Note: Remaining language differences are presented in this color.

Article I: Title

This code shall be known as the Code of Faculty Rights, Responsibilities, and Conduct. This code is based on the premise that both administrators and faculty share responsibility to create a climate suitable for scholarship, research, effective teaching and learning, and service. Except as otherwise provided by federal or state law, Board of Regents Policy, University policy, or provisions of the University Senate Code, University Senate Rules and Regulations, and Faculty Senate Rules and Regulations, no policy or action by the University or its faculty and staff may violate the rights, responsibilities, and standards of conduct established by this code. Substantive changes to this Code will be made only after approval by the Provost’s Office and Faculty Senate, subject to the ultimate authority of the Chancellor.

Proposed resolution of the differences

On March 22, members of FacEx unanimously agreed to amend the last sentence to read as follows:

"Substantive changes to this Code will be made only after approval by the Provost’s Office and Faculty Senate, subject to the ultimate authority of the Chancellor, as defined in KSA 76.714 and 715.

Article III: Right 2

Faculty members shall have the right to impartial application of unit/department, school, and University policies

Proposed resolution of the differences:

On March 22 FacEx unanimously proposed expanding the Administration’s use of “impartial” to the phrase “equal and impartial.” Beisecker has discussed this change with Mary Lee Hummert and has received word that the addition of the term “equal” would not be acceptable. The Administration believes that the term “impartial” has been codified successfully in FSRR 6.1.1.

Article III: Right 3

Faculty members shall have the right to impartial treatment in the application of school, department and university policies and decisions.

Proposed Resolution of the differences

Faculty Code of Rights, Responsibilities, and Conduct Approved by Faculty Senate 4/16/2015; Amended by Provost Office 7/27/15, 8/11/15, and 09/01/2015 following conversations with governance leaders.
1. Revert to the Faculty Senate’s use of the term “determination.” This change is acceptable with the Administration.

2. On March 22 FacEx unanimously agreed to accept the Administration’s addition of the language “consistent with the principles of shared governance.”

3. On March 22 FacEx unanimously proposed expanding the Administration’s use of “impartial” to the phrase “equal and impartial.” Beisecker has discussed this change with Mary Lee Hummert and has received word that the addition of the term “equal” would not be acceptable. The Administration believes that the term “impartial” has been codified successfully in FSRR 6.1.1.

Article III: Right 4

1. Faculty members have the right to provide information to assist in the determination of their teaching, administrative, and other university assignments and responsibilities, subject to University policies. This right recognizes that the proportions of time and energy devoted to teaching, advising, research, service, administration, and other responsibilities may vary from individual to individual, and for the same individual over time. Faculty members have the right to impartial treatment in the application of university policies and procedures for the evaluation of their performance of these responsibilities, including the right to participate in that evaluation.

Proposed resolution of the differences:

1. Revert to the Faculty Senate’s use of the term “participate.” This change is acceptable with the Administration.

2. On March 22 FacEx unanimously agreed to substitute the phrase “subject to FSRR 5.7.1 and 5.7.2” for the phrase “subject to University policies.” This substitution is acceptable with the Administration.

3. On March 22 FacEx unanimously proposed expanding the Administration’s use of “impartial” to the phrase “equal and impartial.” Beisecker has discussed this change with Mary Lee Hummert and has received word that the addition of the term “equal” would not be acceptable. The Administration believes that the term “impartial” has been codified successfully in FSRR 6.1.1.

Article III: Right 5

Faculty personnel files are maintained by the Provost’s Office, Human Resources, the college/school or comparable unit, and department(s) or comparable unit(s) in which the faculty member is appointed. The confidentiality of all faculty personnel files will be maintained in accordance with University policy and Faculty Senate Rules & Regulations.

Proposed resolution of the differences

Faculty Code of Rights, Responsibilities, and Conduct Approved by Faculty Senate 4/16/2015; Amended by Provost Office 7/27/15, 8/11/15, and 09/01/2015 following conversations with governance leaders.
Rewrite the language in Right 5 to read as follows:

“Faculty members have a right to be informed about personnel files that contain information about them. Faculty personnel files are maintained by the Provost’s Office, Human Resources, the college/school or comparable unit, and the department(s) or comparable unit(s) in which the faculty member is appointed. Subject to the provisions of FSRR 7.2, the faculty member shall have the right to examine the contents of such files and notify the Provost of any inaccuracies or missing information in the files.”

This rewording is acceptable to the Administration.

