Motion 4 – composition of the committee
Regulations about who can serve on what committees – current angauge says 1 year which isn’t consistnet with this proposal. We could add “normally” or note that terms of service may change on different committees.

We don’t think we can just insert the language without a senate vote. We might have to keep a conflict for a year. It could be considered substantive. Senate has approved the language but then we’ve caught this conflict at an inconvenient time. If we leave things the way they are, people are signing up for one year on this committee. But then again – the amendment to the motion that passed says normally 2 or more. Doesn’t say it’s a two year term. So it’s not in a fundamental conflict with existing language about one year service with 4 reelection opporutnieis. So, let’s table this until next year to clarify the language since there isn’t a fundmanetla conflict. We’ll need clearer language to legislate committee continuity for next year.

Motion 3 – gender neutral language

Reviewing Richard’s explanatory language and found it suitable.

Motion #7 – substantive addition to standard for superior evaluation rating
No conversation in the senate on this issue. So this issue is that there is a policy change that nobody has discussed outside this committee.
On the one hand, they had a chance to look at it and didn’t.
On the other, should we be forward looking and forsee problems and get ahead of them.

Deanna: another issue – changes like that about performance expectations require very broad conversations to make better collective decisions. Some recent examples to T&P and merit requriements have been met with broad discussions amongst chairs and two day forums, etc.
FAM By-Laws Minutes – 3/1/2018


After others in the past year and on other committees have had a chance to send us feedback including Larry Krasnoff and Jon Huddleston.

The pronoun issue will likely be a separate matter that will be handled in the entire FAM.

Clarifying the grounds by which adjuncts can file a grievance in the Proposed Modifications & Additions document. We don’t want to convey the idea that any reason given by managers will be the final result of a question about a hiring/firing decision. That would then place the burden on the grievant to show the committee that the reason given is unpersuasive.

Richard: We’ll have a short pair of motions in place to insert in the front of these documents so that they don’t get lost in the verbiage.

PTR – “proposed PTR language for the FAM”

Deanna:
The committee had presented recommendations but the FAM language had yet to be marked up. In the mark up period, some of those recommendations were walked back a bit. We’ll focus on the substance of the issues. The notion that all tenured faculty should go up for formal review once every 6 years is clear. The second recommendation is to clarify when someone can go up after receiving a satisfactory or superior. Third, the period of review language. If someone goes up for superior and fails then comes up two years later, what is their period of review? Just the last two years? A common-sense approach to this question would assume it is not just the last two years. Fourth, they wanted to get rid of deferrals. We need to leave some deferrals in for extenuating circumstances or faculty on sabbatical someone internationally or somewhere remote or have valid medical reasons or have “exceptional professional commitments” like service as department chair. You could defer a superior ranking in that last circumstance and just go up for satisfactory.

The only other new language concerns chairs going up for PTR. This is Deanna’s language on p. 6 of the document. If the chair is seeking superior, then there is a panel. If the chair is seeking satisfactory, the dean handles it. Deanna will incorporate these changes into a new document with a new chair.

Who chairs the chair’s superior rating panel?
The most senior member of the department, even if that person has no administrative abilities? That person should convene the panel, but not necessarily chair it.
Some specificity here in the FAM could avoid messy political situations as well.
What if that person has health issues? What if that person has a conflict of interest? Let’s person some language in the FAM that leaves a door open. Insert “and normally chair” language to note that the process is adjustable based on local circumstances.
Richard’s proposed criteria for a superior rating:

We could clarify that departmental PTR guidelines are not applicable for this review unless otherwise noted in the department guidelines.

The current FAM section is quite short on this topic, so PTR panels can operate by their own guidelines or take a more stringent approach. Additional language should help avoid wild year-to-year swings because the committees are in the dark.

Deanna wonders whether there really is evidence of year to year swings and suggests that their isn’t a substantive problem as it exists.

The group considers language to make sure that the research criteria is substantial but does not equal the standard of being promoted to professor again. The same is true of the “leadership in service” standard.

