

FRPR Annual Report, 19 April, 2017

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The FRPR committee met on seven occasions as a committee of the whole, with additional virtual interactions. There were several occasions where various subcommittees met on targeted tasks prior to discussion in the committee of the whole. Minutes of each meeting have been approved by committee and forwarded to governance for review. Actions this year are summarized by task.

Standing Charges

- 1. Monitor the implementation of university policies related to the rights and responsibilities of the faculty, including the following general areas (1) appointments, promotions, granting of tenure, and non-reappointments; (2) merit evaluations, rewards and sabbatical leaves; (3) protection of the faculty's right to privacy; and (4) intellectual property. Review all current policy statements regarding these matters to ensure that they are adequate, appropriate, and readily available to all faculty members. Report issues, problems, and recommendations to FacEx (ongoing).**

No specific action item to report, beyond those addressed in specific charges below.

- 2. Respond to inquiries and address issues regarding faculty rights, privileges, and responsibilities (as they arise).**

No specific action item to report, beyond those addressed in specific charges below.

- 3. Communicate with representatives of the AAUP regarding their concerns relating to faculty rights, privileges and responsibilities. Report issues, problems, and recommendations to FacEx (ongoing).**

No specific action item to report, beyond those addressed in specific charges below.

Specific Charge 1:

1. **Monitor the implementation of the KU Core Curriculum by administering FRPR's survey again in FY17. Report issues to FacEx.**

FRPR administered the survey to assess the faculty response to the Core Curriculum and its implementation. Survey results provide insightful and useful data for the University Core Curriculum Committee, Faculty Governance, and University Administration. This is the third year FRPR was charged with distributing a survey to the Lawrence Campus faculty regarding the Core Curriculum. The survey instrument used in the third year remained mostly intact from the previous year, with a few minor wording adjustments.

The overall response rate was 10%¹ (compared with 16% in 2016). Representation is unknown since departmental affiliation and status were not required to be reported by respondents. 41 of the 155 respondents indicated their school affiliation:

School	Count	%
Architecture Design and Planning	1	2%
Business	4	10%
CLAS	22	54%
Education	2	5%
Engineering	7	17%
Journalism	2	5%
Languages Literatures & Cultures	1	2%
Music	1	2%
Arts	1	2%

Course Selection and Approval Process

- *2017: 48% are not satisfied with course selection process (55% in 2016)*
- **2017: Major themes from comments:**
 - *Process tedious and inefficient*
 - *Course approval perceived as arbitrary and political*
 - *Lack of communication or feedback from UCCC*
 - *Not enough science or technology courses*
 - *Transfer courses do not go through same process*
- **2016: Major themes from comments:**
 - *Inefficient process*
 - *Lack of feedback from UCCC and the other level of reviews*
 - *Perception of bias*
 - *Allows students more academic options*

¹ Based on Faculty Rank, Fall 2016 (Librarians and Administrators were excluded because they do not have instructional duties.)
<http://oirp.ku.edu/sites/oirp.ku.edu/files/files/Profiles/2016/6-115.pdf>

- *Improving course assessment*
- 2015: Major themes from comments:
 - *Lack of feedback and timeliness* from the UCCC
 - *Lack of faculty involvement* in the overall process
 - *Unclear requirements* for course inclusion
 - Perceptions of “*departmental favoritism*”

Course Restructuring

- **2017:** 61% did not have to restructure courses to meet Core requirements
- **2016:** 70% did not have to restructure courses to meet Core requirements
- **2015:** 63% did not have to restructure courses
- Major themes from 2017 comments:
 - Minor changes were made in assignments and objectives
 - Added ethical decision-making
 - Some course elements were emphasized at the expense of others
 - Emphasis placed on skills, has meant shifting focus from disciplinary goals

Impact on Course Enrollment & Credit Hours

- Majority (44%) indicated there was no effect on enrollment, 21% marginally or significantly increased, 35% marginally or significantly decreased
- Majority (79%) indicated no effect on number of credit hours to graduate

Impact on Student Assessment

- Majority (57%) were neutral, somewhat agreed (20%), or strongly agreed (10%), that Core Curriculum had impacted their ability to assess students
- Major themes from comments about Unit’s assessment process:
 - Assessment already accomplished through accreditation process
 - Assessing student thinking is always more difficult than assessing their knowledge
 - We do a good job collecting data, but need to work on the feedback loop
 - Huge time commitment, not enough resources provided

Recommendation: Consistent themes of concern relate to the lack of feedback, and a perception of lack of transparency or consistency in review. It is the opinion of FRPR that these could best be addressed by increasing the transparency of reporting beyond the targeted response from UCCC to each applicant.

