discussion, it was suggested that the policy should be written in the Faculty Handbook. It was mentioned that one-half semester leave at full pay every seven years is too long time to wait for research faculty. Comparable institutions grant leaves every four years. Dr. Boussy questioned whether the administration would accept a policy that wasn't competitive.

Dr. Stalans cited data that suggested that a large majority of leave applicants were successful. Furthermore of those rejected who reapplied, a large majority were granted leaves. She cited a report on policies and procedures concerning research leaves of absences and submitted on July 12, 2000 by the Task Force on Development of Policies and Procedures for Research Leaves. The report is available at: [www.luc.edu/resources/faccouncil/committees/research/report.pdf](http://www.luc.edu/resources/faccouncil/committees/research/report.pdf). Dr. Boussy pointed out that currently, awarded faculty can reapply for another leave after two years.

The question was raised as to why more faculty were not applying for leaves. Were their family considerations? Did department chairs discourage applicants? Dr. Wittner felt that leaves should be available for application every four years and that faculty should get feedback on why they are rejected. Dr. McDonald said that the Executive committee would consider leave policy at its next meeting.

The question was called.

**Moved:** David Schweickart

**Seconded:** Bill Schmidt

**Action: Motion passes with 17 for, one opposed and 2 abstentions.**

### III. **New Business**

#### **Draft Faculty Appeal and Grievance Procedure**

Paul Jay of the FAUPC attended this meeting to begin a dialogue to bring back to the FAUPC. He passed out *A response to the Faculty Status committee's comments on the FAUPC's "Draft Faculty Appeal and Grievance Procedures"*.

Dr. Schoenberger distributed *The Faculty Council Motion from Faculty Status committee regarding Appeal and Grievance Procedures* which was also emailed. The motion is:

**Motion: that Faculty Council rejects the Draft of Faculty Appeal and Grievance Procedure as currently drafted and requests that substantial revisions be made prior to resubmission of a second draft to Faculty Council.**

Eleven concerns of the Faculty Status Committee are listed in the comments, which are attached. Dr. Shoenberger stated that there is a sharp distinction between

grievance and appeals cases. Grievance cases would rarely be litigated, but litigation could be quite commonplace for appeals cases. The Faculty Status Committee believes that judges should be appointed not elected. It is clear that the President wants elected, not appointed, committees.

**Discussion:**

Paul Jay pointed out that currently Loyola has an appeals structure but is without a grievance procedure. He mentioned the proposed procedure follows the AAUP's "Best Practices" of representative schools. The President also wishes to have elected committees. The committees would be large, and would elect chairs. Concerns were raised that there would have to be a special nominating process so that those elected would have the confidence of the faculty.

Dr. Shoenberger is opposed to the elections committee for serious matters as tenure, but not necessarily for grievance issues. He suggested a two panel system. One panel would handle appeals. These most likely would be few but very time-consuming. The other panel would handle grievances. He predicted that the faculty would be interested in serving on the appeals but not on the grievance committees. He voiced concern that chairs of panels could have too much power.

It was suggested that a motion regarding an elected committee be worked out by the Faculty Status Committee and the FAUPC for the next meeting.

**A "Straw" vote was taken.**

**Action: all in favor with two abstentions.**

The Faculty Council expressed appreciation for Dr. Paul Jay's efforts on this issue.

**IV. Committee Reports**

**Elections**

Nominations for officers of the Executive Committee for 2005-06

Chair	Gerald McDonald	by Walter Jay
	Kim Dell' Angela	by Gerard McDonald

Vice Chair		
	Gerard McDonald	by Richard Bowen
	Allen Schoenberger	by Nicholas Lash

Secretary		
	Nicholas Lash	by Walter Jay

Members at large		
	Ian Boussy	by Richard Bowen
	Walter Jay	by Allen Shoenberger
	Allen Shoenberger	by Mary Malliaris
	Alanah Fitch	by Bob Bireley

### **Awards – Dr. Richard Bowen**

The Awards Committee has nominated Dr. Fred Bryant, Psychology, as Faculty Member of the Year. Dr. Bowen spoke about Dr. Bryant's accomplishments. He is a highly prolific scholar with 120 publications, an excellent teacher, and has contributed significantly to service. A vote was taken and his nomination was approved unanimously.

