

University of Puget Sound
Faculty Meeting Minutes
March 6, 2006

1. President Thomas called the meeting to order at 4:08 p.m. in McIntyre 103. Thirty-four voting members of the faculty were in attendance by 4:15 p.m.
2. The minutes of the January 31, 2006 faculty meeting were approved as posted.
3. There were no announcements.
4. President Thomas reported that at their recent meeting the trustees approved the strategic plan and funding for Thompson Hall renovation. He said that a final foundation gift helped us to surpass the \$18.7 million goal for construction of Harned Hall and that the effort to raise funds for Thompson Hall renovation carries forward. He said that approval of the strategic plan included implementation of the reorganized office of alumni and parent relations. President Thomas reported that he and Vice President for University Relations David Beers would travel in the next few weeks to begin to meet with all the alumni clubs to introduce the strategic plan, an effort that will conclude in the fall. He said that the President's Advisory Committee, composed mainly of trustees, would have its first meeting this week on campus to begin to set the goals for the next campaign.
5. Academic Vice President Kris Bartanen announced for Jean Kim that the Diversity Planning Task Force has completed in cooperation with others a Climate for Diversity Survey for students, faculty, and staff that will be administered on-line after spring break. She encouraged us to complete the survey to help the task force in its work. She reported that she and John Finney last Friday attended the annual meeting of the Northwest Commission on Colleges and Universities, our regional accrediting body, where it was clear that assessment and learning objectives expectations were still alive and important for accreditation, and that the standards for accreditation were being reviewed. That review may lead to changes in the standards we will be addressing in our 2007-2008 reaccreditation self study.
6. Faculty Senate Chair Barry Anton invited us to attend the March 20, 2006 Faculty Senate meeting at which the senate will continue to discuss the recommendations of the ad hoc committee on tenure.
7. Jeff Matthews then reported for the Faculty Salary Committee (FSC). He gave a brief history of the faculty salary situation, starting with the goals the trustees established during the 1980s that faculty salaries be number one among northwest peer institutions and in the top quartile among national peer institutions. He said that after some years of falling behind in the salaries of full and associate professors relative to assistant professors, the FSC last year recommended making adjustments to the 2005-2006 salary scale that would help to regain lost ground. As the result of discussion and vote in a faculty meeting and with the support of the dean, changes were made to the salary scale that resulted in some progress being made. He said that this year, as the result of not knowing whether the original trustee

goals were still in effect, and in recognition of the stronger endowment-per-faculty financial position of many of our peer schools, the FSC decided to withdraw its recommendation made at a recent faculty senate meeting that additional adjustments be made to next year's salary scale for full professors.

Dean Bartanen reported that the trustees approved the recommendation of the Budget Task Force and the president for a 4.3% salary pool for next year. She said approximately 1.2% is needed to cover steps and promotions, leaving 3.1% for across the board increases, which will result in salary increases in the 5.3% - 5.7% range for assistant professors; 5.0% - 5.2% for associate professors, and 3.1% for full professors remaining within step and 8.4-8/9% for full professors changing steps. Dean Bartanen reported that she did let the trustees know we are interested in reviewing the original faculty salary goals and that that topic is now "on the table." She said she did not present a particular proposal to trustees in February because we have not yet seen what the effects of this year's salary adjustments were.

President Thomas asked what the next step would be with the board. Dean Bartanen responded that the next step would be to analyze the data to determine what an appropriate goal might be. She noted that our comparison groups have changed since the goals were established originally, and that currently we rank 19th in endowment-per-faculty among national peer schools.

President Thomas noted that we have an even more challenging salary situation with staff, where we are not even at market, let alone in the top quartile. He said these salary issues illustrate why the upcoming campaign is so important, to help us to establish the financial platform to sustain the kind of institution we have become, now that we are competing in a league that has a different resource base than we have.

8. We next continued discussion of the proposed amendment to sections 6 and 7 of chapter III of the Faculty Code, concerning procedures for appeals and hearings. Attached to these minutes is a Professional Standards Committee (PSC) document that contains the original amendment and (1) proposals for changes to the amendment and (2) changes already voted on inserted. Also attached is a briefer PSC document containing alternative proposals for amendments to the amendment. Hard copies of both documents were distributed at today's meeting.