Richard is going to shorten the language, submit to us and Dinesh’s committee, and then hopefully prepare us for Senate consideration.

New issues:
The ad hoc committee on grievances recommendation about training. Deanna suggests that language might not be FAM language, at least not initially. Training can happen without FAM adjustment or, at least training can begin in order to clarify FAM language.

Deanna: previous Senate discussion about participation during sabbaticals issue
There was language proposed that faculty on sabbatical are allowed to participate in DEP should the so choose to do so and can participate in all deliberations. But this language isn’t in the FAM. The full text of the sabbatical policy isn’t in the FAM. Nevertheless, this is a College-wide issue. We should check the Senate minutes to clarify this discussion’s date, duration, and conclusion. It could have been more than 10 years ago.

Could this professor only participate in 3rd year review and tenure cases but not cases for full or PTR? The general consensus is yes but that faculty on sabbatical have to do all cases of 3rd years and tenure, not picking and choosing particular cases or just one class of these two cases but not both. Jeannette suggests that folks who want to participate should delay their sabbatical.

Richard: there might be issues about how many sabbaticals are coming up.
FAM By-laws Meeting – 2/20/18

Present: Richard Nunan, Michael Lee, Deanna Caveny-Noecker, George Pothering, Liz Jurisich

Discussion of “inadequate consideration,” its legal significance, and whether it applies to adjunct employment decisions.

Top of p. 10 – contradiction in the standards within the same paragraph. Suggested to reform paragraph to include “one of these reasons.” The only issue is that we’re not sure how this language applies to adjunct employment decisions. It doesn’t appear that previous FAM authors did either. To be researched. Adding language “including adjuncts” to p. 5 to clarify who is included in this expanded circle. When an adjunct “alleges a violation on any of these three grounds.” Legal affairs can tell us if this language doesn’t work. Striking the last sentence of the paragraph under review. In sum, the conflict goes away for adjuncts but we’re using a class of actions that doesn’t necessarily make sense.

Richard: worried that future administrators will say that adjuncts don’t get to grieve an employment decision once they’ve been provided a reason.

Deanna: we’re mirroring the other 2 places where “inadequate consideration” shows up in the FAM without creating additional protections or accidentally sullying existing standards. They have the right to grieve based on item 4.

George: It may be worth it to make this language much more explicit as a signal to adjuncts.

Richard: Otherwise, an administrator may come up with a reason that complies with the letter of our non-discrimination clauses, and in that case, the adjunct should be able to grieve to prove the inadequacy of the reason.

Deanna: we need to be careful about the inclusion of new rights if we don’t know it’s actually workable.

Richard: the last sentence doesn’t apply to new rights.

Deanna: we’re putting something in the wrong section which makes the FAM harder to use. Adjunct-specific information should go elsewhere. We should insert it as a parenthetical on item 4 on p. 5.

Liz: Let’s just add “pursuant to the possibility of a grievance being filed.”

George: compromise – put the last part of the language in item 4.

Richard – p. 79 of manual. Next to last sentence. “indeed not grievable.” That’s the version of what I’m pushing. At that point, when applied to probationary faculty, it’s obvious that a trumped up reason is actionable. But this conclusion isn’t obvious in the adjunct specific language.

Mike: let’s mirror that language since it’s consistent with what we’re already doing.

Top of p. 16 – determining authority about decisions on conflicts of interest

The pre-hearing is late in the day for the hearing committee to make a conflict decision. The College and grievant should know earlier. We’re taking that out of the pre-hearing list and moving it from 183 of fam to 182 of FAM.

What does it mean once a determination about a conflict is made? Is that person excluded?
Deanna: we’re not going to get support from the College in terms of naming its own representative.
Richard: the ad hoc committee did want more specific conflict of language standards. “subject to the approval of the hearing committee as a whole” added to conflict of interest language.
Richard: the language is more conciliatory than the ad hoc’s committee.

