

**ACADEMIC COUNCIL**  
**Wednesday, May 11, 2016**  
**3:30 p.m.**  
**McKenna Hall Auditorium**  
**University of Notre Dame**

**MINUTES**

**Members present:** John F. Affleck-Graves; Michael Altenburger; Panos Antsaklis; Scott Appleby; Bob Bernhard; Philip Bess; Jay Brandenberger; Tom Burish; Peter Burns; Laura Carlson; Patricia Champion; Ann-Marie Conrado; Michael Desch; Nick Entrikin; Michael Ferdig; Mary Galvin; John Gaski; Nasir Ghiassedin; Brad Gregory; Erin Hoffmann Harding; Roger Huang; Rev. John Jenkins, CSC; Peter Kilpatrick; Ed Maginn; Chris Maziar; Paul McDowell; John McGreevy; Gerald McKenny; Margaret Meserve; Betsy Moore; Nell Newton; Maria-Rosa Olivera-Williams; Hugh Page; Maura Ryan; Josh Shroul; Laura Sill; Diane Parr Walker

**Members absent or excused:** Rohan Andresen; Christine Becker; Sunny Boyd; Don Crafton; Jeremy Forbes; Matthew Leevy; Michael Lykoudis; Eva Niklinska; Robert Norton; Ram Ramanan; Bridget Rickard; Jeanne Romero-Severson; Casey Skevington; Carter Snead

**Observers present:** Don Bishop; Kathy Brickley; Earl Carter; Jim Frabutt; Dale Nees; Kara Palmer; Demetra Schoenig

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**Welcome and Opening Prayer:** Fr. Jenkins opened the meeting at 3:30 p.m. and invited Maria McKenna to offer the opening prayer.

**Approval of Minutes of the meeting of April 11, 2016:** Following the prayer, Fr. Jenkins invited a motion to approve the minutes of the April meeting. A motion was made, duly seconded, and the minutes were unanimously approved on a voice vote.

**Report of the Executive Committee:** Tom Burish provided an informational item from the Executive Committee. A new Data Science Specialization track in the Applied Computational and Mathematics and Statistics (ACMS) Master's Program was approved by the ACMS department and the Science College Council earlier in May. The specialization has the full support of the college dean. Much of the course content will be delivered via online instruction beginning in January 2017; the department will develop the specialization over the summer and fall of 2016. Dr. Burish invited questions, and there were none.

**Management Department Restructuring Proposal:** Fr. Jenkins invited Robert Easley, chair of the Management Department, to introduce a proposal to restructure the existing department into two new departments: first, Information Technology, Analytics and Operations, and second, Management and Organization. Prof. Easley provided contextual information and described the benchmarking that led to the proposed structure. He outlined the broad subject areas that will be housed in the two new departments. He noted that the changes are designed to facilitate increased research activity and visibility, as well as a coherent structure for the faculty.

Prof. Easley advised that the proposal had been approved by the department, college curriculum committee, and college council, and that he and his fellow proposers had also benefited from consultation with the Undergraduate Studies committee of the Academic Council and the Faculty Senate. He invited questions, and a brief discussion ensued. Fr. Jenkins invited a vote on the proposal. A motion was made, duly seconded, and the creation of the two new departments was approved by the Academic Council on a voice vote. Following the meeting, Fr. Jenkins provided his approval of the change as President of the University. The creation of the restructured departments was effective July 1, 2016.

Fr. Jenkins invited Michael Desch, chair of the Faculty Affairs Committee of the Academic Council, to introduce the next three items on the agenda, proposed changes to the Academic Articles.

**Proposed Amendments to the Academic Articles Regarding Joint and Concurrent Appointments:**

Prof. Desch described the first proposal, the addition of the category of “joint” appointment to the Articles, and the clarification of the existing category of “concurrent” appointment. The joint appointment is intended to be an appointment agreed upon by a faculty members and the heads of two or more units. This category is intended not to have a time limitation. Joint appointments accord full rights and privileges in both units, including voting rights. Concurrent appointments, conversely, are generally limited to specific time periods and can be modified unilaterally. A concurrent appointment does not carry full rights and privileges. Appointments of joint faculty are made by the Provost or the Provost’s designee upon the recommendation of the respective departmental chairperson, the respective Committees on Appointments and Promotions, and the respective University Institute Director(s) and/or Dean(s).

A discussion ensued, and prior to a vote, the recorder read aloud the proposed amendment. Fr. Jenkins invited a vote on the changes to the Articles regarding joint and concurrent appointments as read aloud. A motion was made, duly seconded, and the amendments were approved on a voice vote. The amendments as passed are appended to these minutes. Prior to becoming effective, the amendments must be reviewed and formally approved by the Board of Trustees and the President. It is anticipated that these will take effect July 1, 2017.

**Proposed Revisions to the Academic Articles Appeals Procedures:** Prof. Desch then introduced proposed changes to the procedures outlined in Article III, Section 6 regarding appeals of negative decisions concerning reappointment, promotion, and tenure. He noted that the intent of the Faculty Affairs Committee examined both policies, with an original goal toward consolidation. As a result of discussions about these features with a broad range of faculty, the current proposal incorporates features of Appendix A into the Section 6 appeals approach.

