

**Faculty Executive Committee (FEC)  
Meeting**

**September 9, 2008**

**3:00-5:00 p.m.**

**Corporation Room, University Hall**

**Minutes**

Present: James Dreier, Chair; Ruth Colwill, Past Chair; Gerald Diebold, Vice-chair; Susan Allen, Lina Fruzzetti, Cynthia Garcia Coll, Geoffrey Russom, Gabriel Taubin, Nicolas Wey-Gomez

Guest: Brenda Allen

Professor James Dreier opened the meeting at 3:02 p.m. He spoke with Dean Vohra about the results of the faculty salary study at Brown. The Dean is reluctant to release the report because some of the faculty groups in the study are so small that there could be an issue of breach of confidentiality. The report does not include salary comparisons with peer institutions. The FEC feels this is important data needed to assess Campaign issues with regard to faculty salaries. Not releasing the report could cause more anxiety among the faculty. An executive summary of the report will be prepared for review by the FEC who will discuss it and then pass it on to the Committee on Faculty Equity and Diversity (CFED) for follow up when this new committee is up and running. Dean Vohra will be invited to report on faculty salaries at a University faculty meeting.

The FEC officers will meet with the Tenure, Promotion and Appointments Committee (TPAC) next week to discuss issues the FEC would like them to address. This is FEC's opportunity to voice concerns about how they feel tenure and promotion reviews should be handled in the best interest of the Faculty. Some issues the FEC officers plan to discuss with TPAC include revisions to deadlines and discrepancies between the Handbook for Academic Administration and the Faculty Rules and Regulations; a plan for implementing policies for review of associate professor ranks who have been in the position for 10 years or more; ways to make their procedures (especially with regard to tenure decisions) more transparent so faculty who go before TPAC know what to expect during their review; and creation of a template for departments' standards and criteria. It was suggested that Dean Vohra do the work of creating the template in consultation with TPAC.

Brenda Allen, Associate Provost and Director of Institutional Diversity, was invited to discuss scheduling a faculty forum on the re-accreditation process. Last year, a steering committee guided several groups through a re-accreditation self-study process. A draft report was prepared in February which was presented to several constituencies throughout the University for feedback. Brenda would like to post the draft to a secure web site for faculty review and have a faculty forum to discuss it. The same draft will be presented to the Corporation in October before a final draft is processed. Procedures for a forum were briefly discussed and the forum tentatively planned for September 30. Brenda will post the draft report at least one week prior to the forum for faculty's review. She noted that student groups will also be asked to provide feedback on the draft report.

Prof. Dreier continued with his chair's report. Faculty officers will meet with Brenda Allen on September 19 to discuss the Ombudsperson search. The search failed because the job was part-

time and the person selected by the search committee was seeking a full-time position. Offering the job for at least 67% time would be more attractive because the Ombudsperson would receive benefits but we must justify this. Financing and the scope of the position would need to be revisited. Should graduate students and staff be included in the group of people the Ombudsperson could oversee? There will be no negotiating at their meeting with Brenda. The FEC officers will not conclude anything without bringing facts to the FEC. The FEC officers would also like to discuss the Ombudsperson search with President Simmons to get more insight into why the search failed.

Today, Dean Bergeron announced that the final report from the Task Force on Undergraduate Education was posted to the Web. She is very pleased with the feedback she received on it. The FEC will review the report for discussion at the 9/23 FEC meeting. A member of the Undergraduate Council of Students (UCS) who is chair of the Academic Advisory Committee has requested to meet with Prof. Dreier. The FEC officers will meet with Graduate Student Council and UCS soon.

Professor Dreier presented a draft proposal for a motion to amend grievance procedures in the Faculty Rules and Regulations (FRR), Version 7.0, July 1, 2008, Part 4 as follows.

### **Proposal to Amend the Grievance Procedure**

Here is a subsection of the current Faculty Rules and Regulations (FRR) on the Appeal of a Provost's Decision in a case of alleged sexual harassment; the context is in your attachments as 10.I.A.5.a ("A charge of sexual harassment against a faculty member") of the current rules.

- v. [...] The faculty member may use the grievance procedure to appeal any actions taken by the Provost stemming from charges of sexual harassment. Such a grievance must be initiated by filing a formal written grievance to the **FEC** within 30 calendar days of the contested actions.
- vi. Should the faculty member utilize the grievance procedure, the name of the complainant must be given to the faculty member when an **Ad Hoc Hearing Subcommittee is formed**. The **subcommittee** may, at its discretion, close all meetings to non-participating observers.
- vii. All other regulations and procedures outlined in the Grievance Procedures shall be followed.