New issue – reporting procedures and errors of fact to the president
The current grievant is allowed to bring procedural and errors of fact ot the president. Should the College representative be afforded the same right?
Richard: the language currently says that the grievant can make sure a report when the grievant is being rejected by the hearing committee. It is not a generic opportunity for the grievant to approach the president whenever they want to. And, what the grievant says to the president is given to the committee and to the representative. The grievant is already facing an uphill process.
Deanna: The FAM committee doesn’t have to take action on this. If the administration feels that it’s an appropriate change, they can work on that independently.

That completes faculty hearing committee revisions.

Minor FAM clean-ups:
p. 162, when WA’s are issued, current language should say “failure due to excessive absences.” W isn’t a grade for the GPA. WA is an F in terms of the GPA.
Mike: perhaps we should designate WA as WF? Let’s see what the Registrar’s office thinks.
164 – should say withdrawal deadline, not drop date.

Consistency issue: p. 140
Who gets copies of the Dean’s letter? Suggested changes to who gets copies and when is to conform PTR processes with T&P processes.
Deanna: in the case of T&P, letters like the Dean’s never go to the full panel. The chair gets them.
Insert the word “or the chair of” or some similar language – “or the chair of the departmental panel”

PTR fixes from 2017 that haven’t been acted upon:
Suggested inserts are signals to future PTR committees that their judgments can be flexible but that they also attend to whether candidates are still active researchers.
Richard: Satisfactory review grades don’t lead to probation or anything like that.
By-Laws Agenda, Tuesday, 20 Feb, 2018

Faculty Hearing Revisions:
  Top of p. 16  Insertion of Dean as one of the parties to be notified about grievance
  pp. 17-19  (a) Relocating language assigning the Committee the authority to determine whether there are any conflicts of interests among the parties to the hearing from top of p. 19 (Manual 183) to bottom of 17 (Manual 182)
            (b) Giving conflict of interest language some operational significance (ad hoc Committee did nothing to say what comes next)
            (c) Conceding fact that panel judgment is merely a matter of adding to record of a hearing when panel finds that college rep has a conflict of interest.
            (But it is important to make that part of the record in advance of hearing.)
  pp. 13 & 22  Proposal that college representative have ‘the same’ opportunity to comment on alleged procedural error & error of fact during hearing as grievant, prior to President rendering decision. (Not yet adopted.)
            What does ‘the same’ mean in this context?
            Issue of giving Provost the last word with President. (Deck is arguably already stacked against grievant; current language is a ‘no stone unturned’ approach.)
            Issue of President possibly using language to invite comment from Provost.

Minor FAM clean-up language
  FAM 162  VIII.A.9 Class Attendance: Instructors ascertain whether both excused and unexcused absences count in determining the basis for a grade of “WA,” which stands for “withdrawn failure due to excessive absences” and is equivalent to a failing grade.
            (Request by Mary Bergstrom, to more accurately reflect what a ‘WA’ grade means, which is an ‘F’, not a ‘W’, with respect to GPA.)
  FAM 164  VIII.A.11 Final Examinations and Final Course Grades: At the request of the student, a faculty member should make available information and/or an evaluation of the student’s progress prior to the drop date withdrawal deadline.
            (Request by Lynn Cherry, to comply with current institutional language.)

More significant FAM consistency issue in VI.H.6 & 7 (FAM p. 140):
  The Deans will review packets and forward written recommendations to the Office of the Provost. At this time, each Dean shall also provide each candidate and chair of the department or the departmental PTR panel with copies of the Dean’s recommendation.

  a. The Post-Tenure Review Committee shall review and forward its recommendations on applications for superior ratings to the Provost by the announced deadline, typically at the end of February. At this time, the Post-Tenure Review Committee shall also provide the candidate, chair of the department or the departmental PTR panel, and the Dean copies of that recommendation. The Provost may make a recommendation and shall forward all recommendations to the President by the announced deadline.
These additions would bring the PTR process into better conformity with the T&P process, in which T&P Advisory committee evaluations were first made available to candidates in 2009, and made available consistently each year after this transparency policy was added to the FAM in 2012. (See Procedures for Third-Year Evaluation, Tenure and Promotion: VI.D.11 Faculty Advisory Committee Action [FAM 123-124]

**Modifications proposed by Chris Fragile on behalf of 2017 PTR Committee**
(submitted & modified somewhat [?] last summer by Deanna)

H.1 Post-Tenure Review Schedule:
Aug 2017 approved language currently in FAM (p. 135) more moderate than what was proposed by Fragile & written up by Deanna: does not explicitly limit repeat reviews of failed PTR Superior case to one extra year within a six-year period (as proposed by Fragile).