A discussion ensued, and following the discussion an updated version of the proposed changes was brought to a vote. The changes that were voted on by the Council are summarized as follows: 1) The Review Committee continues to be constituted with one person selected by the University Committee on Appeals, one selected by the candidate, and one selected by the Provost. Instead of having the Review Committee chair be the person selected by the Provost, the three members of the Review Committee will decide among themselves who will serve as chair. 2) Mandate that the Provost submit an annual report to the President of the number and disposition of appeals. 3) Allow petitioner to appeal on the grounds of sex discrimination through either this route or Appendix A. 4) Clarify definition of “discrimination.” 5) The proposed changes also lower the standard of proof for appeals made under Section 6.

Fr. Jenkins invited a motion to approve the changes to Section 6 as amended on the floor. A motion was made, duly seconded, and approved on a voice vote. The amendments as passed are appended to these minutes. Prior to becoming effective, the amendments must be reviewed and formally approved by the Board of Trustees and the President. It is anticipated that these will take effect July 1, 2017.

**Proposed Amendments to the Descriptions of the University Committees on Appeals:**

Prof. Desch introduced a third set of amendments to the Articles, which are intended to modify Article IV, Subsections (m) and (n) in order to align the description of the University Committees on Appeals with the emended procedures laid out in Article III, Section 6 (see above). The purpose of the proposed changes is to allow the Provost to take steps to increase the diversity of the Review Committee on Appeals on his (her) own initiative or at the request of the petitioner. A brief discussion ensued, and members of the Faculty Affairs Committee voiced their support of the amendment as proposed. Fr. Jenkins invited a motion. A motion was made, duly seconded, and the proposed changes were approved on a voice vote. The amendments as passed are appended to these minutes. Prior to becoming effective,

the amendments must be reviewed and formally approved by the Board of Trustees and the President. It is anticipated that these will take effect July 1, 2017.

**Proposed Revisions to the Undergraduate Academic Code:** Fr. Jenkins invited Hugh Page, Vice President and Associate Provost, to introduce proposed revisions to the Undergraduate Academic Code.

Dr. Page summarized the proposed changes. The changes to the *Undergraduate Academic Code* fall into four broad categories: (1) modifications to reflect new curricular realities — e.g., 2.2.1, 4.2, and 4.3.1, which were necessitated by the rollout of the Moreau First Year Experience; (2) clarifications of extant policies and procedures — e.g. 3.1.3, 3.1.3.2, and 3.1.3.5, which relate to Notre Dame’s excused absence policy; 3.2.2.5, which keeps sacrosanct the final exam period; 3.3.1, which deals with mid-semester grading procedures; 3.3.2, which places restrictions on the late acceptance of student academic work; 3.3.6, which focuses on changes to final course grades; and 3.3.11, which eliminates the credit threshold for courses taken Pass / Fail; (3) nomenclature updates — e.g., 3.2.2.1 and 3.2.4, in which changes are made to reflect more inclusively those involved in the teaching enterprise; and (4) emendations to lend greater precision to extant language in the *Code* — e.g., 4.3.2 where the word "less" has been changed to "fewer." Other changes encountered fall generally into one of the aforementioned four categories.

Dr. Page provided contextual information regarding the changes. As the set of guidelines most directly responsible for the regulation of academic life in Notre Dame’s undergraduate degree-granting colleges and schools, the *Undergraduate Academic Code* is subject to periodic review and updating by the Academic Code and Policy Committee (ACPC). The ACPC receives feedback from those who rely on the *Code* to guide their administrative endeavors and work with students in the process of advising as well as in other settings. The proposed changes to the *Code* advanced by the ACPC had been vetted by the Undergraduate Studies Committee of Academic Council and had received its endorsement. He invited questions and a brief discussion ensued.

Fr. Jenkins invited a motion. A motion was made, duly seconded, and the proposed changes were approved by the Academic Council, effective July 1, 2016.

**Proposed Modifications to the Undergraduate Academic Code of Honor:** Fr. Jenkins invited Dr. Page to introduce proposed modifications to the Undergraduate Academic Code of Honor (also known as the “Honor Code”). The University Committee on the Honor Code (UCHC) proposes several changes to the *Honor Code* that seek to address extant *lacunae*, simplify the handling of Honor Code Violation Reports (HCVRs), and clarify a procedural ambiguity. Dr. Page first summarized the proposed changes.

The proposed changes seek to: (1) provide discretionary authority to the Associate Provost serving as steward of the *Honor Code* to address, in consultation with the UCHC and others appropriate university officials, instances of alleged academic dishonesty not anticipated by the *Code* — see Section III.A.1; (2) allow the aforementioned Associate Provost to have a designee that can assist in the processing of Honor Code Violation Reports (HCVRs), and permit extra review time for HCVRs that contain unanticipated complexities — see V.D.2.(i); (3) make the procedure to be followed by an honesty committee chair in handling a revoked HCVR parallel to that utilized when a report of an alleged *Honor Code* violation is sent directly to the chair of an honesty committee — see V.D.2.(i) and VII.a.1; and (4) create a statute of limitations for the investigation of alleged *Honor Code* infractions and grant discretion to the Associate Provost serving as steward of the discretion in determining how to handle particularly egregious infractions discovered after a student has been granted an undergraduate degree — see VII.A (first paragraph).

