

**To:** Provisional Faculty Senators  
**From:** Constitution Subcommittee  
**Re.:** Constitution issues

11/7/2011

Fellow Senators:

We are writing yet again to provide you with some information and recommendations in connection with our continued discussion of the draft constitution.

The subcommittee has examined all of the suggestions that we have received from faculty--both by e-mail and at the open forum last week--and from administration. We met late last week to discuss what further changes to the constitution we recommend. Here are the results, proceeding through the document from beginning to end.

### **Preamble**

The subcommittee discussed possible changes to the preamble suggested by faculty and administration--in particular the administration's suggestion to revise the preamble to remove reference to the AAUP 1940 Statement on Academic Freedom. In the end, we like the preamble as it is, and we do not recommend major changes. We think faculty will understand that the preamble cites this document not because the AAUP is a union that some faculty belong to; rather, it is cited because it is the *classic* statement on academic freedom--the statement, for example, from which the SBOE borrows its own language on academic freedom.

### **Articles I and II**

The subcommittee recommends two significant changes in Article II, both based on suggestions from administration.

First, we recommend *eliminating the category of "Administrative Faculty."* The administration, in its comments, wondered what purpose this category serves, and we wonder as well. It appears to be almost entirely redundant, since all or nearly all of those who qualify as "Administrative Faculty" *also* qualify as "Academic Faculty." Thus the category does no work in the document. At the same time, it is misleading. Many people have read this section assuming that the categories are mutually exclusive, which is not the case. As far as we can tell, removing this category will have no effect on the document at all--except to make it clearer.

If the category of "Administrative Faculty" is eliminated, this dictates further changes in the document. Obviously Article I's reference to "three" categories becomes "two." We also recommend replacing the name of "Academic Faculty" with "University Faculty." This latter term is the one that the Faculty/Staff Handbook uses to refer to the "core" faculty of the university. Thus we recommend replacing all references in the document to "Academic Faculty," "Academic and Administrative Faculty," and "THE FACULTY," with "the University Faculty" or "University Faculty" as appropriate.

If the category of "Administrative Faculty" is eliminated, we think that the introductory sentences of Article II ("THE FACULTY....and Visiting Faculty") can be deleted. Instead the document can just proceed to describe the 2 categories of faculty that remain.

Second, we like the administration's suggestion for revising the description of "Academic

Faculty” in Article II, Section I. This language seems to capture, in an elegant and economical way, the group of faculty we want to include here. Thus we propose the following revision for Section 1:

“The University Faculty [or “Academic Faculty,” if the category of “Administrative Faculty” is not eliminated] includes all tenure-track and tenured faculty, as well as non-tenure track faculty with clinical, research, lecturer, and professional-technical appointments at 0.5 FTE or greater. This includes faculty at the rank of professor, associate professor, assistant professor, senior lecturer, associate lecturer, assistant lecturer, and instructors (all levels and designations), or the equivalent of any of these ranks.”

Finally, we recommend revising the final sentence of the description of “Adjunct, Affiliate, and Visiting Faculty.” We recommend *replacing* “Individuals in this category are not part of THE FACULTY” with “These faculty have the privilege of participation without vote in meetings of the University Faculty.” This sentence better captures what such faculty *can* do, rather than merely what they *can’t* do.

### **Article III**

In this article, our first recommendation is to change to the title of Section 1 to read: “University Faculty Governance.” This title clarifies that this section deals with governance at the *university* level, rather than within colleges and departments.

Second, we recommend *moving* the paragraph in Section 1a.: “On these matters....to the realization of faculty advice.” This paragraph, we think, should be moved to a position below 1d., so that it is clear that it applies not only to 1a. but also 1b.-1d. This revised paragraph would read:

“On matters described in a. through d. above, the power....limits to the realization of faculty advice.”

Third, we recommend some revisions in Section 1e. so that it would now read as follows:

“The University Faculty will carry out the responsibilities described in a. through d. above through its representative body, the Faculty Senate, or through the councils and committees established and maintained by the Senate (see Article V). (The governance responsibilities of the Graduate Faculty, a subset of the University Faculty, will be carried out by the Graduate Council.) However, University Faculty...Article VI, Section 1.”