PSC Chair Carolyn Weisz reminded us that the proposed amendment had its first reading at the October 24, 2005 faculty meeting. After "helpful and spirited discussion" at the December 6 and January 31 meetings, PSC's hope for today was that we would consider three motions and then vote on the full amendment. Weisz asked for a sense-of-the-body vote on the three alternatives and asked us to agree that the winner among them would be moved as an amendment to the amendment to see if it gets a majority vote. The three alternatives to current Faculty Code language ("No person involved in the hearing shall make public statements, directly or indirectly, about matters presented in the hearing") in Section 6.c.(8) of the proposed amendment are:

Alternative proposals:

- a. Hearing board members shall treat as confidential information learned as a result of the appeal or hearing process.
- b. Any person involved in the hearing process who learns information as a result of the appeal or hearing process should not communicate that information to others who do not have a legitimate need to know.
- c. No persons involved in the hearing shall make or cause to be made public statements about information learned as a result of the appeal or hearing process.

President Thomas recognized David Droge, who said, “I rise to a point of general privilege and ask unanimous consent that the faculty here assembled engage in a series of non-binding or straw votes on alternative proposals a, b, and c for Section 6.c(8) of the amendment currently before us.” There was no objection. President Thomas then asked for a show of hands on each alternative. Alternative “a” received seventeen votes; alternative “b” ten votes; and alternative “c” sixteen votes. We returned to deliberation. **Weisz M/S/vote reported later “to substitute alternative ‘a’ for the current language in Section 6.c.(8) of the amendment.”**

Ted Taranovski asked if the Faculty Code anywhere defined “confidential information.” Are we, he asked, creating a new definition of confidential that goes beyond what is defined elsewhere in the code? He said that we should address this question if we hope to reach a rational decision, because the new language refers to any information at all and expands “the nebulousness” of what is covered.

Weisz affirmed that this is an important issue and argued that whatever we approve today will create some inconsistencies in the code and that they can be revisited and adjusted later. She argued, though, that we should not hold up the amendment further.

Bill Haltom said he thought Taranovski’s question was important, and that we should first reach an understanding of what the motion means and only then vote on it. Otherwise, he said, we subject members of the hearing board to an “ex post facto standard.” He said that under the proposed language we cannot know prospectively with certainty whether some issues will be held confidential or not. He asked what the goal of replacing current language was, under which “there has not been an epidemic of improper disclosures.”

Dean Bartanen said that under current code language, hearing board participants are not to make public statements, while the goal of the proposed alternative language is to get past the question about what a public statement is or is not. She said that people are concerned that hearing board files containing confidential letters remain confidential. Grace Kirchner suggested we would benefit from knowing also what “public statement” means; and that perhaps we need a section in the code containing definitions.

Bill Beardsley said that in the case of letters it is clear what confidential means—the candidate him or herself cannot see what is in the letters. But, he argued, “confidential” in the motion “is dangling with no definition at all.” Eric Orlin said the proposed language means that information is confidential from the campus at large, not just from the candidate.

Nancy Bristow asked why people had a preference for alternative “a” over alternative “c.” Weisz responded that she voted for both “a” and “c” and liked “c” better but could live with “a.”

There was no further discussion and the Weisz motion to amend the amendment then failed on a hand vote. Weisz then M/S/vote reported later “to substitute alternative ‘c’ for the language currently in 6.c(8) of the amendment.”

Suzanne Barnett said that because of the word ‘shall,’ she was troubled by the possible need for enforcement of alternative “c” while she wasn’t similarly troubled about alternative “a.” What happens, she asked, if there is an infraction? What procedures do we have for determining sanctions if such an infraction occurs?

Taranovski argued that “public statements” means something that goes beyond what happens in a faculty meeting and argued that faculty meetings are not public. Bill Breitenbach disagreed, saying he did not think one could make statements in a faculty meeting that were not considered to be public statements. Haltom agreed with Breitenbach, saying that, while we may disagree about what “public” means, “we all know what is not public.” He added that the great advantage of “no persons” in alternative “c” is that “it covers everyone in the room.” He said we should include more than just the hearing board members if we want to preserve confidentiality.

Beardsley said he was uneasy with the language “learned as a result.” He said there will be people that know about the case who were not involved in the hearing but who also should not tell what they know.

Doug Cannon argued that the more important point was that alternative “c” inappropriately keeps the appellant from making public statements. He said that was “wholly unjustified” in terms of its impact on the appellant. Christine Kline said she had the same concern about protecting individuals as well as institutions. If someone is accused and can’t speak about the findings, that “violates our trust” to protect the individual, she said.