Here is my proposed change:

- v. [...] The faculty member may use the grievance procedure to appeal any actions taken by the Provost stemming from charges of sexual harassment. Such a grievance must be initiated by filing a formal written grievance to the **Committee on Grievance** within 30 calendar days of the contested actions.
- vi. Should the faculty member utilize the grievance procedure, the name of the complainant must be given to the faculty member when **the Committee on Grievance meets**. The **Committee on Grievance** may, at its discretion, close all meetings to non-participating observers.

Explanation:

In December 2002, the faculty voted to amend the FRR by creating a new Committee on Grievance, assigning to it the powers and responsibility formerly invested in the FEC and the Ad Hoc Hearing Committees it might create. Unfortunately, and, I believe, inadvertently, the motion to change the FRR left the sections on Appeal of a Provost's Decision in a case of sexual harassment unchanged, with the result that this section in the current version is anomalous.

1. Note that the current wording refers to an "Ad Hoc Hearing Subcommittee" being formed. There is no mention anywhere else in the current rules of such a subcommittee, no explanation of how it is formed or who forms it, or even an explanation of which committee it is a subcommittee of. The old version does explain how the FEC forms an "Ad Hoc Hearing Committee" (AHHC) (not "Subcommittee", by the way).

2. Subsection (iii) says "The faculty member shall have the option of utilizing the grievance procedures at this point or at any future time in the process." Subsection (v) says that the faculty member "may use the grievance procedure to appeal". The FRR envision the *normal grievance procedure* being used here. In the earlier version, that procedure involved the FEC and an AHHC, but it has now been amended to involve only the Committee on Grievance. The appeal process, that is to say, is intended to be the same as the grievance procedure, so it should now match the current grievance procedure and go to the Committee on Grievance.

3. History: I checked the minutes of the 12/02 faculty meeting and the minutes of the Corporation meeting at which the current procedure was adopted to be sure all versions are the same. (No discussion in the minutes of the Appeal section.)

I checked also with Nancy Armstrong and John Savage, and then with Russell Carey, who agreed that their intention (so far as they remembered) agreed with my interpretation: the new committee was intended to replace the FEC in all of the grievance powers. Russell reminded me that the Rationale for the motion at the Dec. 2002 faculty meeting says:

**RATIONALE:**

The Grievance Committee is a new standing committee of the faculty, proposed by the Task Force on Faculty Governance and recommended by the Faculty Executive Committees. **It replaces the grievance procedures currently in place which are under the auspices of the Faculty Executive Committee and carried out through the formation of an Ad Hoc Hearing Committee.** The Grievance Committee does not replace the policies and procedures in place in that section of the Faculty Rules & Regulations for handling a charge of sexual harassment against a faculty member, the power of the President to suspend a faculty member in specified circumstances, nor the grievance procedures for a faculty member in the Medical School not employed by Brown University. This Motion is presented to eliminate the language which is being replaced by the Grievance Committee and create the Grievance Committee and insert it in the proper place in the Faculty Rules & Regulations.

The underscored portion is clear. The next sentence (first clause) muddies things a bit, but my reading is that its point is that the ordinary process for handling a charge of sexual harassment is not changed; the *appeal* portion must be, since it (a) involves an AHHC and (b) is referred to as "the grievance procedure".

**Other Issues for Clarification**

**1. Deadline**

The FRR states the following deadlines involved in the Appeal process:

10.I.A.5.a.(v). The faculty member may use the grievance procedure to appeal any actions taken by the Provost stemming from charges of sexual harassment. Such a grievance must be initiated by filing a formal written grievance to the FEC **within 30 calendar days of the contested actions.**

10.I.A.2.c. The Committee shall have the right to decide whether or not the charge and supporting materials are sufficient to proceed with the grievance and/or whether further investigation is necessary. The Committee shall notify the petitioner in writing whether the petition has been accepted and, if not, why. Submission of a petition will not automatically entail such an investigation. Normally, the Committee shall initiate consideration of the petition **within one week** of submission of the petition, and shall act with all reasonable speed.

The question is, what happens when triggering events occur during or just before the summer, or other lengthy vacation periods?

## **2. Outcome**

What is the possible outcome of a Grievance hearing appealing the Provost's decision? My reading: the Committee on Grievance can *only* remand the case for re-hearing by the Provost. (The Brown University Sexual Harassment Policy envisions other possible rulings; see below and the attached document.)

