

Faculty Rights Board
November 3, 2015
Minutes

Present: Ron Barrett-Gonzalez, Pam Keller, Steven Maynard-Moody, Paul Outka
Jan Sheldon

The Faculty Rights Board met on November 3, 2015 at 1:30 pm in the Baer Library in 4001 in the Dole Human Development Center. The following issues were discussed.

I. Charges

- a. The committee reviewed the charges for the Faculty Rights Board (FRB) for FY2016. They are the following:

Standing charges:

1. Hear promptly all concerns and claims brought to the attention of the committee by members of the faculty regarding faculty rights, including promotion, tenure, non-reappointment, and academic freedom, pursuant to Article XIII, Section 3 of the University Senate Code and Article VI of the FSRR. Report issues or problems of concern to governance to FacEx, with due regard for the confidentiality of individual cases (ongoing).

Specific charges:

1. Be prepared to revisit policies and procedures for faculty dismissal proceedings (formerly proposed FSRR 7.3.4) and related issues. Make recommendations to FacEx.
2. Be prepared to revisit the Faculty Code of Rights, Responsibilities, and Conduct and related issues.
3. Examine the appropriateness of Kansas District Court Judges ruling on cases of KU Personnel while on KU Payroll. Report to FacEx and Faculty Senate with findings and recommendations by **December 1, 2015**.
4. Examine policies related to long-term privately funded appointments of individuals who perform faculty-like functions.

II. Specific Charge 1

The primary discussion regarded the issue of an administrator's ability to impose a sanction on a faculty member with the inability of the faculty member to have a full evidentiary hearing before FRB. This occurs because the current Faculty Senate Rules and Regulations (FSRR) indicate that FRB can only review a case to determine whether the administrative authority has violated established University procedures. If the administrative authority followed the established University procedures, FRB will not have a full evidentiary hearing. Consequently, FRB hears very few, if any cases, each year. This procedure appears to be inconsistent with the due process guarantees specified in the University Senate Code and the Code of Faculty Rights, Responsibilities, and Conduct.

Jan provided committee members with a notebook regarding the history of this issue that was compiled by Kathy Reed in University Governance. Steven provided background information on a case last year where FRB declined to have a full evidentiary hearing where sanctions had been imposed on a faculty member after an investigatory process. Although a full evidentiary hearing had not occurred, FRB concluded the administrative authority had followed the established University procedures; thus, FRB did not provide a full evidentiary hearing.

Although it is clear that FRB hears Promotion and Tenure cases, it is unclear whether FRB should hear cases involving administrative actions when sanctions have been imposed on a faculty member after only an investigatory process has occurred without a full evidentiary hearing. Committee members discussed whether full evidentiary hearings should be provided only when consequential sanctions are imposed by administrators. FRB will continue this discussion during future meetings.

III. Specific Charge 2

FacEx received the latest revisions made by the Provost of the proposed Faculty Code of Rights, Responsibilities, and Conduct, but FacEx has not sent these to FRB. FRB will be happy to comment on these revisions if, and when, they are sent to FRB.

IV. Specific Charge 3

This issue involves whether a Kansas judge should recuse himself or herself from ruling on a case involving KU personnel while the judge is on the KU payroll. Ron provided background information on this issue, and he indicated that the Kansas board that reviews issues regarding judges (Kansas Commission on Judicial Qualifications) determined that a judge could rule on a case involving KU and a faculty member when the judge was on the KU payroll. Some FRB committee members expressed concern about whether there was a conflict of

interest in this type of case and whether the judge could provide an impartial ruling. Other committee members, however, expressed that it is important to have judges serve as adjunct faculty at the law school and teach law students and that it might be detrimental to have a rule that forbid a judge, who was on the KU payroll, to hear any case involving KU and a faculty member. If such a rule was imposed, the effect might be that judges would decline to teach, and law students, therefore, would be denied the opportunity for instruction from and interaction with a judge.

FacEx and Faculty Senate would like a report from FRB with findings and recommendations by December 1, 2015. This issue will be discussed at the November 17, 2015 FRB meeting.

V. Specific Charge 4

The committee discussed the issue of KU personnel who are hired using private funds and perform faculty-like functions. These personnel are often hired directly by KU administrators without going through the typical faculty search process and are, thus, not vetted by faculty. Additionally, these personnel are not required to go through the same peer review process that is mandated for traditional faculty. Often these faculty report only to Deans or to a high-level administrator. Committee members expressed concern about faculty appointments without using the typical faculty search process and without requiring these personnel to have the same faculty review that is required of traditional faculty. Members believed that the standard needs to be the same for everyone. Ron will send committee members the *amicus curiae* brief that was filed in the *Hall v. University of Kansas* case.

VI. Issues raised by committee members

- a. A committee member raised the issue of the university Conflict of Interest Committee. As it currently exists, Conflict of Interest committee members are appointed by an administrator with little input from governance. Should university committees be appointed in this manner? The committee will continue the discussion regarding this issue at future meetings.
- b. A committee member raised the issue of weapons in the classroom and whether a professor could put in the syllabus that no weapons are allowed in the classroom. Ron provided some information on what the Kansas Board of Regents (KBOR) is considering with respect to guns on campus. It appears that the KBOR may draw a line between concealed weapons and those that are openly carried. Ron will send us information from the Board of Regents.

The meeting adjourned at 3 pm.

The next meeting will be on Tuesday, November 17, 2015 at 1 pm in the Baer Library in 4001 in the Dole Human Development Center.