Barnett said she didn’t like the fact that, under alternative “c,” it apparently would be okay for any person to speak freely “with any person across the hall,” since that is not a public setting. Bristow said she did not like it either, and that talking privately with people might cause something to be made public. She said she would be very careful about making careless conversation with individuals. Orlin added that the person you tell isn’t even covered by the language because that person was not involved in the hearing board. Beardsley argued it would be “a real stretch” to say the original person caused the

information to be made public if a second person talked, because that implies conspiracy. If there was no conspiracy, then the first person did not cause the information to be made public

Haltom argued that this line of discussion makes it clear why we need to define what we mean by these terms. He noted that the language of alternative “c” was the closest to the current code language. “If the current language is so disquieting,” he asked, “why have we not had an epidemic of hearing board members blabbing away these past twenty years?”

Taranovski said that we needed to distinguish between decision making process and outcomes. He said, for example, that a denial of tenure becomes a matter of public record. If someone has made an appeal and the appeal is granted that should also become public—who can stop someone who appeals from discussing the outcome of the appeal? He said that, while we don’t want discussions of the hearing board bandied about, outcomes do become known.

Cannon reiterated his point that the language of alternative “c” would prevent the appellant from announcing that he or she was denied tenure, including making an appeal that was turned down. He said this was so because the outcome of a hearing is something that is learned at the hearing. Weisz said she did not think this was a crisis. She said that if someone was denied tenure and left the university that person would no longer be bound by the code. She said that allowing public statements to be made by the appellant might result in charges being made against persons who cannot defend themselves. Cannon said he understood that, but it did not change what the force of the language of “c” actually is.

Kline asked if we could legally deny a person the right to speak if they weren’t part of the body making the decision. President Thomas responded that the faculty decides what the rules are. Barnett said she still wondered what would happen if someone violated the rule. Dean Bartanen suggested that someone could initiate a grievance with the PSC.

Someone M/S/P to end debate. The Weisz motion to amend the amendment then failed.

Weisz M/S/P “to substitute the following language for that in Section 7. i-k of the amendment:

- i. Within ten (10) working days after completion of a hearing, the hearing board shall render its decision about whether violations of the code, as alleged by the appellant, have occurred. A hearing board may suggest, but cannot dictate or enforce, methods for correction of deficiencies. The decision of the majority of the hearing board and any dissent by a minority of the hearing board shall be transmitted in writing to the appellant, the respondent, and the dean. The hearing board’s majority decision, any minority dissents, and any exhibits received in the hearing, along with the appellant’s list of alleged code violations, the respondent’s response, and any dissents by members of the department, school, or program or by members of the Advancement Committee, are added to the evaluation file. If a hearing board**

does not find that there have been code violations, as alleged by the appellant, then the file moves forward to the next stage of the evaluation process.

- j. If a hearing board determines that the code has been violated as alleged by the appellant in an appeal of the department, school, or program, the hearing board shall either refer the matter to the department, school, or program for correction of deficiencies or move the file forward to the Advancement Committee.
- k. If a hearing board determines that the code has been violated as alleged by the appellant in an appeal of the evaluation by the Advancement Committee, the Advancement Committee shall attempt to correct any correctable deficiencies before forwarding its final recommendation, any minority recommendations, and the file to the President.
- l. The chairperson of the hearing board shall deliver to the dean in a sealed envelope the electronic record of the hearing and copies of the hearing board's majority decision, any minority dissents, any exhibits received in the hearing, the appellant's list of alleged code violations, the respondent's response, and any dissents by members of the department, school, or program or by members of the Advancement Committee. The dean shall retain these materials for six years after the hearing board makes its report. After a hearing board has rendered its decision and transmitted its reports, the chairperson of the hearing board shall notify the chairpersons of the Faculty Senate and the Professional Standards Committee that the work of the hearing board has been completed.

There was no discussion. The motion passed on a voice vote.

Weisz M/S/P "to change Section 6.a.(3), Section 6.a.(5)(c-e), Section 6.b., Section 6.c.(1), and Section 6.d.(3) as indicated below:"

Section 6 – Procedure for an Appeal

a. Initiation of an (appeal):

(3) To initiate a formal appeal, the evaluatee must submit a list specifying alleged violations of the code to the chairperson of the Professional Standards Committee within the time limits (specified above).