H.4 Deferments:
a. ‘Exceptional professional commitments’ (FAM 137) not yet deleted in 8/17 modifications.
f. not included at all in Aug 2017 modifications.

H.6 Recommendations by...
First paragraph (FAM 139-140) has not yet been modified as proposed in Deanna’s memo. This is also the paragraph where the language about departmental panels occurs, the wisdom of which George was questioning at our last meeting.

H.9 Appeals...
Modification of language proposed in very last paragraph of FAM section on PTR (in “Appealing a Satisfactory Rating”) has not been done. (FAM 142)

H.5 Preparation and Submission of...Packet for Superior Rating
a.(6) Candidates seeking a superior rating must also furnish clear evidence that they continue to perform at the level expected for the promotion to the rank of Professor, or Librarian IV, in accordance with the criteria of the Faculty/Administration Manual, as indicated in Sect VI.A.4.c. for instructional faculty and VI.C.4.d for library faculty. (FAM 139)
Not proposed for change by Chris Fragile last year, or by Deanna last summer, but this is the language at the heart of what worries me about inconsistent application of PTR standards. (We may not want to tackle this yet, though. Would probably prove controversial, maybe even among ourselves!)
FAM Committee Meeting Minutes  
2/13/18

Present: Richard Nunan, Deanna Caveny-Noecker, George Pothering, Jeannette Finch, Megan Gould, Liz Jurisich, Michael Lee

Working through specific language (and titles and numbers) from previous meeting into the FAM.

Is committee a proper noun? If it is the name of the committee, or if it is used as an adjective, which is capitalized? We’re opting for an approach where the obvious use of the noun is capitalized and the adjective isn’t. Debating other capitalizations like “Chair” vs “chair” and other fine points of language like making sure to include Faculty in Faculty Hearing Committee.

Long revision from p. 5-11 in “Complaints of Violation of Academic Freedom or of Discrimination in Non-reappointment”

Richard moved the language intended to protect adjuncts to p. 9. Richard added instructors and at the instructor rank on p. 7. These statutes were originally written with probationary faculty in mind. But much of this rationale is applicable to instructors, who are reviewed yearly.
Deanna: the first two years in terms of review shouldn’t be any different from tenure-track faculty to instructors. State employees have certain rights; there is an exception in the state law for faculty.

But some of the language additions intended to protect instructors also imply that instructors are eligible for tenure, which isn’t the intention of the added language.

Deanna: the natural right of instructors and senior instructors have is that at some point that staying on is the presumption because we don’t send reappointment letters to everybody in every year. It’s possible that thinking of employment in 7-year blocks of time would take away that presumption.
Richard: we’re not speaking about senior instructors with these language additions, so they shouldn’t be relevant.
Deanna: there is a lapse in the FAM about instructors and senior instructors. Once this language is added, that issue is going to come up.
Richard: if we add language about adjuncts, what about instructors, and then what about senior instructors, and then what about instructors in years 3, 4, and 5? The FAM isn’t explicit on protections for any of these folks.
Richard: given the existing process for instructor evaluation and review, some of this added language should be struck. They can be terminated without cause in the first two years and, after that, not so easily. Striking everything in blue on p. 3.

p. 9, “the college is under no obligation…” implies the inclusion of non-tenure track faculty.
Insert of new language about giving reasons when terminating or non-renewing adjuncts – bottom of p. 9 – heading E. Adjunct Faculty Appointments

There is a discrepancy between FAM language on appointments about adjuncts vs. adjunct library faculty. Adjunct library faculty probably predates language about adjuncts generally; and now we’re using temporary employees much more frequently at CofC. (p. 64 of FAM).