Article III: Right 7

Faculty members have a right to due process in all disciplinary matters. Faculty members have the right to peer judgment through the appeal process. The sanctions listed in Article VI of this Code may not be imposed upon a faculty member without notice of the charges against him or her and the opportunity to appeal the sanction to the Judicial Board or the Faculty Rights Board. The Judicial Board shall have jurisdiction if the recommended sanction is a “warning” or “restitution.” The Faculty Rights Board shall have jurisdiction in all other cases. If an appeal is filed, the University will stay imposition of the sanction pending disposition of the appeal. The opportunity for a faculty member to request a hearing before the Judicial Board or the Faculty Rights Board is subject to University Senate Code, University Senate Rules & Regulations, and Faculty Senate Rules & Regulations as applicable. The Office of University Governance can provide further information.

Proposed resolution of the differences:

The Administration has agreed to revert to the language proposed by the Faculty Senate.

1. Revert to the term “hearing” instead of the term “appeal.”
2. Revert to the phrase “request a hearing before” instead of the phrase “appeal the sanction to.”

In addition, the Administration has suggested adding the sentence “If an appeal is filed, the University will stay imposition of the sanction pending disposition of the appeal.” The inclusion of this term raised no concern with FRPR.

Beisecker suggests rewording that sentence to read “If the faculty member requests a hearing, the University will stay imposition of the sanction pending disposition of the request.”

Article III: Right 10

Faculty Code of Rights, Responsibilities, and Conduct Approved by Faculty Senate 4/16/2015; Amended by Provost Office 7/27/15, 8/11/15, and 09/01/2015 following conversations with governance leaders.
Faculty members, groups, or organizations may distribute written or electronic material on campus without prior approval so long as the distribution is consistent with University and Board of Regents policy and state and federal law. The person or persons responsible for such material must be clearly indicated.

The Administration believes that the inclusion of the phrase “University and” is necessary because in the restricted area of policies covering the “distribution of written or electronic material” the University has developed policies beyond those covered by the Board of Regents. Mary Lee Hummert responded to me as follows.

Tom,

We have university policies related to Right #10 that are more specific than the KBOR policy and state statutes. Those are summarized in this policy:

http://policy.ku.edu/provost/political-activity-KS-statutes

More detail on some aspects is provided in these policies:

http://policy.ku.edu/provost/electronic-mail-policy

http://policy.ku.edu/provost/bulletin-boards-use

This isn’t an exhaustive list, but it’s illustrative. There could be others such as distribution of copyrighted materials on which we also have a policy.

Article III: Right 11

Faculty members have the right to pursue opportunities for improving their skills and developing their talents related to their responsibilities as teachers and scholars contingent upon the availability of resources and compliance with applicable University and Board of Regents policies (e.g., travel, conflict of interest, leaves, class schedules, etc.).

Beisecker received the following communication from Mary Lee Hummert regarding the Administration’s concern.

The same issue of university policy (which includes those of departments, schools, faculty senate, and university senate) is found in right #11. Certainly the policy on consulting and conflict of interest would apply, as would department and school policies on course load, meeting classes, etc. Here are a couple examples of travel policies:

http://policy.ku.edu/international-programs/travel-to-locations-with-travel-warnings

http://policy.ku.edu/research/cost-accounting

http://policy.ku.edu/comptroller/general-travel-info

Faculty Code of Rights, Responsibilities, and Conduct Approved by Faculty Senate 4/16/2015; Amended by Provost Office 7/27/15, 8/11/15, and 09/01/2015 following conversations with governance leaders.
It might be that we would rephrase the clause about policies and I’m open to suggestions.

**Article III: Right 13**

Faculty members have a right to legal defense as specified by the Kansas Tort Claims Act.

The Administration suggested deleting the indicated phrase because the source of this Right is the Kansas Tort Claims Act.

FRPR in its November report raised no objection to the deletion.

**Article III: Right 14**

The Administration suggested deleting this Right in its entirety because the standard of impartial treatment from their perspective has been established in earlier Rights.

FRPR in its November Report raised no objection to this proposed change.

**Article III: Right 15**

Faculty members have the right to be evaluated annually according to University policy. Each faculty member shall receive from the departmental chairperson or dean a written statement evaluating his/her performance during the preceding year. Typically, the faculty member will be evaluated on teaching, scholarship, service, and/or professional performance consistent with University and unit expectations, the position, and approved allocation of effort.

FRPR in its November report raised no concerns with this addition.

**Article III: Right 16**

1. Tenured faculty may be removed only for cause, in cases of program discontinuation, or in cases of bona fide financial exigency, The University will follow established policies and procedures in such cases.

