

The Faculty Senate The George Washington University

April 30, 2015

TO: GW Faculty
FROM: Charles Garris, Chair Faculty Senate Executive Committee
RE: **Agenda and Resolutions on Governance for May 8 Faculty Senate Meeting**

Dear Colleagues:

Attached, please find the agenda and supporting materials for the May 8 Faculty Senate meeting. As you will note, the primary action items require Faculty Senate consideration for possible adoption of four resolutions on amendments to the *Faculty Code* and to the *Faculty Organization Plan*. These Faculty Senate resolutions are in response to proposals by the Working Groups of the Board of Trustees in the four areas:

- (i) Dean Searches and Reviews (16/1)
- (ii) School Faculty Composition and Governance (16/2)
- (iii) Tenure and Promotion Standards and Procedures (16/3)
- (iv) Faculty Participation in the Faculty Senate (16/4)

The proposals by the Working Groups were previously distributed to all Faculty by the Executive Committee on March 18 & 27 in two separate mailings. They were also presented by Trustee Madeleine Jacobs at several recent “Town Hall Meetings” as well as at the Faculty Senate meeting of April 10.

Also attached are the four Senate resolutions, each of which includes Exhibits A & B, which provide the Senate Committees’ recommended language for the respective amended governance documents in both normal form and in a red-line form, based on the corresponding Working Group recommendation. All of these documents were approved by the Faculty Senate Executive Committee (EC), the Professional Ethics and Academic Freedom (PEAF) Committee, and the Appointment, Salary, Promotion Policies (ASPP) Committee.

We have also attached an OVERVIEW document which compares in simplified side-by-side manner the principal effects of the Faculty Senate resolutions in comparison with the current Faculty Code and the proposals of the Working Groups.

This process, initiated by the Board of Trustees's resolution of May 2013, has been very thought provoking and stimulated abundant reflection from Faculty, Administration, and Trustees on our current procedures and how we might improve them. There has been an enormous amount of work devoted to this by Senate Committees, the Working Groups, and the Faculty as a whole. In formulating these resolutions, the Faculty Senate Committees have given great weight to our many discussions with the Board and the Administration, as well as input from the Faculty through our on-line forum gw.hoop.la, "Town Hall Meetings", and other venues. The Senate Committees believe that if adopted by the Faculty Senate and the Board of Trustees, the attached resolutions greatly improve shared governance at GW, strengthen the role of the Faculty, and will help in achieving our common aspirations for GW, including the goals of *Vision 2021*. Conversely, the Committees believe that unilateral adoption of the proposals of the Working Groups by the Board of Trustees would result in a substantial degradation of shared governance at GW and a step backwards from achieving our high aspirations for GW. Study of the OVERVIEW document makes this apparent.

In formulating these resolutions, the Faculty Senate Committees felt that the area of Dean Searches and Reviews can be addressed by Resolution 16/1 in its entirety. However, addressing some of the issues that we have discussed in various forums, by virtue of their complexity and potential for unintended consequences must be put off until the Fall 2015 or later because they depend on acceptance of other issues. I will elaborate:

Participation

The Senate Committees agree that participation in the Faculty Senate may be extended to include Contract Faculty. However, for the present, our first resolution extends participation for ONLY Regular Faculty¹ and NOT to Specialized Faculty. The extension of rights of participation for Specialized Faculty in the Faculty Senate can be revisited in the Fall if certain issues are clarified:

- i. Board approval of the 25% limit on Specialized Faculty in any school. If the percentage of Specialized Faculty in any school is unlimited, our understanding is that it is very unlikely that the Faculty Assembly would vote in favor of governance rights for Specialized Faculty.
- ii. The Executive Committee has made inquiries and has received informal opinions that if Specialized Faculty are given governance rights, they may lose collective bargaining rights under the National Labor Relations Act. The Committees believe that it is appropriate to give time to the Specialized Faculty to review this possibility and to make known if they wish to be granted participation in University governance at the potential cost of losing other rights. If their wishes are not expressed by the Fall, we would consider expanding governance rights to them if there was a good probability that the

¹ Regular Faculty include tenured faculty, tenure-accruing faculty, and full-time non-tenure accruing faculty with contractual responsibilities for research, teaching, and service.

Faculty would support it. This concern also may apply to full-time Regular Faculty who are not tenured or tenure-track as well.