Dr. Page explained that the proposed changes to the *Honor Code* advanced by the UCHC had been vetted by the Undergraduate Studies Committee of Academic Council and had received its endorsement. He invited questions, and a brief discussion ensued. Fr. Jenkins then invited a motion on the proposed

changes. A motion was made, duly seconded, and the proposed changes were approved by the Academic Council, effective July 1, 2016.

**Annual Report on Salary Equity Study:** Each year the Office of Strategic Planning & Institutional Research conducts a review of the salaries of Notre Dame tenured and tenure-track faculty (T&TT). The purpose of this study is to monitor the administration of faculty compensation in order to detect any evidence of potential gender or minority status bias. The data for this year's review were drawn from payroll data for the 2015-2016 academic year. Fr. Jenkins invited Christine Maziar, Vice President and Senior Associate Provost, to present the annual report on salary equity. Following Dr. Maziar's presentation, a brief discussion ensued about why a similar study is not conducted on the SPF, Research, and Library faculty, and Prof. Maziar explained that the populations are too small to get a strong signal in the data. Fr. Jenkins thanked Prof. Maziar for her report.

**Discussion with chairs of the Core Curriculum Review Committee:** Dean John McGreevy and Prof. Michael Hildreth, co-chairs of the Core Curriculum Review Committee (CCRC), joined the meeting to update the Academic Council on the feedback they had received in their meetings throughout the spring following the release of the draft CCRC report in November 2015. A brief discussion ensued, and Dr. Burish thanked them and the members of the committee for their ongoing commitment to this important review.

Given that it was the last meeting of the academic year and a number of Council members were completing their terms, Fr. Jenkins recognized those individuals and thanked them for their service.

There being no further business, the meeting was adjourned at 4:45 p.m.

*Approved by Academic Council May 11, 2016  
For Review by the Board of Trustees  
Requested Effective Date: July 1, 2017*

**Proposed Amendment: Joint and Concurrent Appointments**

**Motivation:** The purpose of this amendment is to 1) add a distinct category of “joint” appointment and 2) clarify the category of “concurrent” appointment.

**Summary of Changes:** Modifies Article III, Section I, Subsection (f) as follows: 1) Add new formal category of “joint” appointment, and clarify distinction between “joint” and “concurrent” appointments. The joint appointment is intended to be an appointment without a time limitation, but terminable upon agreement of all parties. This appointment accords full rights and privileges in both units, including voting rights. The concurrent appointment is generally limited to a specific time period, which can be modified unilaterally. The concurrent appointment does not carry full rights and privileges. And 2) Modify Article III, Section 4 to specify procedures for appointment, reappointment, promotion, and tenure.

Article III, Section 1, Subsection (f). *To be inserted on page 11 before “Concurrent ...”*

*Joint:* A joint appointment is negotiated by a faculty member and the heads of two or more units which normally confers full rights, privileges, and obligations on the holder. The terms of such an appointment are formally agreed to by the holder and the heads of the respective unit (i.e., departments, colleges, institutes) and approved by the units’ respective Committees on Appointments and Promotions (CAPs). Such an appointment is generally made with no fixed term, unless agreed by the holder and heads of the respective units. The joint appointment is intended to be an appointment without a time limitation, but terminable upon agreement of all parties.

*Concurrent:* A concurrent faculty appointment is a temporary appointment of at least one academic term by consent of all the parties appropriate for staff or faculty members who hold full-time positions elsewhere in the university. A concurrent appointment does not confer full rights, privileges, and obligations in the academic unit where the concurrent appointment is held. ~~Appointment to a concurrent position requires the recommendation of both the appointing department and the department in which the individual holds a full-time position.~~

Article III, Section 4, new Subsection (g). *To be inserted on page 20 after “Other Faculty Appointments”*

***Subsection (g) Joint Faculty Appointments***

Appointments of joint faculty are made by the Provost or the Provost’s designee upon the recommendation of the respective departmental chairperson, the respective Committees on Appointments and Promotions, and the respective University Institute Director(s) and/or Dean(s).

*Approved by Academic Council May 11, 2016*

*For Review by the Board of Trustees*

*Requested Effective Date: July 1, 2017*

**Proposed:** Revise Article 3, Section 6 Appeals Procedures

**Motivation:** The purpose of this amendment is to modify the regular appeal procedure in Article III, Section 6 so as to incorporate aspects of Appendix A which appear to be viewed by some as more helpful in ferreting out discrimination, as well as to lower the standard of proof.

**Summary of Changes:** Modifies Article III, Section 6 as follows: 1) The Review Committee continues to be constituted with one person selected by the University Committee on Appeals, one selected by the candidate, and one selected by the Provost. Instead of having the Review Committee chair be the person selected by the Provost, the three members of the Review Committee will decide among themselves who will serve as chair. 2) Mandates that the Provost submit an annual report to the President of the number and disposition of appeals. 3) Allows petitioner to appeal on the grounds of sex discrimination through either this route or Appendix A. 4) Clarifies definition of “discrimination.” 5) Lowers the standard of proof.