### **V. Chair's Report**

The Natural Science Science/Dean of Libraries Motion has been sent. Apparently, there will not be a representative from the Natural Science department on the committee because the provost wishes to keep the committee small.

There are two proposals for immediate and urgent consideration by Faculty Council:

1. A call for an immediate review of CAS Dean Leadership to include commentary on the decision-making processes and also providing the names of key administrators reporting to the Dean.
2. A call by Faculty Council for an immediate creation of an ombudsperson to facilitate communications by aggrieved groups within the university. Such groups may be program departments, or colleges, which seek explication of the process by which decision, deemed to be adverse to them, have been made. The ombudsperson position will be terminated when a new shared governance procedure is adopted which specifies procedures by which programs, departments, and/or colleges may grieve decision to a higher level.

These proposals will be deferred.

### **VI. Approval of March 13 Faculty Council minutes**

**Motion: that the Faculty Council Minutes of March 13 be approved with corrections of quotes of Dr. Tony Castro.**

**Moved:** Dr. Richard Bowen

**Seconded:** Dr. Janis Fine

**Action: The motion passes with all in favor.**

### **VII. Adjournment:**

**Motion: that the meeting be adjourned.**

**Moved:** Dr. David Schweickart

**Action: The meeting is adjourned.**

Respectfully submitted,

Nicholas Lash  
Secretary to the Faculty Council

### **Members Present**

**Arts and Sciences:** Dr. Robert Birely (History), Dr. Ian Boussy (Biology), Dr. Richard Bowen (Psychology), Dr. Alanah Fitch (Chemistry), Dr. Brian Lavelle (Classical Studies), Dr. Gerry

McDonald (Math/ Computer Science), Dr. Prudence Moylan (History), Dr. Gordon Ramsey (Physics), Dr. David Schweickart (Philosophy), Dr. Judith Wittner (Sociology).

**Professional Schools:** Dr. Harvey Boller (Business), Dr. Anthony Castro (CBN and Anatomy), Dr. Karen Egenes (Nursing), Dr. Pamela Fenning (Education), Dr. Janis fine (Education), Dr. Walter Jay (Ophtalmology), Dr. Nicholas Lash (Business), Dr. Marta Lundy (Social Work), Dr. Mary Malliaris (Business), Dr. Alan Raphael (Law), Dr. William Schmidt (Institute of Pastoral Studies), Dr. Allen Shoenberger (Law)

**Graduate Institutes and Professional Librarians:** Ms. Kerry Cochrane (Libraries).

**Guests:** Dr. Loretta Stalans (Criminal Justice); Dr. Paul Jay (English)

Attachments:

Faculty Council Motion from Faculty Status committee regarding appeal and Grievance procedures.

A Response to the Faculty Status Committee's comments on the FAUPC's "Draft Faculty appeal and Grievance Procedures."

**Draft Faculty Appeal and Grievance Procedures**  
**Prepared by the Faculty Affairs University Policy Committee**  
**March 2005**

**Background**

The following policy proposal to establish a new, comprehensive faculty appeal and grievance procedure was developed by the Faculty Affairs University Policy Committee (FAUPC) after initial consultation with both the President and Faculty Council. The Committee had come to recognize that, unlike virtually all of our peer institutions, Loyola lacked a grievance procedure for faculty, and that its appeals process was comparatively very vague and ill-defined. As Chair of the FAUPC, I met with the executive committee of Faculty Council to discuss this issue last fall, and the executive committee was unanimous in its recommendation that the FAUPC develop a faculty grievance procedure and reevaluate the university's faculty appeals process. Subsequent to this meeting I met with President Garanzini to discuss with him the need for such a procedure and to review various approaches taken at peer institutions (we have been working with the list of private urban peers developed in connection with the faculty market equity raise program). We identified two basic models in use at these institutions. One model utilizes separate committees for appeals and grievances, while the other sets up a comprehensive, single procedure for handling *all* appeals and grievances. The President much preferred the comprehensive model, and he directed me to work with the FAUPC to develop one.