School Rules and Procedures

Under Section I.B of the *Faculty Code*, the Committees recommend retaining the current Faculty Code requirement that at least 50% of the regular, full-time faculty members in each department of a departmentalized school shall hold a tenured or a tenure-accruing appointment. As the Executive Committee has previously discussed with the Board, we believe that this rule is essential to maintain the quality of departments across schools. However, we have considered the issue, which was raised by the Board and the Administration, that there are valid circumstances where exceptions should be made. The Committees did not disagree with this, but felt that more time to collect information is needed to properly address the issue. We believe that the best approach is to continue with current policy in this regard for now, and revisit it in the Fall for possible subsequent amendments to the *Faculty Code*.

Appointment, Tenure, and Promotion

In discussions with the Board, the Executive Committee had expressed a willingness to consider strengthening the School-Wide Personnel Committee to allow it to independently nonconcur with faculty recommendations. However, after discussing it among the Committees, we see this change as tied to providing the University-Wide Nonconcurrency Committee with powers to make the final decision on nonconcurrences, subject to veto power by the President in extraordinary cases. The attached resolution therefore provides for the role and responsibilities of the School-Wide Personnel Committee in a manner unchanged from current practice. However, if the Board approves the University-Wide Nonconcurrency Committee in accordance with the resolution, the Senate will consider amending the section on School-Wide Personnel Committees in the Fall to empower them to independently nonconcur with a departmental recommendation.

The Faculty Senate on-line forum gw.hoop.la is open for discussion by the Faculty. Please review the attached documents and participate in the on-line discussion forum. Your Faculty Senate representatives will pay careful attention to your input and will take it into consideration in voting for or amending the four resolutions at the May 8 Faculty Senate meeting.

The Executive Committee very much looks forward to the Faculty's response and the Faculty Senate's response to these resolutions. We hope that there is agreement that these resolutions will enhance shared governance at GW and will vigorously address the goals of the Board in revising the faculty governance documents. As stated by Board Chair Carbonell in his remarks to the Faculty Senate on April 10:

“I also believe that in the next 30 years, GW has the opportunity to be counted among the best universities in the world. I believe that it is our shared responsibility as the leaders of this institution to make that opportunity a reality.”

It is expected that the four resolutions proposed by the Faculty Senate will support this vision.

Best Wishes,

Charles A. Garris, Jr.

THE GEORGE WASHINGTON UNIVERSITY
Washington, D.C.

The Faculty Senate

April 30, 2015

The Faculty Senate will meet on Friday, May 8, 2015 at 2:10 p.m. in the State Room, 1957 E Street, N.W., seventh floor. Newly-elected and re-elected Senate members will be introduced at this meeting, which is the first meeting of the 2015-16 Session.

AGENDA

1. Call to order
2. Approval of the minutes of the meeting held on April 10, 2015 (minutes to be distributed)

[The following four resolutions have been approved by the Appointment, Salary and Promotion Policies (including Fringe Benefit) Committee, the Committee on Professional Ethics and Academic Freedom, and the Senate Executive Committee. They will be introduced and presented at the meeting by Professor Arthur E. Wilmarth, Jr., Chair of the PEAFC Committee. The Resolutions and their Appendices are included with this agenda.]]

3. A RESOLUTION ON RECOMMENDED CHANGES TO THE *FACULTY CODE* WITH RESPECT TO DEAN SEARCHES AND REVIEWS (16/1)
4. A RESOLUTION ON RECOMMENDED CHANGES TO THE *FACULTY CODE* WITH RESPECT TO SCHOOL FACULTY COMPOSITION AND GOVERNANCE (16/2)
5. A RESOLUTION ON RECOMMENDED CHANGES TO THE *FACULTY CODE* WITH RESPECT TO TENURE AND PROMOTION STANDARDS AND PROCEDURES (16/3)
6. A RESOLUTION ON RECOMMENDED CHANGES TO THE *FACULTY ORGANIZATION PLAN* REGARDING FACULTY PARTICIPATION IN THE FACULTY SENATE (16/4)

7. Introduction of Resolutions

8. General Business

- a) Approval of the Senate Calendar for 2015-16 as recommended by the Faculty Senate Executive Committee:

September 11, 2015	January 8, 2016
October 9, 2015	February 12, 2016
November 13, 2015	March 11, 2016
December 11, 2015	April 8, 2016
	May 13, 2016

- b) Nominees for election of faculty members to the Dispute Resolution Committee:
Professor Patrick Cook for a three-year term ending April 30, 2018;
 - c) Nominations for election of the following faculty members for appointment by the President to Administrative Committees:

Committee on the Judicial System: Professor Bruno Petinaux
Student Grievance Review Committee: Professors Majeeda El-Banna, Vivek Jain, Carol Lang, and Edward Robinson
 - d) Nominations for election of faculty members to Senate Standing Committees (list to be distributed)
 - e) Nominations for appointment by the Board of Trustees to Board Committees:

Committee on Academic Affairs: Professor Charles A. Garris, Jr.
Committee on Advancement: Professor Joseph Cordes
Committee on Student Affairs: Professor Jennifer Frey
 - f) Nomination for election to the Benefits Advisory Committee:
Professor Joseph Cordes
 - g) Annual Reports of Senate Standing Committees

The Annual Report of the Committee on Appointment, Salary, and Promotion Policies (including Fringe Benefits) is included with this agenda
7. Report of the Executive Committee: Professor Charles A. Garris, Chair
 8. Provost's Remarks
 9. Chair's Remarks
 10. Brief Statements (and Questions)
 11. Adjournment

Elizabeth A. Amundson
Elizabeth A. Amundson
Secretary

OVERVIEW OF PROPOSALS TO CHANGE

Faculty Code (FC) & Faculty Organization Plan (FOP)

4/28/2015

DEAN SEARCHES AND REVIEWS		
CURRENT FC	WORKING GROUP PROP	FAC SEN Resolution 16/1
Dean Search Committee voting members elected by all full-time faculty from among the tenured faculty.	Dean Search Committee voting members elected by all full-time faculty. Members must be full-time. No requirement on tenure.	Dean Search Committee voting members are elected by regular, full-time faculty. All but one elected faculty member must be tenured. Tenured faculty must constitute two-thirds of all voting members on DSC.
Trustees on DSC are non-voting.	Trustees on DSC are voting members. No limit on number of Trustees.	Trustees on DSC are voting members. No maximum limit on Trustees, but "Ordinarily, one or two" Trustees will be appointed.
Faculty vote on criteria for selection.	No Faculty vote on criteria.	All regular, full-time faculty must vote on criteria for selection, which must also be approved by the Provost.
	President or Provost specifies how many candidates the DSC recommends.	President and Provost specify how many final candidates the DSC recommends, but that number may not exceed three without the approval of the regular, full-time faculty.
Senate resolution specifies extended DSC.	Specifies extended DSC.	Specifies extended DSC with a range of nonvoting members.
No reference.	Dean Review Process.	Dean Review Process.
SCHOOL FACULTY COMPOSITION AND GOVERNANCE		
CURRENT FC	WORKING GROUP PROP	FAC SEN Resolution 16/2
Active Status Faculty include: (1) Regular; (2) Limited Service; (3) Visiting; (4) Research Staff; (5) Special Service; (6) Secondary and Courtesy Appointments.	Active Status Faculty include: (1) Regular; (2) Specialized Faculty; and (3) Secondary and Courtesy Appointments.	Active Status Faculty include: (1) Regular Faculty; (2) Specialized Faculty; (3) Visiting Faculty; (4) Part-time Faculty; and (5) Secondary and Courtesy Appointments.
Regular Faculty include both T/TT faculty and contract faculty who are required to do teaching, research and service.	Regular Faculty include both T/TT faculty and contract faculty who are required to do teaching, research and service.	Regular Faculty include tenured and tenure-track (T/TT) faculty and contract faculty who have contractual responsibilities for teaching, research and service.
Proportion of Regular Faculty who are non-T/TT cannot exceed 25% in any school or 50% in any department. (Exceptions for Law, SMHS, CPS)	Each school will set as a goal that the proportion of Regular Faculty who are T/TT shall be at least 75 in any school. A school with the support of a majority of full-time faculty may request of the Provost, in consultation with the EC, a different goal.	Proportion of Regular Faculty who are T/TT shall be at least 75% of the regular full-time faculty in any school and 50% in any department. (Exceptions for SMHS, SON, CPS.)
	Specialized Faculty are contract faculty with academic title and have contractual responsibilities for one or two of the following: research, teaching, and service. No limit on number in any school.	Specialized Faculty are contract faculty who have academic titles and have contractual responsibilities for one or two of the following: research, teaching, and service. The number of full-time Specialized Faculty shall not exceed 25% of full-time faculty in any school. (Exceptions for SMHS, SON, CPS.)
Written School rules and procedures are developed and voted on by the Regular, Active Status Faculty of each department or school.	All full-time faculty (T/TT, Regular, Specialized) shall establish written rules and procedures.	Full-time Regular Faculty shall establish written rules and procedures to govern the school.
	All school procedures, rules, and criteria shall at a minimum provide: (1) . . . (6).	All school procedures, rules, and criteria shall at a minimum provide: (1) . . . (6).
	All school procedures, rules, and criteria shall be reviewed by the Faculty Senate Executive Committee and approved by the Provost.	All school procedures, rules, and criteria shall be reviewed and approved by the Provost in consultation with the Executive Committee of the Faculty Senate.