As such, we strongly urge governance to task UCCC with reporting unit level metrics to include number of course applications by core goal, number of course approvals by core goal, number of course revisions required for approval by course goal, and number of course rejections by core goal. Such metrics should be readily available to the entire community on the UCCC website, and should be maintained at least annually. It is the

belief of FRPR that such reporting may help with faculty *perceptions* of process, which may or may not be erroneous.

In addition, we strongly urge UCCC to add to its application a request of the applicant for the ability to share the application with the broader community. In this manner, the UCCC could then identify and make readily visible on its website examples of best practice.

Finally, we recommend continuing this annual survey as a specific charge to FRPR, in order to ascertain whether the reporting identified above leads to improved perceptions of the process.

Specific Charge 2:

2. **Assess the relationship of UCCC to Faculty Governance. Consider the appropriateness or efficacy of Governance review of – or involvement in – UCCC decision-making. Make recommendations if necessary to ensure faculty have appropriate input in the development and supervision of academic requirements.**

Recommendation: FRPR reviewed the UCCC Procedures and Criteria for Appointment, and recommends a revision to the existing membership and associated policy language. We attach draft language that we unanimously voted to recommend for adoption.

We unanimously agree with the need for a formal inclusion of governance representation in the UCCC committee.

We unanimously agree that it is important for the governance representative to have voting rights on all aspects of policy and procedure. While we do not see the need for the governance representative to have voting rights in any particular case brought before UCCC, it is important that they participate in any case they desire as an ex officio non-voting member, such that they can observe if the application of policy and procedure is consistent with the policy and procedure. As such, we recommend the language below:

Faculty Senate representation: As communication with and input from faculty governance is important in the development and maintenance of the Core curriculum, one faculty member appointed by the Faculty Senate Executive Committee shall serve as a voting member of the UCCC on policy matters, and an ex officio non-voting member on all other matters. The faculty senate representative shall serve a two-year term and may be reappointed consecutively no more than one time.

Finally, we unanimously agree that the appropriate appointment process is via the Faculty Senate Executive Committee. As such, we recommend the language below:

Faculty Senate representative: The Faculty Senate Executive Committee shall appoint one faculty member for membership on the UCCC.

Specific Charge 3:

- 3. Review procedures for discovery of evidence in cases where someone outside the University alleges a faculty member has engaged in scholarly misconduct. In such cases, it is necessary to balance the rights of faculty to directly face their accusers with the institutional risks of releasing personnel-related material. Make recommendations on how USRR 9.1.7 might be amended to better protect accused faculty members as well as faculty who hear these scholarly misconduct cases.**

A primary activity for FRPR this academic year has been review of the existing Guidelines for Dealing with Allegations of Scholarly Misconduct, USRR Article IX, and drafting of a revised policy. An initial comparison of federal policy, KU Medical Center policy, and KU Lawrence policy revealed that issues with the policy were more broad than envisioned in the initial charge. The FRPR committee finalized the draft of our recommended changes to the existing Scholarly Misconduct Policy, which is now titled "Guidelines for Dealing with Allegations of Research Misconduct" to better parallel federal requirements. All eight members of the FRPR Committee unanimously approve the draft attached, and we recommend this be adopted to replace the existing USRR Article IX.

We have worked closely with the Research Integrity Officer (Jim Tracy, Vice Chancellor for Research) to ensure that the new policy meets federal regulations; has a timeline which is expedient yet allows for thorough peer review while being achievable; and protects the institution as well as the rights of individual faculty (whether they be complainant, respondent or members of the various committees). We have strived to conform to requirements of Federal Policy, followed guidance from the Department of Health and Human Services (DHHS) Office of Research Integrity regarding effective practices, and consulted policies from peer AAU institutions. We have separated the content into policies, provisions, definitions, procedures, and administrative actions and sanctions. It is our intention that this better clarifies appropriate guidelines for each stage of the process, from allegation, to assessment, to inquiry, to investigation, to administrative action, and to potential appeal of any sanction.