### **Proposed Amendments**

**Article 3, Section 6** *To be amended beginning on p. 20*

#### **Appeals from Negative Decisions Concerning Reappointment, Promotion and Tenure**

##### ***Subsection (a) By a member of the Tenured and Tenure-track Faculty***

A member of the tenured and tenure-track faculty may appeal a negative decision concerning reappointment, promotion, or tenure by filing a written appeal with the Provost. Likewise a member of the research faculty, library faculty, or special professional may appeal a negative decision concerning reappointment or promotion by filing a written appeal with the Provost.

The grounds for appeal are limited to:

- (1) **Academic Freedom:** consideration of factors that impinge upon the academic freedom of the ~~appellant~~ petitioner.
- (2) **Discrimination:** ~~discrimination against~~ denial of reappointment, promotion or tenure, or a failure to afford the ~~appellant~~ petitioner equal opportunity to demonstrate the ~~basis of~~ standards expected for reappointment, promotion or tenure, as is afforded to similarly situated faculty not in the protected class, due to sex, race, color, national origin, ~~sex~~, religion, disability, genetic information, age or veteran status, ~~or age~~.
- (3) **Personal Bias:** consideration of factors unrelated to the performance of the ~~appellant~~ petitioner in carrying out his or her professional responsibilities, or improper and unprofessional consideration of relevant factors, demonstrating a lack of objectivity or impartiality.
- (4) **Procedural Error:** a violation of established department, college, or university procedures during the reappointment, promotion, or tenure process.

Note the following stipulations regarding discrimination on the basis of sex:

A member of the tenured and tenure-track faculty, research faculty, library faculty, or special professional faculty (“petitioner”) who alleges that a decision against reappointment, promotion, or promotion to tenure of that faculty member is the product of discrimination on the basis of sex may choose one of two avenues of appeal.

1. The petitioner may proceed with an appeal as outlined in Appendix A to these articles (unless Appendix A is amended in favor of the procedures established by the provisions of this subsection), which is limited to cases of alleged discrimination on the basis of sex. If the Appendix A procedure is chosen, the petitioner may also file an appeal via the process outlined below alleging discrimination on other grounds, but not discrimination on the basis of sex.

2. Alternately, the petitioner may proceed with an appeal via the process outlined below, in which discrimination on the basis of sex as well as other possible grounds for discrimination may be alleged. If the petitioner alleges discrimination on the basis of sex under the procedure outlined below, the petitioner may not also file an appeal as outlined in Appendix A.

In short, a petitioner may not submit an appeal alleging discrimination *on the basis of sex* under both processes but must choose one or the other.

***Subsection (a) ~~The candidate must submit a written appeal within sixty (60) days of notification that his or her candidacy is terminated.~~ Appeals by a member of the tenured and tenure-track faculty***

A member of the tenured and tenure-track faculty (“the petitioner”) may appeal a negative decision concerning reappointment, promotion, or tenure by filing a written appeal with the Provost. The grounds for appeal are limited to:

(1) ***Academic Freedom:*** consideration of factors that impinge upon the academic freedom of the ~~appellant~~ petitioner.

(2) ***Discrimination:*** ~~discrimination against~~ denial of reappointment, promotion or tenure, or a failure to afford the ~~appellant on~~ petitioner equal opportunity to demonstrate the ~~basis of~~ standards expected for reappointment, promotion or tenure, as is afforded to similarly situated faculty not in the protected class, due to sex, race, color, national origin, ~~sex,~~ religion, disability, genetic information, age or veteran status, ~~or age.~~

(3) ***Personal Bias:*** consideration of factors unrelated to the performance of the ~~appellant~~ petitioner in carrying out his or her professional responsibilities, or improper and unprofessional consideration of relevant factors, demonstrating a lack of objectivity or impartiality.

(4) ***Procedural Error:*** a violation of established department, college, or university procedures during the reappointment, promotion, or tenure process.

Following an adverse decision, the faculty member must consult with the Department Chair, Dean and the Provost, in that order, within sixty (60) calendar days (excluding June, July and August), after notification of the original adverse decision. If the petitioner is not satisfied after such consultation, the petitioner may, no later than 60 days (excluding June, July, and August) after notification of the original adverse decision or 30 days after the decision of the Provost following consultation, whichever is later, submit a petition to the Provost requesting a review of the petitioner's case.

The written appeal shall specify each ground for appeal asserted and shall include a concise statement ~~supporting the appeal~~ of facts supporting each ground for appeal. The petition should include all documents supporting the petitioner’s factual statements as are then available to the petitioner. The Provost shall disclose to the University Committee on Appeals each ground for appeal asserted, but not

the name of the ~~candidate~~ petitioner submitting the appeal.

Three members of the University Committee on Appeals shall constitute the committee reviewing the appeal (“the ~~which~~ Review Committee”). ~~The Review Committee~~ shall be formed within fifteen (15) ~~calendar~~ days of the filing of the written appeal. To constitute the Review Committee, the University Committee on Appeals and the ~~petitioner~~ ~~candidate~~ each select one member to serve on the Review Committee, after which the Provost selects a third member to serve ~~as the review committee chair~~ on the Review Committee. ~~The three members of the Review Committee decide who will chair the Review Committee.~~ Any person who has had prior involvement with the case, either directly or indirectly, must recuse himself or herself. For appeals concerning promotion to full professor, only full professors on the University Committee on Appeals are eligible to serve on the Review Committee.