OVERVIEW OF PROPOSALS TO CHANGE

Faculty Code (FC) & Faculty Organization Plan (FOP)

4/28/2015

TENURE AND PROMOTION STANDARDS AND PROCEDURES		
CURRENT FC	WORKING GROUP PROP	FAC SEN Resolution 16/3
Promotion & Tenure		
Tenure & Promotion requires <u>competence</u> .	Tenure & Promotion requires <u>excellence</u> . Details extensively expounded.	Tenure & Promotion requires <u>excellence</u> . Each school, and each department shall define excellence. Details extensively expounded.
Each school & department must publish written criteria.	Each school & department must publish written criteria.	Each school & department must publish written criteria for tenure and promotion.
Promotion accompanied by salary increase.	Same as current Faculty Code.	Same as current Faculty Code.
Silent on published procedures for making promotion decisions.	Each School must publish procedures for making promotion & tenure decisions.	Each school and department must publish procedures for making promotion & tenure decisions.
Each department or school shall establish procedures for periodically informing faculty members whether they are making satisfactory progress toward promotion and/or tenure.	The procedures should provide for informing faculty members periodically, or at their request, whether they are making satisfactory progress toward promotion. Such information shall not be construed as a promise to recommend promotion and/or tenure.	The procedures should provide for informing faculty members periodically, or at their request, whether they are making satisfactory progress toward promotion or tenure. Such information shall not be construed as a promise to recommend promotion and/or tenure.
School-Wide Personnel Committees		
School-Wide Personnel committees advise dean of whether P&T candidate has met criteria and whether there are compelling reasons to nonconcur with departmental recommendation.	Same as current Faculty Code.	Same as current Faculty Code.
No specification as to requirements for membership on committee.	Only tenured faculty may serve.	Same as current Faculty Code.
Advice of SWPC not "faculty recommendation."	SWPC issues its own "faculty recommendation."	Same as current Faculty Code.
University-Wide Personnel Committee		
Executive Committee of the Faculty Senate.	University-Wide Personnel Committee (UWPC).	University-Wide Nonconcurrency Committee (UNCC).
Considers Nonconcurrences only.	Considers Nonconcurrences and advice to Provost.	Considers Nonconcurrences only.
Role: (i) determine whether nonconcurrency of dean is supported by "compelling reasons" ; (ii) mediation through recommendations to Faculty and Administration to resolve nonconcurrences; (iii) EC has served as a safeguard to prevent administrative abuse or capricious behavior;	Role: (i) Advise Provost whether nonconcurrency of dean is supported by "compelling reasons" ; (ii) provides advice to Provost on other tenure, promotion matters.	UNCC determines by a majority vote whether an administrative nonconcurrency is supported by one or more "compelling reasons" as defined in Article IV.F.1.
Recommendations of Executive Committee are nonbinding but become a part of departmental and school record.	Recommendations of UWPC are nonbinding and do not become a part of departmental and school record. They are solely for the information of the Provost.	If the UNCC determines that an administrative nonconcurrency is not supported by any compelling reason, the Provost and President must approve the application for tenure or promotion unless the President denies the application based on extraordinary circumstances as defined in Article IV.F.2. In that event, President shall provide a written explanation of the extraordinary circumstances to various parties, including the candidate.
Members all tenured faculty.	Members all tenured faculty.	The nine elected members are tenured faculty, while the Provost appoints two senior administrators.
One member from each school except CPS.	One member from each school except CPS.	One member from each school except CPS.
Members elected by Faculty Senate from a slate of Senators selected by a nominating committee appointed by the Executive Committee of the Faculty Senate.	The Provost, in consultation with the dean of each school and the Faculty Senate Executive Committee, shall for each school nominate a slate of at least two candidates eligible to serve on the UWPC. The tenured and tenure-track faculty members for each school will elect their school's representative from this slate.	Nine members of the UNCC are chosen through elections at the school level, one member from each school, and two members are senior administrators who are designated by Provost. All tenured faculty members are allowed to vote in the school elections. Candidates for the UNCC must be nominated as provided in school rules
Executive Committee members must be elected every year and can serve a maximum of three years.	UWPC members will serve staggered three-year terms, with a maximum of two consecutive terms.	UNCC members will serve staggered three-year terms, with a maximum of two consecutive terms. Following one year of absence from the UNCC, former members may be re-elected.
Review Process		
APT actions <u>generally</u> follow faculty recommendations. Departures from this standard shall be limited to those cases involving compelling reasons.	APT actions shall <u>normally</u> follow faculty recommendations. Departures from this standard, at any level, shall be limited to reasons identified in Section F of Part IV of the FC. Reasons may be "compelling" or not. Unclear.	APT actions normally follow faculty recommendations. Administrative nonconcurrences with faculty recommendations, at any level, shall be based on one or more of the compelling reasons defined in Article IV. F.1 of the Faculty Code. Compelling Reasons for not following the faculty recommendation are: i. Insufficient evidence or inadequate reasons provided by the recommending faculty and

