



Motion to Amend the *Faculty Rules & Regulations* to Specify Procedures Governing Appeal of Actions Taken by the Provost Stemming from Charges of Sexual Harassment

December 1, 2009

SUMMARY: Motion to amend the *Faculty Rules and Regulations* in order to specify procedures governing appeal of actions taken by the Provost stemming from charges of sexual harassment.

RATIONALE: The appeal procedures for actions taken by the Provost stemming from charges of sexual harassment against a faculty member in Brown's *Faculty Rules and Regulations* currently refer to a set of grievance procedures which no longer exist. This motion remediates that deficiency by placing the appeal review responsibility with the Committee on Grievance and specifying a procedure by which appeals of such decisions will be conducted.

MOVED: That the *Faculty Rules and Regulations* be amended in Part 4, Section 10.I.A.1. and 5., Faculty Rules Pertaining to the Faculty & Students, by deleting the existing language (as struck-through below) and replacing it with the proposed new language (underlined and in bold below), effective immediately.

I. Professional Affairs of the Faculty

A. Committee on Grievance (Standing Committee of the Faculty)

1. Charge

a. The Committee on Grievance shall review petitions of the following types:

1. A charge of one of the following types by a faculty member or other person with a teaching or research appointment at Brown University that his or her rights during a term appointment or tenure have been violated by specified actions of a faculty member(s) or member(s) of the teaching or research staff or Academic Administration:
 - i. a violation of academic freedom;
 - ii. failure of the University to follow prescribed procedures in matters relating to reappointment or promotion;

- iii. violation of the Corporation Statement on Nondiscrimination;
 - iv. abridgement of rights as members of the university academic community as generally understood or articulated in the Faculty Rules or other policy statements approved by the Faculty and the Corporation.
- 2. A charge contesting a finding by the President that specified actions by a faculty member warrant dismissal, during either a term appointment or tenure.
 - 3. A charge by a student that his or her rights as a member of the University Community have been abridged by specified actions of a member or members of the Faculty or a person with a teaching or research appointment at Brown University.
 - 4. An appeal by a member of the faculty of any actions taken by the Provost stemming from charges of sexual harassment. In conducting a review of such appeals, the Committee on Grievance shall be subject to and will follow the specific procedures for this purpose delineated in Part 4, Section 10.I.A.5., Other Charges.**

[sections b – d not reprinted]

- e. These procedures are intended to address matters that are unique to the academic community. The Committee is not intended to serve as an appeals body for decisions reached under other University procedures, **except for the appeals by a faculty member of any actions taken by the Provost stemming from charges of sexual harassment, as specified in Part 4, Section 10.I.A.5.** Where other institutional procedures exist within the University to address the rights of members of the University community, those procedures take precedence. Also see Graduate Student Grievance Procedures, Section 10, II, A. and Medical Student Grievance Procedures, Section 10, II, B.

[sections 2 – 4 not reprinted]

5. Other Charges

- a. A charge of sexual harassment against a faculty member.
 - i. If an alleged victim wishes to pursue a complaint beyond discussion with a hearing officer, the alleged victim must file his or her complaint in writing with the Provost (or person appointed by the President). Where appropriate, the Provost will keep the President informed.
 - 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.

iii. At the meeting, the faculty member shall receive a written copy of the complaint and the name of the person filing the complaint. In very unusual circumstances, such as where the safety of the complainant is deemed to be at risk, the Provost may choose not to include the name of the complainant. ~~The faculty member shall have the option of utilizing the grievance procedures at this point or at any future time in the process.~~

iv. The alleged victim shall receive a copy of the complaint given by the Provost to the faculty member.

v. The Provost shall attempt to resolve the complaint as promptly as possible. The faculty member will be given a copy of any document which will be added to his/her personnel file and which is related to the charge of sexual harassment. ~~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.~~

vi. The faculty member may appeal any actions taken by the Provost stemming from charges of sexual harassment. Such an appeal must be initiated by filing a formal written appeal to the Chair of the Committee on Grievance within thirty (30) calendar days of the contested actions.

vii. The Committee on Grievance shall be responsible for conducting a review of the appeal of the actions taken by the Provost and shall do so in accordance with the procedures delineated in this section, Part 4, Section 10.I.A.5., of the *Faculty Rules & Regulations*.

viii. For the purposes of conducting a review of the appeal any actions taken by the Provost stemming from charges of sexual harassment, the Committee on Grievance shall convene a Sub-Committee on Grievance for Reviewing a Sexual Harassment Appeal. The Sub-Committee shall consist of no less than three and no more than five, inclusive of the Chair, tenured members of the faculty appointed by the Chair from among the duly elected regular and reserve members of the Committee on Grievance. Members of the Sub-Committee shall have had no involvement with or relationship to the circumstances under review. If the Chair of the Committee on Grievance is unable to serve in that position on the Sub-Committee, an alternate chair, who shall retain the right to vote, shall be elected from among the members of the committee at their first meeting.

ix. The Sub-Committee shall determine the rules and order of procedure in conducting the review of the appeal. In general, the Sub-Committee shall conduct the review of the written record of the case, including all materials submitted to the Provost, the appeal of the faculty member, and a written response to the appeal by the Provost if he or she elects to submit such a response to the Sub-Committee. However, the Sub-Committee may elect to review other materials and/or meet with individual(s) who may have, in its discretion, information relevant to the review of the appeal.

x. Upon completion of the review of the appeal, the Sub-Committee shall prepare a written report expeditiously, based solely upon the material reviewed. This report shall state the Sub-Committee's findings on the merit of the appeal and may include recommendations. The report shall be submitted to the President, and copies made available to the member of the faculty and the Provost. Either the member of the faculty or the Provost may submit a written statement, in response to the report, directly to the President for his or her consideration, within a period of time to be specified by the President (normally not exceeding 10 days).

xi. The President shall review the report, findings, and recommendations of the Sub-Committee and any material submitted by the faculty member or the Provost. The determination of the President on the appeal shall be communicated in writing to the member of the faculty, with copies to the Provost and the chair of the Sub-Committee. The determination of the President on the appeal shall be final.

xii. The President shall have the power to suspend a member of the faculty during these proceedings only if immediate harm to the member or others is threatened by his or her continuance. During this suspension, regular salary shall be continued.