The Review Committee shall ~~investigate the appeal~~, be provided by the Provost the petition submitted to the Provost and the petitioner’s entire CAP file. In the course of its investigation, the Review Committee shall have confidential access to all ~~necessary~~ information it deems necessary and may interview the petitioner and all parties involved in the case or whom they deem necessary to interview. The Review Committee's investigation need not be limited to the grounds raised by the ~~candidate~~ petitioner. The Provost or his or her designee resolves any dispute concerning access to confidential information.

The Review Committee does not consider whether reappointment, promotion, or tenure should have been granted, but rather makes a determination of whether ~~the preponderance of the evidence establishes that the decision was negative due to~~ one or more of the grounds for appeal ~~substantially affected the decision~~. If the candidacy was terminated prior to the Provost's consideration, the Review Committee shall submit a written report detailing its determination and the facts upon which such determination is based to the Provost. If the candidacy was terminated by the President, the Review Committee shall submit this report to the President. The Review Committee shall submit its report within ninety (90) ~~calendar~~ days of the ~~committee's~~ Review Committee's formation. The ~~candidate~~ petitioner and the Dean shall be informed of the Review Committee's determination. The Provost or the President shall evaluate the report and shall determine what additional ~~evaluation or~~ action, if any, is appropriate. As part of this evaluation process, the Provost or the President may elect to meet with the Review Committee to discuss its report. The decision of the Provost or President regarding the appeal is final, except that the President may in his sole discretion review an appeal evaluated by the Provost. The decision of the Provost or President regarding the appeal shall be conveyed to the ~~candidate~~ petitioner and the Review Committee within thirty (30) ~~calendar~~ days of the Provost's or President's receipt of the Review Committee's determination.

All documents, reports, notes, correspondence, minutes and other materials generated as part of the review process or by the Review Committee shall be held in confidence by the members of the Review Committee, and shall be deposited with the Provost after the Review Committee has completed its work.

The Provost shall submit an annual report to the President, the individual at the University responsible for academic affirmative action, and the University's Academic Affirmative Action Committee regarding all appeals taken. The report shall enumerate the appeals taken, the determination of the Review Committee and the ultimate disposition of each case.

~~A member of the tenured and tenure track faculty who alleges that a decision against reappointment, promotion, or promotion to tenure of that faculty member is the product of discrimination on the basis of sex will proceed with an appeal as outlined in Appendix A to these articles unless Appendix A is amended in favor of the procedures established by the provisions of this subsection.~~

*Subsection (b) ~~By a member of the Research Faculty, Library Faculty, or Special Professional Faculty Appeals by a member of the research faculty, library faculty, or special professional faculty~~ A member*



of the research faculty, library faculty, or special professional faculty (“the petitioner”) may appeal a negative decision concerning reappointment or promotion by filing a written appeal with the Provost. The grounds for appeal are limited to:

(1) **Academic Freedom:** consideration of factors that impinge upon the academic freedom of the ~~appellant~~ petitioner.

(2) **Discrimination:** ~~discrimination against~~ denial of reappointment, promotion or tenure, or a failure to afford the ~~appellant~~ petitioner equal opportunity to demonstrate the ~~basis of~~ standards expected for reappointment, promotion or tenure, as is afforded to similarly situated faculty not in the protected class, due to sex, race, color, national origin, ~~sex,~~ religion, disability, ~~genetic information, age or~~ veteran status, ~~or age.~~

(3) **Personal Bias:** consideration of factors unrelated to the performance of the ~~appellant~~ petitioner in carrying out his or her professional responsibilities, or improper and unprofessional consideration of relevant factors, demonstrating a lack of objectivity or impartiality.

(4) **Procedural Error:** a violation of established department, college, or university procedures during the reappointment or promotion process.

~~The candidate~~ Following an adverse decision, the petitioner must submit a written appeal within ~~thirty (30)~~ forty (40) calendar days of notification of the decision ~~against his or her reappointment or promotion.~~ The written appeal shall specify each ground for appeal asserted and shall include a concise statement ~~supporting the appeal~~ of facts supporting each ground for appeal. The petition should include all documents supporting the petitioner’s factual statements as are then available to the petitioner. The Provost shall disclose to the University Committee on Research, Library, and Special Professional Faculty Appeals each ground for appeal asserted, but not the name of the ~~candidate~~ petitioner submitting the appeal.

Three members of the University Committee on Research, Library, and Special Professional Faculty Appeals shall constitute the committee reviewing the appeal (“the Review Committee”). The Review Committee will be formed within fifteen (15) calendar days of the filing of the written appeal. To constitute the Review Committee, the University Committee on Research, Library, and Special Professional Faculty Appeals and the ~~petitioner candidate~~ each select one member to serve on the Review Committee, after which the Provost selects a third member to serve ~~as the review committee chair~~ on the Review Committee. ~~The three members of the Review Committee decide who will chair the Review Committee.~~ Any person who has had prior involvement with the case, either directly or indirectly, must recuse himself or herself from service on the Review Committee.