(5)

(c) Any response from the department, school, or program to an appeal shall be submitted (in writing) to

(d) Any response to an appeal from the Advancement Committee and any dissent to that response shall be submitted (in writing) to

(e) **The chairperson of the Professional Standards Committee and the chairperson of the hearing board may (jointly) grant an extension for submission of a response or a dissent from**

b. **Hearing (board roster): A hearing board roster**

c.

(1) Excluded from the hearing board will be members of the appellant's department, school, or program, and all others with direct interest in the matter as determined by the chairperson of the Professional Standards Committee and the chairperson of the Faculty Senate (or by a designated member of the appropriate body if its chairperson may be affected by the exclusion principle (noted above)). If either

d.

(3) If the hearing board determines that probable cause for an appeal does not exist, it shall so notify the appellant, the respondent, the dean, and the (chairpersons of the Faculty Senate and) the Professional Standards Committee.

There was no discussion. The motion passed on a voice vote.

Dean Bartanen M/S/P “to substitute the original language of the code for the 6.c.(8) language in the proposed amendment, to read as follows: ‘No person involved in the hearing shall make public statements, directly or indirectly, about matters presented in the hearing.’” Cannon asked if we could agree that the outcome of the hearing is not a matter presented in the hearing and we did agree by consensus.

Breitenbach said he was concerned that this limits things to matters presented in the hearing; that this does not include the evaluation files themselves, and doesn't cover any peripheral information. Taranovski suggested that may be covered as confidential by other parts of the code.

Someone M/S to close debate. The motion to close debate was not voted on, but no one objected when we moved without further discussion to a vote on the Bartanen motion. The Bartanen motion passed on a voice vote.

Haltom M/S/P “to postpone further consideration of this matter until the next faculty meeting.” The motion passed on a voice vote. Several members present asked for a clean copy of the amendment for the next meeting.

Suzanne Holland asked if there were interest in polling the faculty about why more don't attend faculty meetings. President Thomas suggested we refer this to the Faculty Senate. Amy VanEngen Spivey said that most faculty meetings are scheduled during science labs, preventing many faculty from attending.

We adjourned at 5:26 p.m.

Respectfully submitted,

John M. Finney
Secretary of the Faculty

***Changes to this document that have already been approved by a vote of the faculty have been inserted and tracked without parentheses.**

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***PROPOSED changes for consideration are included below following Section 6.c.(8) and Section 7 i.-k and within parentheses in Section 6.a., Section 6.a.(3), Section 6.a.(5)(c-e), Section 6.b., Section 6.c.(1), Section 6.d.(3), and Section 7.i.**

DRAFT REVISION OF CHAPTER III, SECTIONS 6 AND 7

Prepared by the Professional Standards Committee

October 12, 2005 (draft 2/23/06)

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Section 6 – Procedure for an Appeal

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An appeal is decided by a hearing board. The function of a hearing board shall be to determine whether there have been violations of the code, as alleged by the appellant. Unless otherwise stated, the provisions of this section apply to all appeals authorized in Chapter III, Section 4.

a. Initiation of an (appeal):

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(1) An evaluatee may initiate a formal appeal to a hearing board at two stages in the evaluation process:

(a) after the evaluation by the department, school, or program

(b) after the evaluation by the Advancement Committee

(2) Grounds and deadlines for formal appeals

(a) A formal appeal of the evaluation **conducted** by the department, school, or program is limited to issues affecting fairness, completeness, or adequacy of consideration by the department, school, or program in conducting the evaluation. The appeal must be initiated within ten (10) working days after the evaluatee has completed reviewing the evaluation file that the department, school, or program forwarded to the dean and the Advancement Committee (Chapter III, Section 4.b.(3) and 4.b.(4)).

(b) A formal appeal of the evaluation **conducted** by the Advancement Committee is limited to questions of fairness, completeness, or adequacy of consideration by the Advancement Committee in conducting the evaluation. It may not raise questions about the evaluation at the departmental level unless the questions pertain to duties of the Advancement Committee specified in the code. The appeal must be initiated by the evaluatee within

five (5) working days after receiving the Advancement Committee's recommendation (Chapter III, Section 4.c.(6)).