This language does mean that chairs would have to give notice to every single adjunct that doesn’t get renewed, which seems excessive. So, Richard added, language about process on the top of p. 10. If this adjunct faculty doesn’t like being terminated, they can take that to the committee, and then the committee can see whether it is actionable. Only if triggered by a committee does the chair have to give a reason. Then, the adjunct can take that reason before the hearing committee if they so choose (and have credible evidence of a violation).

What about having the chair give cause upon request to save the chair the work and to save the committee from getting involved?
That increases the rights of the adjunct a bit, serves as notice to chair, and could potentially stop a full process of a hearing. This request is amenable to this committee.

“Inadequate consideration” – this language appears in the FAM and SC code to describe the lack of professional application of standards, but how does this apply to the proper evaluative procedures relating to adjuncts? There is some debate about this language’s relationship to due process. Hypothetically, let’s say an adjunct was accused of something monstrous that this person did off campus. This person was in the initial phase of criminal charges; no indictment was offered yet. The chair makes arrangements to administer that person’s exams, and then there is an understanding of non-renewal. The full process of review wouldn’t be applied in this case as it would in the case of a roster faculty member.

Should we strike “inadequate consideration?” Adjuncts have no expectation of keeping a position; it is temporary by definition. But there isn’t a disadvantage to keeping the language for the moment.

p. 13 – conflict between the 10 days that the president has and the 10 days the grievant has after the hearing committee has done its work. Need language to offer more clarity on this point. The grievant is hard pressed in terms of timing throughout the process. M-F (5 days) isn’t enough for the committee to even meet at the beginning to determine the relevance and appropriateness of the case. (p. 17)
Liz: we don’t have to jump from 5-10 working days. Why not just jump from 5-7 instead to provide everyone with a little more time but not further compress the schedule by giving them too much time?

p. 17 – currently the committee may not have even notified the grievant of the result within 20 working days of the initial meeting.
It’s tough because grievants need more time generally both because it’s hard to marshal the resources to fight for your job during a semester, and evidence of discrimination can be very slow to emerge, etc.
The 15-day problem is just thorny to solve.
Is the consensus that we leave it at 20 working days? Yes.
So we’ve got two different time periods – when the grievant is filing the grievance (20 days), and when the committee sets its hearing (has been 20 days). The ad hoc committee wanted to shorten both of those to 15. We’re disagreeing, and we should let the senate decide. The counter-argument is that we shouldn’t expect people to work over the summer without pay. And we don’t have an answer to that other than that we’re all in this equally in the sense that all roster faculty might serve and some issues are beyond what you’re paid for.

p. 17-18 (manual pgs. 182-183)
sub-point b – let’s go with 7 days as a compromise between 5 and 10

p. 19 – subpoint c
inclusion of new language about “including the Committee alternate.”
If the alternate has a question and can be called into action, then they should ask a question.

Also, when does the alternate go away? Do they sit through everything then just don’t show up to the final decision? We could clarify “voting-members” in the “sequence” section. Adjusting language about the “executive session” – “exclusive of the alternate shall meet in closed executive session.”

Where do we provided additional details about the alternate?
p. 18 – attendance – sub. A – “members of the panel including the alternate”
(sidebar: need to adjust language differentiating the full committee from the actual hearing panel)
Need also to include language of “any remaining alternate” in case there needs to be another alternate on deck after the initial alternate is employed.
Just to confirm/remind you all, we are meeting tomorrow in the Senate conference room.

I’d like us to start going through and approving (or rejecting) the remaining individual changes from last year’s ad-hoc committee on hearings, for recommendation to the Senate as soon as we can. To that end, I’ve attached the summary list I put together for our late October meeting with the available ad-hoc committee members, Mike’s minutes of that October meeting, and the entire set of ad hoc committee recommendations as supplied to the Senate last year, and. You already have all these things, but I thought it might be helpful to have them in one place.