The Review Committee shall ~~investigate the appeal~~ be provided by the Provost the petition submitted to the Provost and the petitioner’s entire CAP file. In the course of its investigation, the Review Committee shall have confidential access to all ~~necessary~~ information it deems necessary and may interview the petitioner and all parties involved in the case or whom they deem necessary to interview. The Review Committee’s investigation need not be limited to the grounds raised by the ~~candidate~~ petitioner. The Provost or his or her designee resolves any dispute concerning access to confidential information.

The Review Committee does not consider whether reappointment or promotion should have been granted, but rather makes a determination of whether ~~the preponderance of the evidence establishes that the decision was negative due to~~ one or more of the grounds for appeal ~~substantially affected the decision.~~ The Review Committee shall submit a written report detailing its determination and the facts upon which such determination is based to the Provost. If the Review Committee finds that the

Provost's actions caused one or more valid grounds for appeal, then the Review Committee submits the written report to the President. The Review Committee shall submit its report within thirty (30) calendar days of the ~~committee's~~ Review Committee's formation. The ~~candidate~~ petitioner and the Dean or the Director shall be informed of the Review Committee's determination. The Provost or the President shall evaluate the report and shall determine what additional ~~evaluation or~~ action, if any, is appropriate. As part of this evaluation process, the Provost or the President may elect to meet with the Review Committee to discuss its report. The decision of the Provost or the President regarding the appeal is final, except that the President may in his sole discretion review an appeal evaluated by the Provost. The decision of the Provost or President regarding the appeal shall be conveyed to the ~~candidate~~ petitioner, the Dean or Director, and the Review Committee within fifteen (15) calendar days of the Provost's or the President's receipt of the Review Committee's determination.

~~A member of the research faculty, library faculty, and special professional faculty who alleges that a decision against reappointment or promotion of that faculty member is the product of discrimination on the basis of sex will proceed with an appeal as outlined in Appendix A to these articles unless Appendix A is amended in favor of the procedures established by the provisions of this subsection. All documents, reports, notes, correspondence, minutes and other materials generated as part of the review process or by the Review Committee shall be held in confidence by the members of the Review Committee, and shall be deposited with the Provost after the Review Committee has completed its work.~~

The Provost shall submit an annual report to the President, the individual at the University responsible for academic affirmative action, and the University's Academic Affirmative Action Committee. The report shall enumerate the appeals taken, the determination of the Review Committee and the ultimate disposition of each case.

## **Appeals from Negative Decisions Concerning Reappointment, Promotion and Tenure**

A member of the tenured and tenure-track faculty may appeal a negative decision concerning reappointment, promotion, or tenure by filing a written appeal with the Provost. Likewise a member of the research faculty, library faculty, or special professional may appeal a negative decision concerning reappointment or promotion by filing a written appeal with the Provost.

The grounds for appeal are limited to:

**(1) Academic Freedom:** consideration of factors that impinge upon the academic freedom of the petitioner.

**(2) Discrimination:** denial of reappointment, promotion or tenure, or a failure to afford the petitioner equal opportunity to demonstrate the standards expected for reappointment, promotion or tenure, as is afforded to similarly situated faculty not in the protected class, due to sex, race, color, national origin, religion, disability, genetic information, age or veteran status.

**(3) Personal Bias:** consideration of factors unrelated to the performance of the petitioner in carrying out his or her professional responsibilities, or improper and unprofessional consideration of relevant factors, demonstrating a lack of objectivity or impartiality.

**(4) Procedural Error:** a violation of established department, college, or university procedures during the reappointment, promotion, or tenure process.

Note the following stipulations regarding discrimination on the basis of sex:

A member of the tenured and tenure-track faculty, research faculty, library faculty, or special professional faculty (“petitioner”) who alleges that a decision against reappointment, promotion, or promotion to tenure of that faculty member is the product of discrimination on the basis of sex may choose one of two avenues of appeal.

1. The petitioner may proceed with an appeal as outlined in Appendix A to these articles (unless Appendix A is amended in favor of the procedures established by the provisions of this subsection), which is limited to cases of alleged discrimination on the basis of sex. If the Appendix A procedure is chosen, the petitioner may also file an appeal via the process outlined below alleging discrimination on other grounds, but not discrimination on the basis of sex.

2. Alternately, the petitioner may proceed with an appeal via the process outlined below, in which discrimination on the basis of sex as well as other possible grounds for discrimination may be alleged. If the petitioner alleges discrimination on the basis of sex under the procedure outlined below, the petitioner may not also file an appeal as outlined in Appendix A.

In short, a petitioner may not submit an appeal alleging discrimination *on the basis of sex* under both processes but must choose one or the other.

### ***Subsection (a) Appeals by a member of the tenured and tenure-track faculty***

A member of the tenured and tenure-track faculty (“the petitioner”) may appeal a negative decision concerning reappointment, promotion, or tenure by filing a written appeal with the Provost. The grounds for appeal are limited to:

**(1) Academic Freedom:** consideration of factors that impinge upon the academic freedom of the petitioner.

**(2) Discrimination:** denial of reappointment, promotion or tenure, or a failure to afford the petitioner equal opportunity to demonstrate the standards expected for reappointment, promotion or tenure, as is afforded to similarly situated faculty not in the protected class, due to sex, race, color, national origin, religion, disability, genetic information, age or veteran status.