The proposal you will be reviewing draws from detailed research into best practices at a range of our peer institutions, and a review of the American Association of University Professors Redbook guidelines on appeal and grievance procedures. In drafting the proposal we reviewed the major constituent elements of comprehensive appeal and grievance procedures at our peer institutions, took into account AAUP recommendations, reviewed standing practices at Loyola, considered the particular needs of our university, and developed a rough outline of the kind of procedure we thought would work best for us. The proposal before you is the result of three previous drafts developed over the course of about five months and a number of meetings. In length, scope, and detail we believe it is comparable to appeal and grievance procedures in place at the universities on our peer list (many Catholic, some Jesuit, and a number of private and public universities). We are confident that it outlines a fair and just process and that it is a significant improvement over the current appeal process.

The proposal is being sent at this point to the Dean's Council and Faculty Council for review and feedback. Once this level of review is complete, it is our intention to share it with university faculty to solicit their input. A final draft will go to the President in the form of a policy proposal. It is my hope that our work can be completed by the end of this academic year.

Paul Jay, Chair  
Faculty Affairs University Policy Committee

FAUPC Committee Members:

Anthony Barbato, VP of Health Sciences  
Isiaah Crawford, Dean, CAS  
Lydia Don Carlos, SSOM  
Pete Facione, Provost  
Beverly Kasper, School of Education

Joyce Knight, CAS Dean's Office  
Christopher Manning, Department of History  
Ken Olsen, Department of Chemistry  
Henry Rose, School of Law

## **Faculty Appeal and Grievance Procedures**

### **Part I: General Overview**

#### **Introduction/Purpose**

The policies and procedures set forth below are designed to provide faculty the opportunity to appeal decisions affecting their status as members of the faculty and to establish a process for resolving faculty grievances.

#### **a. Applicability**

These policies and procedures apply to all full-time and part-time members of the faculty. They *do not* apply to the President, the Vice President of Health Sciences, the Provost, Deans, Associate Deans, Assistant Deans, Department Chairs, Affinity Group leaders, and Institute and Center Directors. Faculty members serving in these positions, however, may invoke these procedures in their capacity as individual faculty members with regard to matters relating to their status as members of the faculty.

#### **b. Matters Eligible for Appeal and Grievance**

For purposes of these procedures an appeal is defined as a request on the part of a faculty member to review an action or decision that materially affects his or her status as a faculty member. Appealable matters include dismissal or suspension for cause, revocation of tenure, and denial of application for promotion and/or tenure.

A grievance is defined as a complaint about treatment the faculty member believes to be unfair, unprofessional, in violation of academic freedom, or discriminatory on account of age, sex, race, religion, national origin, sexual orientation, non-disqualifying handicap, or any other action materially effecting the faculty member which he or she believes to be unjust or arbitrary.

#### **c. Resolution Through Normal Channels of Authority**

Before filing a formal appeal or grievance, faculty members are required to seek informal resolution through normal channels of authority. Normal channels of authority usually include Chairpersons or Affinity Group leaders, Deans or Directors, the Vice President of Health Sciences, and the Provost. The appeal and grievance procedures described herein should not be understood as substituting for the

resolution of problems through normal channels of authority. All written requests to institute an appeal or a grievance must be accompanied by a description of the faculty member's attempts to resolve the issues at hand through normal channels of authority. Appeals or grievances must be filed within 14 days of the conclusion of the faculty member's attempt to resolve his or her appeal or grievance through normal channels of authority.

## d. Composition and Election of Faculty Appeal and Grievance Committee

The Faculty Appeal and Grievance Committee shall be composed of 22 elected full-time faculty, two from each of the following eleven groups:

- The faculty of the School of Business
- The faculty of the School of Education
- The faculty of the School of Law
- The faculty of the clinical departments of the School of Medicine
- The faculty of the basic science departments of the School of Medicine
- The faculty of the School of Nursing
- The faculty of the School of Social Work and the Institute for Pastoral Studies
- The faculty of the School of Communication, Technology, and Public Service
- The humanities and arts faculty of the College of Arts and Sciences
- The social and behavioral sciences faculty of the College of Arts and Sciences
- The natural sciences and mathematics faculty of the College of A&S

For the purposes of voting on the membership of the Committee, every full time member of the University faculty not in one of the groups listed above but who is otherwise eligible to vote for members of a given committee shall be assigned to an appropriate grouping. Terms of elected membership shall be three years, with approximately two-thirds of the members continuing each year and one-third completing their terms. Terms will commence on July 1 and end on June 30. Elections will be conducted each Spring Semester by the Provost and the Vice President of Health Sciences in conjunction with Faculty Council. In order to assure the diversity and/or gender equity of the committee the President may appoint up to two additional qualified faculty members as voting members at-large to the Committee. The term of at-large members shall be one year.