A few items of note include:

- 1) Removing USRR 9.2.3.1 which calls for attempted mediation between complainant and respondent is inconsistent with both the letter and spirit of Federal policy. It might well apply to other disagreements between scholars, but not in cases of alleged research misconduct. Such language places the institution at risk.
- 2) Changing the existing USRR 9.3.4.2 which calls for a "hearing" of the Investigation Committee. There are no hearings at the institution level of a research misconduct proceeding. Indeed, neither the inquiry nor investigation are "legal proceedings" but only involve interviews of the principals and witnesses. This is consistent with the recommended language clarifying the roles of

committee members and representatives of the Office of the General Counsel as well.

- 3) Enabling additional processes (written, oral, electronic...) for making an allegation of research misconduct, as required by federal policy.
- 4) Clarifying the roles of complainant and respondent, and notably removing the complainant from an apparent prosecutorial role.
- 5) Clarifying reporting requirements to the complainant, and correcting the excessive release of supporting information to external complainants in the current policy.
- 6) Clarifying the required three phases of assessment, inquiry and investigation.
- 7) Changing timelines, and increasing flexibility in committee memberships to facilitate timely reviews.
- 8) Adding a definitions section.
- 9) Adding language for a statute of limitation.
- 10) Modifying processes to ensure confidentiality, most notably adding the use of written confidentiality agreements.
- 11) Ensuring notifications and reporting are compliant with federal requirements.

We are confident that the attached policy is a significant improvement over current policy.

We also circulated the draft policy to members of the KU community who have served on inquiry panels for cases of scholarly misconduct, former members of FRPR, and members of the Faculty and University Senate. Based on input from those members, there are a few additional recommendations.

Subsequent committee action recommends a change to section 9.1.17

If a conflict of interest is alleged by a party at any point in the assessment, inquiry or investigation phase of the case, the Research Integrity Officer will review the allegation and determine whether a conflict exists. **In the event the Research Integrity Officer is alleged to have a conflict of interest, the Chair of the Conflict of Interest Committee shall review the allegation and determine whether a conflict exists. A conflict of interest exists if there is a divergence between an individual's private, personal relationships or interests and his/her professional obligations to the university such that an independent observer might reasonably question whether the individual's professional actions or decisions are determined by considerations of personal benefit, gain or advantage. The decision of the Research Integrity Officer, or as described above the Chair of the Conflict of Interest Committee, regarding the existence of a conflict shall be final.**

Subsequent committee action recommends a change to section 9.4.3.1

9.4.3.1 The Research Integrity Officer, with input from other appropriate University officials and the Faculty Senate Executive Committee, shall name a committee consisting of at least three (3) voting members to conduct an impartial and unbiased investigation. **Tenured faculty and/or staff of equivalent status to the respondent shall comprise the majority of the committee voting membership.** Investigation Committee members shall have appropriate scientific or scholarly expertise and shall not have unresolved personal, professional, or financial conflicts of interest with those involved in the case. Members shall not have served on the Inquiry Committee in the case. A tenured faculty member, who is not from the unit in which the respondent holds a primary appointment, shall be appointed chair of the committee by the Research Integrity Officer.

Specific Charge 4:

- 4. Construct a general statement for inclusion in the Faculty Senate Rules and Regulations which will mitigate conflicts of interest in all hearings related to faculty members discipline and/or dismissal. Report to FacEx by December 1, 2016.**

After discussion of various governance policy documents, motions for the following actions were made and seconded, and each action was approved unanimously.

Faculty evaluation procedures are defined in FSRR 7.4. The current language of FSRR 7.4.2.2 is “Provide for the adoption of evaluation procedures by units that ensure review is conducted in a manner that respects faculty rights, including academic freedom and tenure, the confidentiality of personnel matters, and principles of due process, including the right to appeal unfavorable decisions.” **FRPR recommends changing this to: “Provide for the adoption of evaluation procedures by units that ensure review is conducted in a manner that avoid conflict of interest and respects faculty rights, including academic freedom and tenure, the confidentiality of personnel matters, and principles of due process, including the right to appeal unfavorable decisions.”**

The FRPR studied various definitions of Conflict of Interest. In addition, FRPR examined the Faculty Senate Rules and Regulations (FSRR) with regard to defining Conflict of Interest in hearings related to disciplinary hearings for faculty members. While many governance policies allude to procedures for recusing committee members for conflict of interest, a definition is not commonly referenced in current governance policies.