**(3) Personal Bias:** consideration of factors unrelated to the performance of the petitioner in carrying out his or her professional responsibilities, or improper and unprofessional consideration of relevant factors, demonstrating a lack of objectivity or impartiality.

**(4) Procedural Error:** a violation of established department, college, or university procedures during the reappointment, promotion, or tenure process.

Following an adverse decision, the faculty member must consult with the Department Chair, Dean and the Provost, in that order, within sixty (60) calendar days (excluding June, July and August), after notification of the original adverse decision. If the petitioner is not satisfied after such consultation, the petitioner may, no later than 60 days (excluding June, July, and August) after notification of the original adverse decision or 30 days after the decision of the Provost following consultation, whichever is later, submit a petition to the Provost requesting a review of the petitioner's case.

The written appeal shall specify each ground for appeal asserted and shall include a concise statement of facts supporting each ground for appeal. The petition should include all documents supporting the petitioner's factual statements as are then available to the petitioner. The Provost shall disclose to the University Committee on Appeals each ground for appeal asserted, but not the name of the petitioner submitting the appeal.

Three members of the University Committee on Appeals shall constitute the committee reviewing the appeal ("the Review Committee"). The Review Committee shall be formed within fifteen (15) calendar days of the filing of the written appeal. To constitute the Review Committee, the University Committee on Appeals and the petitioner each select one member to serve on the Review Committee, after which the Provost selects a third member to serve on the Review Committee. The three members of the Review Committee decide who will chair the Review Committee. Any person who has had prior involvement with the case, either directly or indirectly, must recuse himself or herself. For appeals concerning promotion to full professor, only full professors on the University Committee on Appeals are eligible to serve on the Review Committee.

The Review Committee shall be provided by the Provost the petition submitted to the Provost and the petitioner's entire CAP file. In the course of its investigation, the Review Committee shall have confidential access to all information it deems necessary and may interview the petitioner and all parties involved in the case or whom they deem necessary to interview. The Review Committee's investigation need not be limited to the grounds raised by the petitioner. The Provost or his or her designee resolves any dispute concerning access to confidential information.

The Review Committee does not consider whether reappointment, promotion, or tenure should have been granted, but rather makes a determination of whether the preponderance of the evidence establishes that the decision was negative due to one or more of the grounds for appeal. If the candidacy was terminated prior to the Provost's consideration, the Review Committee shall submit a written report detailing its determination and the facts upon which such determination is based to the Provost. If the candidacy was terminated by the President, the Review Committee shall submit this report to the President. The Review Committee shall submit its report within ninety (90) calendar days of the Review Committee's formation. The petitioner and the Dean shall be informed of the

Review Committee's determination. The Provost or the President shall evaluate the report and shall determine what additional evaluation or action, if any, is appropriate. As part of this evaluation process, the Provost or the President may elect to meet with the Review Committee to discuss its report. The decision of the Provost or President regarding the appeal is final, except that the President may in his sole discretion review an appeal evaluated by the Provost. The decision of the Provost or President regarding the appeal shall be conveyed to the petitioner and the Review Committee within thirty (30) calendar days of the Provost's or President's receipt of the Review Committee's determination.

All documents, reports, notes, correspondence, minutes and other materials generated as part of the review process or by the Review Committee shall be held in confidence by the members of the Review Committee, and shall be deposited with the Provost after the Review Committee has completed its work.

The Provost shall submit an annual report to the President, the individual at the University responsible for academic affirmative action, and the University's Academic Affirmative Action Committee regarding all appeals taken. The report shall enumerate the appeals taken, the determination of the Review Committee and the ultimate disposition of each case.

***Subsection (b) Appeals by a member of the research faculty, library faculty, or special professional faculty*** A member of the research faculty, library faculty, or special professional faculty ("the petitioner") may appeal a negative decision concerning reappointment or promotion by filing a written appeal with the Provost. The grounds for appeal are limited to:

***(1) Academic Freedom:*** consideration of factors that impinge upon the academic freedom of the petitioner.

***(2) Discrimination:*** denial of reappointment, promotion or tenure, or a failure to afford the petitioner equal opportunity to demonstrate the standards expected for reappointment, promotion or tenure, as is afforded to similarly situated faculty not in the protected class, due to sex, race, color, national origin, religion, disability, genetic information, age or veteran status.

***(3) Personal Bias:*** consideration of factors unrelated to the performance of the petitioner in carrying out his or her professional responsibilities, or improper and unprofessional consideration of relevant factors, demonstrating a lack of objectivity or impartiality.

***(4) Procedural Error:*** a violation of established department, college, or university procedures during the reappointment or promotion process.

Following an adverse decision, the petitioner must submit a written appeal within forty (40) calendar days of notification of the decision. The written appeal shall specify each ground for appeal asserted and shall include a concise statement of facts supporting each ground for appeal. The petition should include all documents supporting the petitioner's factual statements as are then available to the petitioner. The Provost shall disclose to the University Committee on Research, Library, and Special Professional Faculty Appeals each ground for appeal asserted, but not the name of the petitioner submitting the appeal.