- (3) To initiate a formal appeal, the evaluatee must submit a list specifying alleged violations of the code to the chairperson of the Professional Standards Committee within the time limits (specified above.).
- (4) The chairperson of the Professional Standards Committee shall provide a copy of the list of alleged code violations to the department, school, or program (if the evaluatee is appealing its evaluation) or to the Advancement Committee (if the evaluatee is appealing its evaluation).
- (5) Response to an appeal
 - (a) In a formal appeal of an evaluation conducted by a department, school, or program, the head officer (or the person performing the functions of the head officer in the evaluation, as provided by Chapter III, section 4.a (3)(a)) will serve as the respondent for the department, school, or program. If the head officer (or the person performing the functions of the head officer in the evaluation) is unable to so serve, the dean will appoint a person to serve as the respondent for the department, school, or program.
 - (b) In an appeal of an evaluation conducted by the Advancement Committee, the Advancement Committee will designate one of its members as the respondent.
 - (c) Any response from the department, school, or program to an appeal shall be submitted (in writing) to the chairperson of the Professional Standards Committee within ten (10) working days of the receipt of the list of alleged code violations. In formulating this response, the respondent (as defined above) shall consult with the members of the department, school, or program who participated in the evaluation conducted by the department, school, or program. The document shall represent the response of the department, school, or program, and not the personal response of the respondent. Any member of the department, school, or program who participated in the evaluation and who dissents from the departmental response may submit a written dissent, which shall be provided to the respondent to forward, along with the response of the department, school, or program, to the chairperson of the Professional Standards Committee. The chairperson of the Professional Standards Committee shall transmit the response and any dissent to the appellant and to the hearing board.
 - (d) Any response to an appeal from the Advancement Committee and any dissent to that response shall be submitted (in writing) to the chairperson of the Professional Standards Committee within ten (10) working days of the receipt of the list of alleged code violations. The chairperson of the

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Professional Standards Committee shall transmit the response and any dissent to the appellant and to the hearing board.

- (e) The chairperson of the Professional Standards Committee and the chairperson of the hearing board may (jointly) grant an extension for submission of a response or a dissent from either a department, school, or program or the Advancement Committee if a respondent or a dissenter demonstrates that he or she was unable, due to circumstances beyond his or her control, to complete the response or dissent within the ten (10) working day limit.
- b. Hearing (board roster): A hearing board roster will be established annually by the Faculty Senate executive officers. The hearing board roster will consist of all tenured members of the faculty, subject to their consent and to the following exclusions. The chairperson of the Faculty Senate, members of the Faculty Advancement Committee, and members of the Professional Standards Committee are excluded from the hearing board roster. Faculty members who are on leave are excluded from service on a hearing board.
- c. Formation of a hearing board: Upon receipt of the list of alleged code violations, the chairperson of the Professional Standards Committee shall meet with the chairperson of the Faculty Senate, the appellant, and the respondent within five (5) working days to form a hearing board composed of five (5) members from the hearing board roster.
 - (1) Excluded from the hearing board will be members of the appellant's department, school, or program, and all others with direct interest in the matter as determined by the chairperson of the Professional Standards Committee and the chairperson of the Faculty Senate (or by a designated member of the appropriate body if its chairperson may be affected by the exclusion principle (noted above)). If either chairperson (or designee) votes for elimination, the faculty member is not selected to the hearing board.
 - (2) Excluded from selection are members of the hearing board roster in current service on another hearing board.
 - (3) If in the same evaluation process an evaluatee appeals the evaluation conducted by the department, school, or program *and* the evaluation conducted by the Advancement Committee, faculty members who served on the first hearing board are excluded from service on the second hearing board.
 - (4) The following process shall be used to constitute a hearing board:
 - (a) The chairpersons of the Faculty Senate and the Professional Standards Committee shall jointly select eight names at random from those names remaining on the hearing board roster after the exclusions noted above have been taken into account.