10.I.A.1.b. The Committee on Grievance may require reconsideration of the application of procedures or of a decision by a body involved in the petition of grievance.

c. The Committee on Grievance shall not substitute its substantive judgment for that of a body whose actions are questioned by the petition of grievance.

## **3. Counsel**

Is the accused faculty member permitted to have a lawyer present at the hearing conducted by the Committee on Grievance? (When the FRR in this section refer to "the faculty member" they mean the person accused of sexual harassment.)

Under the old rules,

10.I.A.2.m. During the hearings, each party shall represent herself or himself. Although he or she may have the presence and assistance of an academic and/or legal counsel, that person may not represent them at the hearing. The University will not pay for counsel should parties choose them.

Under the new rules no parallel provision is in place. However, in

10.I.A.5.a.ii After a written complaint has been filed, the faculty member informed in writing of the allegation shall be asked to meet with the Provost. The faculty member shall have the right to bring a counsel to the meeting. The Provost shall determine who else will attend this meeting.

But compare (vi)

The subcommittee may, at its discretion, close all meetings to non-participating observers.

### **The Sexual Harassment Policy and Procedures**

Finally, Brown's official Sexual Harassment Policy and Procedures (attached), which are posted publicly on its web pages, are now out of whack with the FRR Grievance Procedure. There are three points of conflict.

- The appeal is directed to the wrong place, according to the change I am proposing.
- The Policy wrongly states that the President will have the authority and the faculty committee will merely advise her.
- There is a mysterious deadline ('ten working days') in place whose source I have not been able to discover.

I propose that the Sexual Harassment Policy and Procedures be amended as soon as the faculty votes to fix the FRR. I believe Brenda Allen can simply make the changes without further authorization, because they amount to an editorial change and not a substantial change in policy.

The FEC agreed with Explanations 1, 2 and 3 for the proposed changes in 10.I.A.5.a. "A charge of sexual harassment against a faculty member", v. [...]. The FEC approved the proposed changes as is.

Under "Other Issues for Clarification", 1. Deadline, the FEC revised Section 10.I.A.5.a.(v), last sentence, "within 30 calendar days of the contested actions" to read "within 30 academic year days of the contested actions." In Paragraph 10.I.A.2.c., last sentence, the FEC recommended the phrase "or as soon as reasonably possible" be inserted after "within one week".

In 3. Counsel, the FEC agreed that the Grievance Committee can allow a lawyer to be present at their meetings but at their discretion, may decide to close all meetings to non-participating observers.

Professor Dreier will edit the proposal to reflect specific changes to the text approved by the FEC. The motion will be presented to the Faculty at the October 7 faculty meeting.

Some changes need to be made to Brown University's Sexual Harassment Policy so that it coincides with the Faculty Rules and Regulations. Prof. Dreier will ask Brenda Allen to make those changes.

Professor Russom attended yesterday's MFEC meeting. The MFEC revisited equity issues discussed by the Committee last year including tenure issues. They also reviewed a proposal to divide the Department of Clinical Neurosciences into two separate departments, Department of Neurology and Department of Neurosurgery. This proposal is on the Academic Priorities Committee agenda for October.

The FEC then asked Professor Russom if he would like to continue representing the FEC on the MFEC this academic year. Professor Russom graciously volunteered to accept this responsibility.

Professor Dreier reported that the Committee on Faculty Equity and Diversity (CFED) currently has 6 of 9 faculty members who volunteered to serve representing good balance on the

Committee. He called for more volunteers at the September 3 faculty meeting and to date, no one has come forward. The FEC decided that for this academic year only, nominees' names will be brought to a faculty meeting for election so that CFED can begin its work early in the semester. Preparation of a ballot to include 18 faculty members will take too long. Ballot elections for CFED will begin next spring.

A concern was recently raised by a faculty member about no provision in the Nominations Committee's procedures for contested elections for TPAC replacements. The FEC will bring this to the Nominations Committee's attention.

There is a communication problem between faculty and TPAC about what they do and why they do it. This miscommunication results in negative feelings among faculty and the departments toward TPAC members. Department chairs need to leave TPAC meetings knowing that TPAC appreciated their work.

Under new business, Professor Diebold raised a concern about rules regarding liability for risk in connection with a chemical hygiene plant. This will be discussed at the 9/23 FEC meeting.

The meeting adjourned at 5:10 p.m.

Respectfully submitted,

Cheryl A. Moreau  
Secretary