Three members of the University Committee on Research, Library, and Special Professional Faculty Appeals shall constitute the committee reviewing the appeal ("the Review Committee"). The Review Committee will be formed within fifteen (15) calendar days of the filing of the written appeal. To constitute the Review Committee, the University Committee on Research, Library, and Special Professional Faculty Appeals and the petitioner each select one member to serve on the Review Committee, after which the Provost selects a third member to serve on the Review Committee. The three

members of the Review Committee decide who will chair the Review Committee. Any person who has had prior involvement with the case, either directly or indirectly, must recuse himself or herself from service on the Review Committee.

The Review Committee shall be provided by the Provost the petition submitted to the Provost and the petitioner's entire CAP file. In the course of its investigation, the Review Committee shall have confidential access to all information it deems necessary and may interview the petitioner and all parties involved in the case or whom they deem necessary to interview. The Review Committee's investigation need not be limited to the grounds raised by the petitioner. The Provost or his or her designee resolves any dispute concerning access to confidential information.

The Review Committee does not consider whether reappointment or promotion should have been granted, but rather makes a determination of whether the preponderance of the evidence establishes that the decision was negative due to one or more of the grounds for appeal. The Review Committee shall submit a written report detailing its determination and the facts upon which such determination is based to the Provost. If the Review Committee finds that the Provost's actions caused one or more valid grounds for appeal, then the Review Committee submits the written report to the President. The Review Committee shall submit its report within thirty (30) calendar days of the Review Committee's formation. The petitioner and the Dean or the Director shall be informed of the Review Committee's determination. The Provost or the President shall evaluate the report and shall determine what additional evaluation or action, if any, is appropriate. As part of this evaluation process, the Provost or the President may elect to meet with the Review Committee to discuss its report. The decision of the Provost or the President regarding the appeal is final, except that the President may in his sole discretion review an appeal evaluated by the Provost. The decision of the Provost or President regarding the appeal shall be conveyed to the petitioner, the Dean or Director, and the Review Committee within fifteen (15) calendar days of the Provost's or the President's receipt of the Review Committee's determination.

All documents, reports, notes, correspondence, minutes and other materials generated as part of the review process or by the Review Committee shall be held in confidence by the members of the Review Committee, and shall be deposited with the Provost after the Review Committee has completed its work.

The Provost shall submit an annual report to the President, the individual at the University responsible for academic affirmative action, and the University's Academic Affirmative Action Committee. The report shall enumerate the appeals taken, the determination of the Review Committee and the ultimate disposition of each case.

### Appendix 3: Proposed Amendments to the Academic Articles

*Approved by Academic Council May 11, 2016  
For Review by the Board of Trustees  
Requested Effective Date: July 1, 2017*

**Proposed:** Changes to description of University Committees on Appeals.

**Motivation:** The proposed modifications of Article IV, Subsections (m) and (n) are designed to amend the language governing the Committee on Appeals and the University Committee on Research, Library, and Special Professional Faculty Appeals in line with the proposed emendation of the “appeals” procedures.

**Summary of Changes:** Allows the Provost to take steps to increase diversity of the Review Committees on Appeals on his (her) own initiative or at the request of the petitioner.

Article IV, Subsection (m) University Committee on Appeals *To be amended on p. 37.*

The University Committee on Appeals considers appeals from members of the tenured and tenure-track faculty who have been denied reappointment, promotion, or tenure. The University Committee on Appeals shall consist of: (1) those elected members of the Provost’s Advisory Committee who agree to serve for a three-year term; (2) those former elected members of the Provost’s Advisory Committee who agree to serve for a three-year term, provided that to be eligible for such service the former elected member must have served on the Provost’s Advisory Committee within the past five years at the commencement of the three-year term; and (3) 12 members from the tenured faculty who have served on a departmental CAP elected to staggered three-year terms by simple majority vote by and from the Colleges and Schools: four from the College of Arts and Letters, two each from the Colleges of Business, Engineering, and Science, one from the Law School, and one from the School of Architecture. No member of the University Committee on Appeals will be required to serve on more than one Review Committee at a time, or to serve on more than two Review Committees during a three-year term. **When a Review Committee is being selected in an appeal where the petitioner has alleged discrimination, the Provost, of his(her) own initiative, or at the request of the petitioner, may ask for additional member(s) of the tenured faculty to be added to the committee from which the Provost, petitioner, and committee would choose.**

Article IV, Subsection (n) University Committee on Research, Library, and Special Professional Faculty Appeals *To be amended on p. 38.*

The University Committee on Research, Library, and Special Professional Faculty Appeals considers appeals from members of the research, library, and special professional faculty who have been denied reappointment or promotion. The University Committee on Research, Library, and Special Professional Faculty Appeals shall consist of **at least** 21 members of the regular faculty, none below the rank of associate, elected to staggered three-year terms by simple majority vote as follows: six by the research faculty; six by the library faculty; and nine by the special professional faculty. No member of the University Committee on Research, Library, and Special Professional Faculty Appeals will be required to serve on more than one Review Committee at a time, or to serve on more than two Review Committees during a three-year term. **When a Review Committee is being selected in an appeal where the petitioner has alleged discrimination, the Provost, of his(her) own initiative or at the request of the petitioner, may ask additional member(s) of the regular faculty ranked at associate or above to be added to the committee from which the Provost, petitioner, and committee would choose.**