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- (b) The appellant and the respondent may then challenge any name on the list of eight on account of interest or bias. The order of challenge shall be determined by lot, with each side alternating. Challenges on account of interest or bias shall be ruled upon jointly by the chairperson (or designee) of the Professional Standards Committee and the chairperson (or designee) of the Faculty Senate. If either votes for elimination, the faculty member is eliminated, and an additional name is selected from the hearing board roster. The additional name may also be challenged on account of interest or bias.
 - (c) The appellant and the respondent may then exercise no more than two challenges against the eight names remaining on the list without stating cause. If any person is eliminated, an additional name shall be selected from the hearing board roster. The additional name may be challenged on account of interest or bias. The appellant or the respondent may also challenge the additional name without stating cause, until the two permitted challenges without stating cause have been exercised.
 - (d) The first five faculty members selected to the list shall constitute the hearing board. The sixth, seventh, and eighth named faculty members will stand, in that order, as alternates. Alternates will not participate in the appeal unless one or more of the five hearing board members cannot serve from the beginning of the hearing board process.
- (5) The normal presumption is that the faculty members will serve on a hearing board to which they are selected. The chairperson of the Faculty Senate and the chairperson of the Professional Standards Committee may, if both agree, exclude a faculty member from service based on a self-disclosed conflict of interest, hardship, or other good cause shown.
- (6) In the event that one member of a hearing board is unable to complete service after the hearing board process has begun, the hearing board shall continue with four members if the appellant and the respondent agree. If either the appellant or the respondent objects, a new hearing board will be formed. If more than one member is unable to complete service, a new hearing board will be formed, using the process outlined above.
- (7) The hearing board shall hold its first meeting within five (5) working days of its selection and shall elect a chairperson. At this initial meeting the hearing board shall also elect a secretary to record the actions of the hearing board. The chairperson of the Professional Standards Committee or designee shall attend this initial meeting and shall give the appellant's list of alleged code violations to the chairperson of the hearing board as soon as that person is elected.
- (8) Hearing board members are to treat the proceedings as confidential.

Alternative proposals to Section 6.c.(8):

Hearing board members shall treat as confidential information learned as a result of the appeal or hearing process.

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Any person involved in the hearing process who learns information as a result of the appeal or hearing process should not communicate that information to others who do not have a legitimate need to know.

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No persons involved in the hearing shall make or cause to be made public statements about information learned as a result of the appeal or hearing process.

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d. Determination of probable cause:

- (1) The hearing board shall meet without the presence of the appellant and respondent in order to determine whether there exists probable cause for an appeal. In making that determination, the hearing board shall review the appellant's list of alleged code violations, the respondent's response, and any dissents, and shall have access to all files and records involved in the evaluation process.
- (2) Within ten (10) working days of receipt of the respondent's response and any dissents, the hearing board shall determine, based on its review of the written materials, whether there exists probable cause for an appeal and shall so notify the appellant, the respondent, the dean, and the chairpersons of the Faculty Senate and the Professional Standards Committee of the decision.
- (3) If the hearing board determines that probable cause for an appeal does not exist, it shall so notify the appellant, the respondent, the dean, and the (chairpersons of the Faculty Senate and) the Professional Standards Committee. The hearing board's written determination of no probable cause shall be included in the evaluation file, along with the appellant's list of alleged code violations, the respondent's response, and any dissents. The evaluation file, with these items included, then moves to the next stage of the evaluation process.
- (4) If two (2) or more members of the hearing board determine that probable cause for an appeal exists, a hearing shall be held by the hearing board pursuant to Chapter III, Section 7.

Section 7 – Procedure for a Hearing

- a. A hearing may extend over more than one meeting of a hearing board. The appellant and the respondent may be present at all meetings of a hearing. The appellant and the

respondent may be assisted at a hearing by legal counsel or by non-lawyer counsel. The appellant may also be assisted by an academic colleague.

- b. Hearings shall not be open to the public. The only persons present shall be those persons whose presence is allowed by the sections of this chapter pertaining to appeals and hearings. However, at the request of either the appellant or respondent, and subject to the concurrence of the hearing board, a representative of an educational association or other appropriate association shall be allowed to observe a hearing.
- c. In all cases, the university shall make an electronic record of a hearing. If requested by the appellant or respondent, the university shall provide a copy of the electronic record or a verbatim transcript of the hearing paid for by the requesting party. The electronic record made of a hearing shall be retained by the university for six years after the hearing board makes its report.
- d. The chairperson of the hearing board shall preside at a hearing and shall handle administrative duties, such as giving notices and speaking for the hearing board. He or she shall rule on matters of procedure and evidence, subject to being overruled by a majority of the hearing board.
- e. The hearsay rule or other exclusionary rules of evidence used in courts of law shall not apply.
- f. The hearing board shall confine its review and its judgments to the stage of evaluation that is under appeal. The evidence on review in a hearing shall be substantially confined to the written record on which the department, school, or program or the Advancement Committee made its decision. This evidence should not be significantly expanded at the hearing by the admission of testimony and information not previously considered by the department, school, or program or by the Advancement Committee. The appellant or the respondent may offer to present additional evidence deemed relevant, and the hearing board at its discretion may hear or decline to hear such additional evidence. If witnesses testify, they may be cross-examined by the opposing party. Witnesses may be permitted to testify by signed written statements if, in the hearing board's judgment, that is the most feasible way of presenting their evidence and if the opposing party is not substantially prejudiced by the lack of opportunity to cross-examine. The hearing board shall have no duty to seek or to present evidence but may do so if, in its judgment, justice requires it.
- g. Insofar as practicable, each party shall assist the other in obtaining witnesses and evidence when the party's assistance is necessary or helpful. Each party shall make specifically requested and relevant documents or other tangible evidence in its possession available, where possible, to the other party for presentation to the hearing board.
- h. After completion of a hearing, the hearing board shall meet to deliberate and come to a decision. Deliberative meetings shall be conducted without the appellant and