Faculty serving in the following administrative positions are ineligible to serve on the committee: the President, the Provost, the Vice President of Health Sciences, the Vice Provost, Associate Provosts, Deans, and Associate Deans. Consecutive terms are not allowed, although members serving on an appeal or grievance panel (as described below) may continue to serve until the particular appeal or grievance has been resolved. Each year a Chair and Vice-Chair of the Committee shall be elected by the Committee from among its members.

## **e. Composition of Appeal and Grievance Panels**

At such time as a specific appeal or grievance is filed by a faculty member, the Chair of the Faculty Appeal and Grievance Committee shall appoint a five person Appeal or Grievance Panel from among the 22 members of the full committee to consider the appeal or grievance, investigate the merits of the case, hold hearings when necessary, and make a formal recommendation to the Provost, Vice President of Health Sciences, or President as described below. The Chair of the Faculty Appeals Committee shall ensure that each Appeal or Grievance Panel has the diversity, scope, and expertise appropriate to the case it shall consider.

## **Part II: Appeals, Rights of Reconsideration, and Grievance Procedures**

### **a. Appeal of Dismissal for Cause of Tenured and Non-Tenured Faculty**

*Note:* these procedures cover dismissal for cause and do not apply to cases of non-renewal. Decisions to dismiss a faculty member for cause are communicated in writing to the faculty member by the Provost or Vice President of Health Sciences, who sets forth the grounds upon which the decision was made. The letter will also outline the faculty member's rights of appeal. No dismissal for cause may take effect until the faculty member's appeal has been considered and acted upon. Where the facts of the case merit, a faculty member may be suspended from his or her duties until such time as the appeal process has been completed.

Faculty members may request a conference with the Provost or Vice President of Health Sciences to appeal a decision to dismiss for cause. If this conference leads to a resolution by mutual consent it shall be confirmed in writing and signed by both parties. The matter will then be considered closed.

If the Provost or Vice President of Health Sciences and the faculty member are unable to come to a mutual resolution of the case the faculty member may file a formal appeal in writing with the Chair of the Faculty Appeal and Grievance Committee. He or she must do so within 14 days of the faculty member's conference with the Provost or Vice President of Health Sciences. Upon receiving from a faculty member an appeal of a decision to dismiss for cause, the Chair of the Faculty Appeal and Grievance Committee shall appoint a five-person Appeal Panel as described above, designating one member to serve as Chair. The Appeal Panel shall have full rights and responsibilities with regard to investigating the merits of the appeal, holding hearings if it deems necessary, and making a recommendation to the President. Normally, the hearing should be scheduled no more than 14 days after the Chairperson's receipt of the faculty member's appeal. Hearings are private and confidential unless this stipulation is waived by all parties. If, however, the faculty member intentionally disseminates information disclosed during the hearing, the faculty member's interest in the confidentiality of the hearing will be deemed waived. All hearings will be conducted following the procedures described below in the section entitled "Appeal and Grievance Procedures."

## **b. Right of Reconsideration When Promotion or Tenure is Denied**

Decisions by the Provost or Vice President of Health Sciences regarding applications for promotion and tenure are communicated in writing to faculty members. Upon receipt of such written notification of denial of promotion and/or tenure, faculty members have the right to meet with the officer to hear orally the reasons contributing to the decision. Faculty members may also receive a written statement outlining the reasons contributing to the decision if they so request. If a faculty member so requests in writing to the Provost or Vice President of Health Sciences, the decision to deny tenure and/or promotion will be referred to the University Rank and Tenure Committee for review and reconsideration, and simultaneously to the faculty member's Dean. Such requests must be filed by the faculty member within 21 days of receipt of written notification of denial.