Multiple types of Conflict of Interest exist, thus, various policy documents offer different definitions. Perhaps the most all-encompassing definition is:

“A conflict of interest occurs when there is a divergence between an individual's private, personal relationships or interests and his/her professional obligations to the university such that an independent observer might reasonably question whether the individual's professional actions or decisions are determined by considerations of personal benefit, gain or advantage.” (Office of Provost and Executive Vice Chancellor Policy: Commitment of Time, Conflict of Interest, Consulting, and Other Employment, Preamble, I. General, B. Conflict of Interest) (See <https://policy.ku.edu/provost/commitment-of-time-conflict-of-interest#conflictofinterst>)

FRPR recommends that the best place to include such a definition is in Article II of the Faculty Code of Rights, Responsibilities and Conduct (FCRRC), which is by inclusion thus contained in FSRR 7.1 (which contains the FCRRC in its entirety). **FRPR recommends the following language be inserted as a new definition 4 in the FCRRC article 2:**

- 4. The term conflict of interest refers to a divergence between an individual's private, personal relationships or interests and his/her professional obligations to the university such that an independent observer might reasonably question whether the individual's professional actions or decisions are determined by considerations of personal benefit, gain or advantage.**

And thus we also recommend that the current definition number 4 (all other terms...) be renumbered to definition 5.

The current language of FCRRC Article III item 2 is:

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

FRPR recommends changing this to: “Faculty members shall have the right to impartial application of unit/department, school and University policies **free from conflict of interest.”**

With these changes, the other already existing FSRR references to conflict of interest are sufficient. As noted in prior years these include references within Promotion and Tenure procedures in FSRR Article 6 and Disciplinary Hearing procedures in FSRR Article 7. For instance, FSRR 6.1.4 addresses Conflict of Interest among participants in the promotion and tenure process. Section 6.1.4 speaks to Conflict of Interest but does not define it. FRPR notes that FSRR 6.1.4 does provide guidance on participation in promotion and tenure by prohibiting a faculty member from serving on more than one committee, prohibiting administrators from serving on review committees, and prohibiting spouses of candidates from serving. FSRR 6.1.4.4 also provides a mechanism for candidates to petition to resolve Conflict of Interest with the committee voting on the petition. Section 6.3.3 makes similar provisions for the University Committee on Promotion and Tenure.

Specific Charge 4a:

- a. **Consider, then if appropriate, propose the inclusion of the AAUP 1970 Interpretative Statement in FSRR 6.1.2 to the FacEx.**

The general consensus of FRPR is that there is value in clarifying FSRR 6.1.2 that we endorse both the principles of the 1940 statement and the 1970 interpretation. The current language of FSRR 6.1.2 is:

6.1.2 Academic Freedom and Tenure Policy. These standards and procedures are adopted pursuant to and shall be construed in conformity with the policies of the Kansas Board of Regents concerning promotion, tenure, and non-reappointment. The University of Kansas subscribes to the 1940 American Association of University Professors (AAUP) statement on Academic Freedom and Tenure and/or any amendments or revisions to that statement adopted by the Kansas Board of Regents.

FRPR recommends changing this to:

6.1.2 Academic Freedom and Tenure Policy. These standards and procedures are adopted pursuant to and shall be construed in conformity with the policies of the Kansas Board of Regents concerning promotion, tenure, and non-reappointment. The University of Kansas subscribes to the American Association of University Professors (AAUP) ***1940 Statement of Principles on Academic Freedom and Tenure with 1970 Interpretive Comments*** and/or any amendments or revisions to that statement adopted by the Kansas Board of Regents.

Specific Charge 4b:

- b. Consider, then if appropriate, propose the inclusion of the AAUP 1958 Statement on Procedural Standards in Faculty Dismissal Proceedings currently located in <http://policy.ku.edu/provost/FRB-appeals-procedure-for-dismissal> (or other appropriate location within the FSRRs) to FacEx.

Recommendation: We reviewed draft language in support of the charge to consider incorporating the AAUP “1958 Statement on Procedural Standards in Faculty Dismissal Proceedings” into appropriate Faculty Senate Rules and Regulations. The draft language was developed by a three-person subcommittee, and then modified and voted on by the committee of the whole. Those members present unanimously support incorporating the two revisions to the Faculty Code of Rights, Responsibilities, and Conduct (ie FSRR Article 7, Section 1). We attach the draft language that we unanimously voted to recommend for adoption.