Writer’s note: The first sentence as amended essentially re-states the language in FSRR 6.1.2.2.
FRPR in its November report raised no objection to the changes proposed by the Administration.

Article III: Right 17

The Administration has proposed eliminating this Right in its entirety. FRPR in its November report specifically objected to this proposal and argued that the Right should be maintained.

Article III: Right 18

Faculty members have the right to utilize applicable grievance procedures without retaliation. FRPR in its November report expressed no concern about the deletion of the phrase.

Article III: Right 19

The Administration has proposed that this Right be deleted in its entirety. FRPR in its November report did not object to this deletion.

Article IV. Faculty Responsibilities

The responsibilities of the faculty as a whole are multiple and are not to be construed as limited to any specific list. The same is true of the responsibilities of individual faculty members. Nonetheless, the major responsibilities are traditionally divided into teaching, scholarship, service, and/or professional performance consistent with University and unit expectations, the position, and approved allocation of effort. These are the criteria used in awarding promotion and tenure, and they are also the criteria used

Faculty Code of Rights, Responsibilities, and Conduct Approved by Faculty Senate 4/16/2015; Amended by Provost Office 7/27/15, 8/11/15, and 09/01/2015 following conversations with governance leaders.
in faculty evaluations. Each faculty member is expected to meet academic responsibilities at an acceptable level in all areas over time, including the additional faculty responsibilities outlined in Section 5 of this article.

The Administration proposed adding the phrase "University and" as indicated above. FRPR in its November report did not object to this language addition.

**Article IV.1.c**

Teaching duties of a professor include planning classroom and/or online activities as appropriate to the method of course delivery; preparing course syllabi; designing assignments and/or examinations; holding regular office hours; being available for consultation; supervising independent work undertaken by students; directing theses and dissertations; evaluating students: assessing and documenting student learning; advising; and developing and assessing curricula.

The Administration has suggested adding the phrase “holding regular office hours” as indicated above. FRPR in its November report raised no objection.

**Article IV.1.e**

Teaching responsibilities include prompt and regular presence during scheduled class hours whether in a physical classroom or online, as appropriate to the mode of course delivery. In the case of forms of online course delivery that do not involve regular meeting times for the entire class, teaching responsibilities include meeting unit expectations for other forms of student – teacher and student – student interaction. With the exception of illness or family emergency, a faculty member must make satisfactory advance arrangements and obtain his/her chair’s or dean’s approval if he/she will be absent from class or unable to meet his/her online teaching responsibilities, or if he/she needs to change a class time or location. Such approval will be granted only if it is determined that these arrangements are made for sound academic reasons and do not cause undue hardship for any student and will be timely communicated to the students by the faculty member.

The Administration suggested deleting the final sentence in the above paragraph. FRPR in its November report did not object to this deletion.

**Article IV.4: Professional Performance**

Faculty Code of Rights, Responsibilities, and Conduct Approved by Faculty Senate 4/16/2015; Amended by Provost Office 7/27/15, 8/11/15, and 09/01/2015 following conversations with governance leaders.
For library faculty and some unclassified academic staff with faculty equivalent rank, responsibilities include the performance of professional activities consistent with stated University and unit expectations for the position. Faculty members are expected to perform professional responsibilities satisfactorily, with due diligence, and in conformance with professional standards.

The Administration suggested inserting the language indicated above. FRPR in its November report did not object to these insertions.

**Article IV.5.i**

Refrain from committing an act that involves such moral turpitude as to render the faculty member unfit for his/her position. As used in this section, conduct involving moral turpitude means intentional conduct, prohibited by law, which is injurious to another person or to society and which constitutes a substantial deviation from the accepted standards of duty owed by a person to other persons and society.

The Administration suggested deleting the word indicated above. FRPR in its November report did not object to the deletion.

**Article V**

**Article V. Administrative Leave Without Pay**

The operation of the University requires professional and reliable performance of faculty responsibilities. When a faculty member’s failure to perform a primary job responsibility amounts to abandonment of duties (e.g., failure to meet scheduled classes without notification or approval when physically able) or creates an imminent threat of harm to member(s) of the University community, the University may put the faculty member on Administrative Leave Without Pay.