Separate review by the University Rank and Tenure Committee, and the faculty member's Dean, shall be completed within 45 days of the faculty member's written request for reconsideration and the results reported to the Provost or Vice President of Health Sciences. The grounds for reconsideration shall be limited to material violations of university policies and procedures regulating promotion and tenure, or the introduction of new relevant material. The results of the Committee's reconsideration shall be communicated in writing to the faculty member and the Provost or Vice President of Health Sciences. The Provost or Vice President of Health Sciences, acting on the recommendation of the Committee, shall make the final determination as to whether the denial of promotion or tenure should stand or be reversed.

## **c. Right of Appeal When Promotion or Tenure is Denied**

In cases where the denial of tenure and/or promotion has been reaffirmed after reconsideration by the Provost or Vice President of Health Sciences, and the University Rank and Tenure Committee, a faculty member may file in writing an appeal of the decision with the Faculty Appeal and Grievance Committee within 30 days from the date of written notice denial has been affirmed. Appeals must be limited to allegations regarding the violation of policies and procedures regulating promotion and tenure by the University Rank and Tenure Committee, or that there has been discrimination against the faculty member on account of his or her age, sex, race, religion, sexual orientation, religion, national origin, or non-disqualifying handicap; and/or that the faculty member's academic freedom has been violated.

Upon receipt of an appeal from a faculty member, the Chair of the Faculty Appeal and Grievance Committee shall appoint a five-person Appeal Panel from among the twenty-two members of the Faculty Appeal and Grievance Committee, designating one member to serve as Chair. The Appeal Panel shall have full power to conduct an investigation of the faculty member's case. The Panel shall have access to all documents related to the decision-making process, and may interview any person involved in the promotion and/or tenure process as it affected the faculty member in question. The Chairperson of the Faculty Appeals and Grievance Committee shall be charged with insuring that the Appeal Panel follows the procedures and guidelines described below.

## **d. Appeal and Grievance Procedures**

### **1. The Petition**

An appeal or grievance is formally initiated by a faculty member when it is submitted in writing to the Chair of the Faculty Appeal and Grievance Committee. All written requests to

institute an appeal or a grievance must be accompanied by a description of the faculty member's attempts to resolve the issues at hand through normal channels of authority.

In *appeal* cases, the faculty member's petition shall set forth in writing the specific action(s) being appealed, the grounds upon which the appeal is being made, and any data or information the faculty member deems pertinent to the matter. Faculty members must file appeals within 30 days of receipt of official notice that upon reconsideration the decision they are appealing was not reversed.

In *grievance* cases, the faculty member's petition shall set forth in writing the nature of the grievance, the specific points being grieved, the person or persons against whom the grievance is directed, and any data or information the grievant deems pertinent to the matter. Faculty members must file grievances as promptly as possible after the alleged grievance takes place. The normal time frame for such filings is 30 days. The person against whom the grievance has been filed must be notified by the committee within 5 days after the filing of the grievance and a copy thereof provided.

## **2. Appeal and Grievance Panels**

Upon receipt of a written appeal or grievance from a faculty member, the Chair of the Faculty Appeal and Grievance Committee shall appoint a five-person Appeal or Grievance Panel from among the twenty-two members of the Faculty Appeal and Grievance Committee, designating one member to serve as Chair.

## **3. Duties of the Panel**

The Panel shall decide whether the matter under appeal, or the alleged grievance, merits investigation. If the Panel unanimously finds that the matter does not merit investigation it shall inform the faculty member and the parties referenced in the appeal or grievance of its decision in writing. If the Panel agrees that the matter merits investigation, it shall have the power to thoroughly investigate all aspects of the appeal or grievance filed by the faculty member. The Panel shall seek all relevant information from the parties concerned. All meetings of Appeal and Grievance Panels are closed, and all proceedings and deliberations of the committee shall be confidential. Any member of a Panel, including the Chair, may put questions to any person who comes before the Panel to present information. The scope of the Panel's questions, investigations, findings, actions, and recommendations, however, shall be strictly limited to the specific details of the case as outlined in the documents it has been presented with by the faculty member and those against whom he or she has filed an appeal or grievance.

## **4. Duties of the Chair**

The Chair of the Appeal or Grievance Panel shall convene and preside over all of its meetings, shall assure that all parties are given a hearing, that all materials presented to the Panel by any party to the dispute are made available to the other party, and that its work is conducted in an orderly and respectful fashion. The Chair may initiate, continue, suspend, or terminate any aspect of the Panel's proceedings, admit or excuse witnesses, allow or disallow statements or questions, and rule on any questions of procedure as might arise. The Chair may bring to the attention of the committee any additional materials, policy statements, precedents, or advisory opinions as may be relevant to its deliberations. The proceedings of the all Panels shall be recorded.