Just a heads up, after hearing from last year’s ad hoc committee members, I personally am no less convinced than I was before that shortening the various time constraints is a pretty bad idea. I found the justification unpersuasive, and became even more convinced that it was a bad idea after my direct experience with serving as Oksana Ingle’s faculty advisor in October/November. The other recommendations I personally think we should approve. On the conflict of interest issue, it’s pretty transparently obvious to me that, for the long-term welfare of the institution, the language should be stronger. But I imagine I’m not going to win that battle.

I suggest we focus on the short list of remaining issues, plus the last two pages of the document from the ad-hoc committee, the section on the post-hearing procedures. There’s a timing issue there that we definitely need to fix, which I only discovered as a result of my involvement with Oksana Ingle’s case.

Finally, we need to put our heads together to figure out what remaining dates in February and March we can all meet again. (We have more work to do!) I’ll bring a list of what I’ve learned from surveying each of you so far.

Sorry this is so late in coming to you all. Life has caught up with me!

Richard
FAM meeting minutes (10/24)


Meeting with the ad hoc committee

4 outstanding items that previous committee addressed:
1. Post-hearing procedure (that we haven’t discussed as a committee)
2. Shortening of timeline (with the goal that the committee’s work is done by the middle of May).
3. Language granting committee authority over conflicts of interest
4. Changing the constitution of the committee

Few objections arise about the previous committee’s post-hearing procedure language.

Timeline: Is can be difficult to acquire transcripts and other documents regarding T+P cases. How many working days until the committee should convene? The language should be the same. The two big issues here for Claire are the May 15 problem (you can’t make them serve over the summer). CofC would have to compensate in some way. The second one is the president’s letter deadline, which is March 15th. So, you’re stuck within those 60 days as is because reconvening in August would be cruel to the grievant.

So, the recommended change is convening within 10 days of notice for the first suggestion and the third suggestion. Duties of standing committee section then the description of the actual hearing process (currently 5) sections of the FAM. Those two numbers should be the same.

Ad Hoc committee recommended change is 15-day rule (vs. 20) to file a grievance. T+P cases, however, are not the only cases. Some concern over that being unfair to grievants. Again – the timing issue. People that sign up for this committee either have to hold a hearing during exams or after May 15.

Discussion of #2 – how to handle conflicts of interests

The first motion to the senate last spring – “and has no conflict of interests in the proceeding” inserted language. Unanimous vote.

Motion 2 – the committee is given power to determine whether there are conflicts and sort those out. That vote was 6-2 in favor. We could present this to the senate and then the provost’s office could refuse to participate.

Giving any body the right to make a conflict of interest claim is a substantive change. The FAM is currently silent on conflicts of interests.

Questions: what does the hearing committee do once a conflict of interest is determined?
Does the administration have the final say on what goes into the FAM? Only the non-bylaws portion of the FAM.

There is the fear of a chilling effect as well if the committee opposes the administration on a conflict of interest claim.

Ad hoc committee suggested that the CofC representative could be lots of people, not necessarily the provost.

Either side could express displeasure about the committee’s determination about a conflict of interest.

Wide consensus that the FAM should not be explicit in defining a conflict of interest. Two sections of the FAM suggest conflict of interest like non-nepotism on hiring or DEP panels, and there is also DEP language about sitting in a position of self-judgment on like DEP cases that same year.

Discussion of #3 – Changing language in the FAM to modify makeup of the hearing committee
We do need to clarify how much service is expected, 2 or 3 years. The language should be clarified/expected that says “normally, service on this committee” occurs over 3 years or something of the like.

How many full professors should be on this committee? 4 or 5? Wide consensus on having more rather than fewer.

#4 discussion – post hearing procedure language
additional issue: outside counsel
Unresolved from ad hoc committee. P 186 in the FAM. The committee may seek the advice of CofC counsel, but what about outside counsel? There is precedent for such an action assuming the inside counsel is conflicted. The underlying issue is the role of College counsel. Who does College counsel advice? The inserted language could simply notify the committee that it is possible to consult outside counsel.

Additional issue: log report of strike and replace – substantive process changes about witness, cross-examination, and evidence
And John’s proposed changes and the re-inserted language

Ad hoc committee agreed (on p. 186) that the vague witness language needed work. Just say all witnesses which would be more straightforward.