This revision clarifies the independence of the Graduate Council and explains why it is independent. It also makes it clear that the University Faculty may act through the councils and committees maintained by the Senate. As you know, the reporting structure of these councils and committees is a matter of some controversy. This constitution does not discuss how these committees and councils would report; that would be settled in the Senate Bylaws.

### **Article IV**

The subcommittee has a few changes to recommend in Article IV, all of them minor. They are:

--In Section 2b: replace “three business days” with “five business days. The administration suggested this change, and we have no objection to it.

--Revise Section 2c. to read, "...Academic Affairs will provide the Chair of the Faculty Senate, no later than September 15th annually, the number..." This again follows an administrative suggestion. This clarifies to *whom* the Provost provides this information.

--In Section 2e.(1): revise to read, "The Faculty Ombudsperson will administer, record and report the vote..." Again this follows a suggestion from administration. Having the Ombudsperson administer such a vote will avoid any potential conflict of interest that the Chair of the Senate might have in doing it (since this is a vote to *override* Senate action).

--In Section 2e.(2); revise to read, "The University Faculty may formally oppose..." The administration recommends the use of "formally" here instead of "officially," and we see no problem with this.

--In Section 2f.: *delete* "in negotiation with the Chair of the Faculty Senate." This again follows a suggestion from administration. The administration also recommends referring explicitly to "official" meetings here, but we think this is not necessary and could create confusion. We think it is clear, in the context, that it is only meetings as described in Article IV that the Provost will provide funding for.

## **Article V**

Here the subcommittee took up again the question of Senate representation for faculty at "regional sites." Clearly, many faculty at these sites want to see a constitution that designates a Senate representative for each of these sites. The subcommittee recommends the following revision as a reasonable alternative to the current language:

"(a) Each division, and each college that is not within a division, will be entitled to at least two University Faculty representatives to the Faculty Senate. The library, as well as regional sites with fifteen (15) or more University Faculty in residence, will each be entitled to at least one University Faculty representative. University Faculty representatives will be elected...of the University."

"(b) Senate representation for each college, division, regional site, and the library will be determined on the ratio of one Senator per 25 University Faculty in the unit. (Units with 51 University Faculty receive two Senators; units with 75 University Faculty receive three Senators, and so on.) No faculty member may be counted more than once in assigning representation to these units."

This revision guarantees a designated senator for any regional site with 15 or more University Faculty, and at the same time it avoids the problem of "double counting."

Here are a few further changes we recommend in Article V:

--In Section 1a.(2) add the Provost (or his or her designee) as a non-voting member and *replace* reference to the deans with "Additional non-voting members may be specified in Faculty Senate Bylaws." We agree with some faculty who suggested adding the Provost as a non-voting member here; on the other hand, we don't think the Constitution needs to *guarantee* that deans must be non-voting members. The Senate can designate any further non-voting members it wants to in the Bylaws.

--In Section 1b. add a 2nd sentences as follows: "Faculty with administrative appointments at the level of department chairperson or above are not eligible to serve as Senators." We think it is a good idea to add this sentence for clarification.

--In Section 1d. *replace* the current language with "Senators are encouraged and expected to consult their constituencies; however, they are free to exercise their own judgment when voting." This is Alan Frantz' suggestion, and it seems better than the suggestion that we originally came up with.

--In Section 1e. replace "Section 1.a.(1-3)" with "Section 1a.(1)." The current reference is inaccurate.

--In Section 2a. delete "or by the President of the University." Our thought is that it really makes no sense to speak of the President "challenging" an act of the Senate. Senate acts are recommendations to the President, and the President accepts or rejects subject to the constraints set out in Article III.

--In Section 2b.(6) revise to read, "Establish and maintain such committees..." A minor addition for clarification.

--Section 3c.: *delete* all language in c. after "Constitution." Our thought is that (1) and (2) here are really not necessary. These issues could be taken up in the Bylaws if necessary.

--In Section 3d. revise to read, "unanimous consent of those voting members..." Again a minor addition for clarification.

These are the changes that we recommend. We look forward to the discussion.