## **5. Assistance**

The faculty member and the party(s) against whom the appeal or grievance is directed may attend those meetings of the Panel at which either party is presenting information or responding to questions. Either of these parties may bring one representative to any meeting at which they are allowed to be present. A person serving as a representative must be a currently enrolled Loyola University Chicago student or a Loyola University Chicago faculty member. No person serving as an assistant may be an attorney functioning as legal counsel for the grievant or the party against whom the grievance is directed. The representative may offer advice or guidance to the person whom they are assisting, but may not respond directly to questions from the Panel nor present information unless the Panel Chair explicitly permits the person to do so.

## **6. Evidence**

Evidence may be verbal or written but must be limited to issues raised in the written petition. Only University documents and documents from other independent and reliable sources, and statements made in person to the Panel in the course of a formal meeting may be relied upon as the bases for the findings of the Panel. The Chair may exclude any irrelevant or unduly repetitive evidence. Although not a legal proceeding, information which the ordinary person would regard as uncorroborated hearsay or second-hand and documents the authenticity and objectivity of which are not confirmed should not be relied upon as the bases for Panel findings. Statements made to members of the Panel outside of meetings are strongly discouraged and should not be used as the basis for the Panel's findings. However the personal knowledge of members of the Panel, if stated to the other members of the Panel during deliberations, may be used. In any question regarding the validity or the reliability of any statement or document, the ruling of the Chair shall be final. Decisions by the Chair in all matters relating to the conduct of the Panel's proceedings may be overruled by majority vote of the members of the Panel.

## **7. Other Persons Invited to Give Testimony**

If either party to an appeal or grievance wishes to have other persons give testimony to the Panel, that party shall make such a request of the Chair in advance of or during a meeting of the Panel. The Chair may or may not honor the request. Additional witnesses should be called to provide only additional information and not simply to reiterate previously presented information. The party who requested the witness shall have the right to ask questions of the witness. Then the other party shall have the right to ask questions. Then all the members of the Panel may ask questions. The Chair may rule any question out of order. The Chair may establish a time limit for questions or call an end to the questioning by any party or by the members of the committee. All witnesses but the parties to the grievance shall be excluded from the hearings except during their own testimony.

## **8. Mutual Respect**

During all meetings of the Panel it is the responsibility of all parties and all members of the Panel to conduct themselves civilly and with respect for one another and for the proceedings at hand. The Chair shall have the right to terminate or suspend any meeting at which suitable decorum is not maintained. After due warnings, the Chair shall have the right to dismiss temporarily or permanently from the proceedings any person the Chair determines disrupts the work of the Panel.

## **9. Resolution of the Appeal or Grievance**

An informal resolution of an appeal or grievance may occur at any time. If an informal resolution is reached the matter shall be dropped, the petition withdrawn, and no recommendation from the Panel shall be made. Unless the petition is withdrawn for some reason prior to the termination of the its deliberations, the Panel shall draw up its findings and issue its recommendation in writing to the faculty member, his or her Dean, the Provost or Vice President for Health Sciences, the University Rank and Tenure Committee, and the President. If the Provost or Vice President of Health Sciences is the person against whom the grievance is directed the Panel will make its recommendation directly to the President The President shall make a final recommendation as to the disposition of the case within 30 days of receiving the Panel's findings and recommendations.

The Chair of the Panel shall prepare its final report in cases where the decision is unanimous. The final report shall be signed by all members of the Panel. Lack of consensus on the findings or the recommendation may be expressed by a majority and a minority report. The Chair of the Panel shall direct one member of the panel to draft a majority report, and an additional member of the panel to draft a minority report. Each committee member will sign the report to which he or she ascribes.

The Faculty member and all parties materially concerned with the appeal or grievance\_ shall be notified when the Panel forwards its recommendation to the Provost, Vice President of Health Sciences, or the President. The Provost, Vice President of Health Sciences, or the President shall act on the Panel's recommendation within 30 days. If the Provost, Vice President of Health Sciences, or the President does not accept the Panel's recommendation, he or she shall communicate in writing to the Panel, the faculty member, and other parties materially involved in the case, his or her reasons for rejecting the committee's recommendation.