When Administrative Leave Without Pay is imposed, the Provost shall notify the faculty member of the action and the reasons for the action. The notice shall also advise the faculty member that the Administrative Leave Without Pay shall cease upon notification to the Provost from the chair or dean that the circumstances meriting Administrative Leave Without Pay have been satisfactorily resolved. Finally, the notice shall advise the faculty member that if he/she believes the Administrative Leave Without Pay to have been improperly imposed, review may be sought by submitting an appeal to the Faculty Senate Faculty Rights Board as outlined in the University Senate Code. However, such an appeal shall not delay the imposition of the Administrative Leave Without Pay. In addition, imposition of Administrative Leave Without Pay does not preclude other administrative or disciplinary action.

Faculty Code of Rights, Responsibilities, and Conduct Approved by Faculty Senate 4/16/2015; Amended by Provost Office 7/27/15, 8/11/15, and 09/01/2015 following conversations with governance leaders.
The Administration heavily amended Article V as it was proposed by the Faculty Senate. Beisecker has discussed the issues involved with members of the Administration, and he proposes the following rewording for the Article. This rewording substantially returns the Article to its form in the current Faculty Code with the addition of a requirement that the Faculty Rights Board be informed any time a faculty member is placed on Leave Without Pay and conduct an expedited review to determine whether such a leave is appropriate. The rewording is as follows:

"The operation of the University requires faculty members to meet classes at the regularly scheduled hour and to carry out their other academic responsibilities. Failure to meet these responsibilities without making satisfactory advance arrangements (if physically able to do so) and communicating the nature of the arrangements to the person’s chairperson (or dean if the school is not organized departmentally) may result in the faculty member being placed on administratively determined Leave Without Pay by the Provost. When Leave without Pay is imposed, the Provost shall notify the faculty member and members of the Faculty Rights Board of the action and provide the reasons for the leave. In addition, the notice shall advise the faculty member and members of the Faculty Rights Board that the Leave Without Pay shall cease, and the faculty member shall resume pay status, upon the faculty member’s notification to the Provost that the faculty member has resumed his/her attendance or academic responsibilities or otherwise made satisfactory arrangements that have been confirmed by the chairperson or dean. Upon receiving notice from the Provost that a faculty member has been placed on Leave Without Pay, the Faculty Rights Board shall immediately begin an expedited review to determine whether the Leave Without Pay was properly imposed. The Faculty Rights Board shall make its determination no later than 10 working days from the date it was notified."

Article 6.2.e

a. Recommendation of Dismissal. Recommendation to the Chancellor that a faculty member be dismissed from the University.

The Administration suggested deleting the word “Staff” as being unnecessary. FRPR in its November report did not object to this proposed deletion.

Article VI: Sanctions

Sanctions constitute disciplinary action. Sanctions therefore do not include written or verbal feedback from an administrator concerning one’s performance or behavior such as those resulting from annual or other University performance evaluations. Faculty who fail to fulfill the responsibilities specified in Article IV of this Code may be subject to sanction. As stated in Article II.7 of this code, sanctions may not be imposed upon a faculty member without notice of the charges against him or her and the

Faculty Code of Rights, Responsibilities, and Conduct Approved by Faculty Senate 4/16/2015; Amended by Provost Office 7/27/15, 8/11/15, and 09/01/2015 following conversations with governance leaders.
opportunity to appeal the sanction to the Judicial Board or the Faculty Rights Board. The Judicial Board shall have jurisdiction if the recommended sanction is a “warning” or “restitution.” The Faculty Rights Board shall have jurisdiction in all other cases. If an appeal is filed, the University will stay imposition of the sanction pending disposition of the appeal.

Beisecker suggests the following rewording of Article VI as follows:

Sanctions constitute disciplinary action. Sanctions therefore do not include written or verbal feedback from an administrator concerning one’s performance or behavior such as those resulting from annual or other University performance evaluations. Faculty who fail to fulfill the responsibilities specified in Article IV of this Code may be subject to sanction. As stated in Article III.7 of this code, sanctions may not be imposed upon a faculty member without notice of the charges against him or her and the opportunity to request a hearing before the Judicial Board or the Faculty Rights Board. The Judicial Board shall have jurisdiction if the recommended sanction is a “warning” or “restitution.” The Faculty Rights Board shall have jurisdiction in all other cases. If the faculty member requests a hearing, the University will stay imposition of the sanction pending disposition of the request.

Deleted: so charged, according to the procedures established in the Faculty Senate Rules and Regulations. In all cases, faculty members facing such charges must be notified of the specific allegations and the specific provisions of this Code that were violated. Accused faculty members are entitled to due process and a hearing before the designated faculty body. Only upon the conclusion of such a hearing and the announcement of the hearing committee’s findings shall any sanction be imposed.

Commented [PROV19]: Substituted language from Article II, Right 7 for the latter part of the preamble for purposes of consistency.