respondent present and without making an electronic record. The decision of the hearing board will be limited to questions of the fairness, completeness, or adequacy of consideration in the evaluation conducted by the department, school, or program or by the Advancement Committee. The decision shall be based on whether the evidence in the written record and the evidence received during the appeal process and the hearing clearly show that there have been violations of the code as alleged by the appellant.

- i. Within ten (10) working days after completion of a hearing, the hearing board shall render its decision. The decision of the majority of the hearing board and any dissent by a minority of the hearing board shall be transmitted in writing to the appellant, the respondent, and the dean. The hearing board's majority decision, any minority dissents, and any exhibits received in the hearing, along with the appellant's list of alleged code violations, the respondent's response, and any dissents by members of the department, school, or program or by members of the Advancement Committee, are added to the evaluation file, which moves forward to the next stage of the evaluation process. When the hearing board issues its decision, it shall also notify the (chairpersons of the Faculty Senate and the Professional Standards Committee) that the work of the hearing board has been completed.
- j. If a hearing board determines that the code has been violated, it has the option of referring the matter for correction of deficiencies to the school, department, or program in the case of an appeal at that level, or to the Advancement Committee in the case of an appeal at that level. A hearing board may suggest, but cannot dictate or enforce, methods for correction of deficiencies. A hearing board is disbanded once it has performed its function of deciding whether there have been violations of the code, as alleged by the appellant. It is the responsibility of the body or individual at the next stage of the evaluation process to insure that correctable deficiencies have been corrected.
- k. The chairperson of the hearing board shall deliver to the dean in a sealed envelope the electronic record of the hearing and copies of the hearing board's majority decision, any minority dissents, any exhibits received in the hearing, the appellant's list of alleged code violations, the respondent's response, and any dissents by members of the department, school, or program or by members of the Advancement Committee. The dean shall retain these materials for six years after the hearing board makes its report.

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Proposed revision to Section 7. i-k (substitute i-l below):

- i. Within ten (10) working days after completion of a hearing, the hearing board shall render its decision about whether violations of the code, as alleged by the appellant, have occurred. A hearing board may suggest, but cannot dictate or enforce, methods for correction of deficiencies. The decision of the majority of the hearing board and any dissent by a minority of the hearing board shall be transmitted in writing to the

appellant, the respondent, and the dean. The hearing board's majority decision, any minority dissents, and any exhibits received in the hearing, along with the appellant's list of alleged code violations, the respondent's response, and any dissents by members of the department, school, or program or by members of the Advancement Committee, are added to the evaluation file. If a hearing board does not find that there have been code violations, as alleged by the appellant, then the file moves forward to the next stage of the evaluation process.

j. If a hearing board determines that the code has been violated as alleged by the appellant in an appeal of the department, school, or program, the hearing board shall either refer the matter to the department, school, or program for correction of deficiencies or move the file forward to the Advancement Committee.

Deleted: ¶

k. If a hearing board determines that the code has been violated as alleged by the appellant in an appeal of the evaluation by the Advancement Committee, the Advancement Committee shall attempt to correct any correctable deficiencies before forwarding its final recommendation, any minority recommendations, and the file to the President.

l. The chairperson of the hearing board shall deliver to the dean in a sealed envelope the electronic record of the hearing and copies of the hearing board's majority decision, any minority dissents, any exhibits received in the hearing, the appellant's list of alleged code violations, the respondent's response, and any dissents by members of the department, school, or program or by members of the Advancement Committee. The dean shall retain these materials for six years after the hearing board makes its report. After a hearing board has rendered its decision and transmitted its reports, the chairperson of the hearing board shall notify the chairpersons of the Faculty Senate and the Professional Standards Committee that the work of the hearing board has been completed.