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### **Faculty Council Motion from Faculty Status committee regarding Appeal and Grievance Procedures**

The first paragraph is the motion: the remaining material are underlying considerations:

"Faculty council rejects the Draft Faculty Appeal and Grievance Procedure as currently drafted and requests that substantial revisions be made prior to resubmission of a second draft to Faculty Council."

The Faculty Status Committee of Faculty council has met and reviewed the current draft. A number of issues have emerged from that consideration, but the most fundamental issue is that this draft procedure attempts to graft together procedures dealing with fundamentally different issues into a single, unwieldy system.

In particular, issues dealing with promotion, tenure, revocation of tenure and academic freedom are at a level of importance at a university that distinguishes them from mere "grievances." Such matters as tenure and academic freedom are fundamental to the core of the university and merit distinctive procedures that guarantee to faculty and to the university that procedures be fair and also be seen as fair. Moreover, cases dealing with

racial or other forms of discrimination are so serious that different procedures are appropriate.

One consideration for such matters, is that the likelihood of legal proceedings being instituted is far higher in such cases than in cases of the run of the mill grievance.

The Faculty Status Committee commends the UPC-for Faculty Affairs for its work on the draft document, but revisions should address as a minimum the following concerns:

1. The method of selection of judges is flawed, especially for tenure and academic freedom cases, which now go to the existing Faculty Appeals Committee after any reconsideration. Random selection for Grievance Committee panels might be adopted.

2. The current members of the Faculty Appeal Committee are carefully selected by Faculty Council from the tenured, full professors at the University. The President may reject a nomination, but in the history of the Faculty Appeals Committee to this day, no nomination has been rejected. Since a case that might come before the Faculty Appeals committee might involve a tenured full professor, the selection criteria, full tenured professors, ensures a 5-person committee that has sufficient competence, and impartiality to adjudicate such cases. No untenured, assistant professor should ever be put on to such a panel.

3. The committee saw no apparent problem with the present method of constituting the Faculty Appeals Committee and urges its retention with little or no change. Certainly a committee with a different term for membership

would appear desirable. Panels dealing with grievances might necessitate speciality knowledge which might be desirable to be included on a panel at the request of a faculty member. (Such as a scientist familiar with research space and external funding issues in a grievance dealing with such matters.)

4. The proposed system with panels constituted on the decision of the chair of the committee gives the appearance of potential command influence and/or the possibility of political manipulation. In European jurisprudence, there is a "constitutional right to a judge" which means that if at the time a charge is made, unless the judge or judges are known, no prosecution can ensue. This right protects against the government manipulating the system. The draft as proposed is open to the allegation of administration interference and or arbitrariness from the chair. The system of constituting panels should be altered even for grievance proceedings.

5. Faculty with either an appeal or a grievance are unlikely to be able to divest their emotions from the situation and appropriately represent themselves in all situations. The decision to prohibit attorneys is not one that the committee itself expresses an opinion on, however, the committee does think that an assistant who can speak on behalf of the faculty member should be permitted.

6. There should be a provision for alteration of the time lines for good cause shown. Witnesses, and even faculty, may be unavailable for hearings within

some of the short time deadlines. While legal considerations may apply to tenure and revocation of tenure cases and cases involving discrimination, for most grievance cases the time frames can be far more flexible.

7. A right to object to a committee member of a panel should be considered.

8. Indeed, insufficient consideration has been paid to conflict of interest problems. Members of the UPC-for Faculty Affairs, and the University Rank and Tenure Committee should not serve on these panels, particular if rank and/or tenure is at issue. If during the process of a grievance or appeal, an

additional reason for disputation arises, the faculty member should be permitted to amend the complaint.

9. We assume that suspensions will normally involve pay; if that is not contemplated it should be specified.

10. The provisions about allowable evidence are confusing. Does only the applicant have the right to present evidence? Outside of preventing excessive ranting and raving, it is unclear why this is being so specified. General discretion to the committee to rule on proposed evidence if cumulative, repetitive, or irrelevant would appear are all that might be required.

11. We had specific drafting problems with certain sections, but since so much basic revision of process appears called for, we are not communicating them right now.

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