The first addition, in Article V Leave Without Pay, is to clarify that this Article applies to leaves requested by the faculty member (sabbaticals, medical and/or family leave, other professional leave) but does not apply to leaves administratively imposed as a disciplinary action, each of which should occur under the due process protections offered in Article VI Sanctions. The second addition, in Article VI Sanctions, is the language we were asked to consider from the AAUP 1958 Statement, revised only to change the word “suspension” from the original language to “Administrative leave,” since the word suspension is clearly defined as a specific sanction in the page following and thus would not be consistent if used in this context of occurring during a proceeding.

Faculty Code of Rights, Responsibilities, and Conduct (ie FSRR Article 7, Section 1)

Article V. Leave Without Pay

A leave without pay under this Article is limited to that initiated at the request of a faculty member. Any leave without pay imposed on the faculty member is a sanction, subject to Article VI.

As defined in the Kansas Board of Regents Policy Manual, Chapter II, Section C. 10b

1. A leave without pay for up to three years may be granted by the chief executive officer of the employing institution when such is judged by the chief executive officer to be in the best interest of the institution. No leave may be granted to any employee who has accepted a permanent position with another postsecondary education institution.
2. Any extension of a leave without pay beyond three years requires the approval of the Board. The chief executive officer of the employing institution shall provide documentation of extraordinary circumstances justifying the extension of such leave beyond three years.
3. Leaves without pay shall not be regarded as a break in service; however, such leave shall not count toward the earning of sabbatical leave nor shall other than a scholarly leave count toward

the tenure probationary period. Scholarly leave shall count toward the tenure probationary period unless the employee and the institution agree in writing to the contrary at the time the leave is granted.

4. During a leave of absence without pay, an employee's eligibility for health insurance shall be determined by and be in accord with the policies, rules and regulations of the State Employees Health Insurance Commission.

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 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 for a hearing or appeal 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. Sanctions of censure, suspension, or dismissal shall be applied only after the faculty member has the opportunity for a hearing before the Faculty Rights Board. Administrative leave of the faculty member during the proceedings is justified only if immediate harm to the faculty member or others is threatened by the faculty member's continuance. Unless legal considerations forbid, any such administrative leave should be with pay.

Specific Charge 4c:

- c. Consider, then if appropriate, propose the inclusion of the AAUP 1975 Statement on Teaching Evaluation in FSRR 7.4.2.1 (or other appropriate location within the FSRRs) to FacEx.

Recommendation: We recommend a revision to the existing policy language. We attach the draft language that we unanimously voted to recommend for adoption. Rather than a specific recommendation to add a specific reference to the AAUP 1975 Statement on Teaching Evaluation in FSRR, we rather recommend to adopt a few guiding principles from this document currently absent from FSRR, specifically ensuring the use of a peer review process in evaluation, and the participation of faculty in defining faculty evaluation. The latter aligns FSRR language with the actual language in Board of Regents Policy. As such, we recommend the language below, with text in red representing the change.

Proposed Revisions

6.2.1.1 The University strives for a consistent standard of quality against which the performance of all faculty members is measured. Nonetheless, the nature of faculty activities varies across the University and a faculty member's record must be evaluated **through a process of peer review** in light of his or her particular responsibilities and the expectations of the discipline. Teaching and scholarship should normally be given primary consideration, but the particular weight to be accorded each component of a faculty member's activities depends upon the responsibilities of the faculty member. In the case of non-teaching faculty and unclassified academic staff, comparable professional responsibilities, as defined by their department or program and the standards of their disciplines, may be evaluated instead of teaching.

7.4.1 In accordance with Board of Regents policy, **faculty evaluation criteria, procedures and instruments shall be developed through faculty participation in each department, college or division and recorded to express the performance expectations of faculty therein. Faculty evaluations include annual evaluation and periodic post-tenure review.** Faculty evaluation ensures accountability and promotes development and achievement by recognizing and rewarding contributions and accomplishments, identifying the support needed to facilitate faculty success, and addressing areas of performance that need improvement.

7.4.2 The University conducts annual evaluations and periodic post-tenure review pursuant to policies developed cooperatively and approved by the Provost's Office (<http://policy.ku.edu/university-faculty/faculty-evaluation-tenured-tenure-track>) and the Faculty Senate (<http://policy.ku.edu/university-faculty/faculty-evaluation-tenured-tenure-track>). Changes to these policies will require approval of both the Provost's Office and the Faculty Senate. These policies shall: (*...rest of section unchanged*)