Statement added to the motion: *Adoption of this amendment shall authorize the modification of the Code citations so as to bring those citations into conformity with changes in the Code occasioned by the adoption of this amendment.*

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Motion: **Substitute _____ for the current language in Section 6.c.(8) of the amendment.**

Section 6.c.(8):

Hearing board members are to treat the proceedings as confidential.

Alternative proposals:

- a. Hearing board members shall treat as confidential information learned as a result of the appeal or hearing process.

- b. Any person involved in the hearing process who learns information as a result of the appeal or hearing process should not communicate that information to others who do not have a legitimate need to know.

- c. No persons involved in the hearing shall make or cause to be made public statements about information learned as a result of the appeal or hearing process.

**Motion: Substitute the following language for that in
Section 7. i-k of the amendment.**

- i. Within ten (10) working days after completion of a hearing, the hearing board shall render its decision about whether violations of the code, as alleged by the appellant, have occurred. A hearing board may suggest, but cannot dictate or enforce, methods for correction of deficiencies. The decision of the majority of the hearing board and any dissent by a minority of the hearing board shall be transmitted in writing to the appellant, the respondent, and the dean. The hearing board's majority decision, any minority dissents, and any exhibits received in the hearing, along with the appellant's list of alleged code violations, the respondent's response, and any dissents by members of the department, school, or program or by members of the Advancement Committee, are added to the evaluation file. If a hearing board does not find that there have been code violations, as alleged by the appellant, then the file moves forward to the next stage of the evaluation process.
- j. If a hearing board determines that the code has been violated as alleged by the appellant in an appeal of the department, school, or program, the hearing board shall either refer the matter to the department, school, or program for correction of deficiencies or move the file forward to the Advancement Committee.
- k. If a hearing board determines that the code has been violated as alleged by the appellant in an appeal of the evaluation by the Advancement Committee, the Advancement Committee shall attempt to correct any correctable deficiencies before forwarding its final recommendation, any minority recommendations, and the file to the President.
- l. The chairperson of the hearing board shall deliver to the dean in a sealed envelope the electronic record of the hearing and copies of the hearing board's majority decision, any minority dissents, any exhibits received in the hearing, the appellant's list of alleged code violations, the respondent's response, and any dissents by members of the department, school, or program or by members of the Advancement Committee. The dean shall retain these materials for six years after the hearing board makes its report. After a hearing board has rendered its decision and transmitted its reports, the chairperson of the hearing board shall notify the chairpersons of the Faculty Senate and the Professional Standards Committee that the work of the hearing board has been completed.

Motion: Change Section 6.a.(3), Section 6.a.(5)(c-e), Section 6.b., Section 6.c.(1), and Section 6.d.(3) as indicated below.

Section 6 – Procedure for an Appeal

a. Initiation of an **(appeal)**:

(3) To initiate a formal appeal, the evaluatee must submit a list specifying alleged violations of the code to the chairperson of the Professional Standards Committee within the time limits **(specified above)**.

(5)

(c) Any response from the department, school, or program to an appeal shall be submitted **(in writing)** to

(d) Any response to an appeal from the Advancement Committee and any dissent to that response shall be submitted **(in writing)** to

(e) The chairperson of the Professional Standards Committee and the chairperson of the hearing board may **(jointly)** grant an extension for submission of a response or a dissent from

b. Hearing **(board roster)**: A hearing board roster

c.

(1) Excluded from the hearing board will be members of the appellant's department, school, or program, and all others with direct interest in the matter as determined by the chairperson of the Professional Standards Committee and the chairperson of the Faculty Senate (or by a designated member of the appropriate body if its chairperson may be affected by the exclusion principle **(noted above)**). If either

d.

(3) If the hearing board determines that probable cause for an appeal does not exist, it shall so notify the appellant, the respondent, the dean, and the

(chairpersons of the Faculty Senate and) the Professional Standards
Committee.

(Include the following in the motion above only if the previous motion regarding section 7 does not pass.)

Section 7 – Procedure for a Hearing

- i. Within ten (10) working days When the hearing board issues its decision, it shall also notify the (chairpersons of the Faculty Senate and the Professional Standards Committee) that the work of the hearing board has been completed.