Outstanding issue: committee member training
Ad hoc committee on grievance recommended training but that doesn’t make sense for this committee. How should hearing committees be trained? Should there be advisors from past
committees? Debate about putting language in the FAM was had, but they only got as far as having a general advisory note to contact the Speaker or some such person. Should this language be in the FAM? There are several arguments in favor of such language to formalize it and to signal the importance of this committee’s work. 11 members with a 3-year term will not lead to high turnover all the time so that the no leadership or institutional memory exists on the committee at some time. “people new to the committee can be provided with training and/or best practices counseling.”

Additional issue: public hearing
The grievant has a right to a public hearing. What if the administration says that certain cases or documents are private? Can the administration deny publicity if they have not secured the permission of signatories to relevant documents? Some documents like recent graduates and colleague letters and outside evaluations aren’t necessarily written for a public hearing, but internal documents should be held to that standard. Currently the grievant makes the request and the committee proceeds as such. Perhaps language about the presumption of the publicity of the hearing is warranted. Committee is certainly in power to make the determination. This is an anticipatory line of questioning. There is some debate on this idea about the public/private balance and over the idea that not all grievant are necessarily worth favoring with formal FAM language.
Agenda, By-Laws Committee Meeting of Oct 24, 2018

The main items recommended by the *ad hoc* Committee, but not yet resolved, I believe are these:

1. Changing the package of deadlines:
   - On receipt of a written request, Committee Chair will ‘normally convene Committee’ within 15 working days (instead of 30 unspecified days)—*in charge of the Committee section at beginning of Committee’s Procedures Appendix*
   - Grievant must file a Notice of Grievance within fifteen working days of the act complained of (instead of 20)
   - Committee will meet within 10 (instead of 5) working days of receipt of Grievant’s Notice to assess whether filing was timely & Committee has jurisdictional authority.
   - Provost will notify Committee & Grievant within two working days of Grievance of the identity of the individual who will represent the College.
   - Grievant shall notify Committee & College Representative if s/he intends to have counsel at least 10 working days prior to the Hearing.
   - Pre-Hearing will be convened at least three working days prior to Hearing.
   - Committee’s report forwarded to President as soon as reasonably possible after the conclusion of the hearing, normally within 15 working days.
   - Within ten working days after receipt of Committee’s report, the President shall submit a response.

2. Inserting language granting the Hearing Committee authority to identify and adjudicate (some?) conflicts of interest:
   - **Motion 1**: Change the language of the FAM [page 179-180, (d)] to read

   *Within two working days or receipt of the committee’s decision as to whether or not a hearing will be held, the Provost shall give written notice to the committee and the grievant of the name of the representative who will be representing the College at the hearing. The college representative may be any of the following persons, so long as he/she is not an attorney and has no conflict of interest in the proceeding; the Provost, a Vice President, a Department Chair or any other member of the College community deemed appropriate by the Provost.*

   Motion on passed unanimously (8 to 0 vote).

   - **Motion 2**: Change the language of the FAM [page 180, 3 (b)] to move the present item (4) to a “(5)”, and insert a new item (4) to read:

   *The Hearing Committee has the authority to determine whether there are conflicts of interest among proceeding participants. This determination may be appealed to the Hearing Committee by the grievant or the President (or the President’s designee).*

   Motion passed by a vote of 6 to 2.

3. Changing the constitution of the Committee:
   - **Motion 3**: Change the language of the FAM [page 26, (11), (a)] by inserting the following language:
Each Hearing Committee member will serve three consecutive academic years. Committee assignments shall be staggered as determined by the Committee on Nominations and Elections.

Motion passed unanimously (8 to 0 vote).

a. Composition: Eleven (11) tenured faculty members, at least four of whom shall hold the rank of Professor. Five members will be randomly among those with no conflict of interest, including two members with the rank of Professor. In the event of a second hearing in a given academic year a second committee of five will be constituted. Members of the first committee may elect to not be considered for service in the second Hearing. Each iteration of a group to Hear a case will consist of five members, two of whom must have the rank of Professor. Two years of service is encouraged.

Composition: Five tenured faculty members, at least two of whom shall hold the rank of Professor, and six tenured alternates, at least two of whom shall have the rank of Professor, who shall be available in case of a conflict of interest involving a member of the committee. In the event of the disqualification of a committee member because of a conflict of interest, a replacement of comparable rank shall be chosen from among the alternates, if possible.

4. Making some modifications to the language the missing pages of ‘Post-Hearing Procedures’ (the original versions of which have already been restored to the FAM).

As explained at the September Senate meeting, we did not incorporate the first two because both sets of recommendations were somewhat controversial, and so warrant further evaluation. The third and fourth ones struck us on the By-Laws Committee as both being more or less straightforward improvements. But the third would constitute a By-Laws change, requiring Senate and Faculty approval. (And perhaps it could be strengthened?) And the fourth was at least somewhat substantive, so it probably deserves a chance to be more fully aired in the Senate before approval. (There was no discussion of it last April, as best I recall.)

There were other issues before the ad hoc Committee, but not addressed in its report. In particular:

5. Appropriate training for Hearing Committee members (something which might be linked with 3?)

6. Strengthening the language governing a grievant’s right to a public hearing (some delicate issues to negotiate on both sides here)

There may be still other issues that some of you think should be on this agenda...?
Faculty By-Laws Committee Meeting  Minutes  
10/3/2017

Present: Richard Nunan, George Pothering, Deanna Caveny-Noecker, Megan Gould, Liz Jurisich, Jannette Finch

The ad hoc committee has four recommendations:
1. Changing the package of deadlines
2. Language about the Hearing Committee authority to identify and adjudicate conflicts of interest
3. Changing constitution of the committee
4. Incorporating the Committee’s recommended modifications to the language of the missing page of “Post-Hearing Procedures,” that has already been restored in its original form.

Then, the ad hoc committee, did not address:
5. Training for committee members
6. Language insuring integrity of Grievants request for public hearing
7. Language clarifying roles of College Counsel & any Grievant advocate
8. Language explicating role of Hearing process as Faculty Governance

As per the thorny #2, who gets to determine at their discretion who is conflicted and issue a ruling?

Richard proposes an inquisitorial system. Remove the adversarial system. Empanel a trained committee, sans provost, to investigate the decision that was made. The committee reports to the provost, not the president.

Who should be involved in this discussion going forward? Perhaps let’s go back to the ad hoc committee.

We could invite the ad hoc committee to come to the next meeting and discuss.
We can consult AAUP language.
We can consult of institutional best practices.
We can lay down generic principles to work toward (reducing adversarial, moving authority in the room, reducing conflict of interest, etc.)
Dear By-Laws Committee members,

Well, I presented what we have done so far to the Faculty Senate on Tuesday, and since most of you were there, you already know that there didn’t appear to be any fuss about any of it. Nor were there any directives from the Senate for future work, although John Huddlestun (guest, Religious Studies) did raise something during the Q&A about language governing student grievances which is (apparently?) in the FAM, and needs some kind of improvement. Immediately after the meeting, I heard more privately from __________, who has (I gather) been working with Jeri Cabot on repairing some related policy language, and said she would have mentioned this issue to me if John had not. I don’t know what it’s all about, exactly, but I presume we’ll hear from one or both of them eventually.

In the meantime, we should get on with the business at hand, which, for starters I think, should focus on our rather lengthy remaining set of issues from the ad hoc Committee on Hearing Procedures. To that end, I was wondering if we could meet as early as this coming Tuesday, Oct. 3, from 12:00-1:30? Or failing that, I wondered if Thursday the 5th at the same time would work for all of you? I’m unavailable on Tuesday, Oct. 10th, unfortunately, as I’m driving a vanload of pre-law students up to a law school forum at USC law that day. And Oct 17th just seems a long way off for us to get started. Megan, could you tentatively block out ECTR 228 for this coming Tuesday, on the theory that everyone might be able to come then?