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Faculty Code (FC) & Faculty Organization Plan (FOP)

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		<p>external reviewers that the candidate's body of work meets the standards of excellence in the discipline, as defined by the department or school.</p> <p>ii. Failure to conform to published tenure or promotion policies, procedures, and guidelines.</p> <p>iii. Arbitrary, capricious, or discriminatory action at any point in the process.</p> <p>The President may deny an application for tenure or promotion based on one or more of the following Extraordinary Circumstances:</p> <p>i. The need to terminate an entire program for a reason stated in Part V.D.2. of the Faculty Code.</p> <p>ii. Extraordinary financial exigency as defined in Part V.D.3. of the Faculty Code.</p> <p>iii. Other extraordinary financial or programmatic constraints that would cause the approval of the faculty recommendation to impair the fiscal health of the University.</p>
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Nondiscrimination

Silent on Issue.	Appointments, renewals, terminations, promotions, tenure, compensation, and all other terms and conditions of employment shall be made solely on the basis of merit and without regard to race, color, religion, sex, sexual orientation, natural origin, or other considerations prohibited by law.	Appointments, renewals, terminations, promotions, tenure, compensation, and all other terms and conditions of employment shall be made in accordance with the University Policy on Equal Opportunity.
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FACULTY PARTICIPATION IN THE FACULTY SENATE

CURRENT FOP	WORKING GROUP PROP	FAC SEN Resolution 16/4
Only full-time tenured faculty can serve in the Faculty Senate.	Tenured, Regular Contract, and Specialized Faculty who have attained the rank of Associate Professor or higher can serve in the Faculty Senate.	Tenured and Regular Non-Tenured Faculty can serve in the Faculty Senate. Each Senate member must have served as a full-time GW faculty member for 3 years. In addition: <ol style="list-style-type: none"> 1. Non-Tenured Senate members must attain rank of Associate Professor. 2. The majority of faculty Senate members representing each school must be tenured.
All faculty are eligible to nominate and vote for Senate reps.	All faculty are eligible to nominate and vote for Senate reps.	All faculty are eligible to nominate and vote for Senate reps.

**A RESOLUTION ON RECOMMENDED CHANGES TO THE
FACULTY CODE WITH RESPECT TO DEAN SEARCHES AND REVIEWS
(16/1)**

- WHEREAS,** The University’s Board of Trustees established working groups on university governance in 2014, and one of those working groups (the “Working Group”) recommended sweeping and far-reaching changes to the University’s *Faculty Code* with respect to procedures for dean searches and reviews;
- WHEREAS,** Article IX.A. of the *Faculty Code* provides: “The regular, active-status faculty shares with the officers of administration the responsibility for effective operation of the departments and schools and the University as a whole. . . . The regular, active-status faculty also participates in the formulation of policy and planning decisions affecting the quality of education and life at the University”;
- WHEREAS,** Article III, Section 1 of the *Faculty Organization Plan* provides that (1) the Faculty Senate has authority to “consider any matters of concern or interest to more than one college, school, or division, or to the Faculty, and make its recommendations or otherwise express its opinion with respect thereto, to the [Faculty] Assembly, the President, or through the President to the Board of Trustees;” and (2) the Faculty Senate is “the Faculty agency to which the President initially presents information and which he consults concerning proposed changes in existing policies or promulgation of new policies.”
- WHEREAS,** The *Faculty Code* and the *Faculty Organization Plan* establish a proven and highly successful model of collaborative shared governance between the faculty of the University (the “Faculty”) and the Administration, which has enabled the University to make notable and sustained progress since the 1930s;
- WHEREAS,** The *Faculty Code* and the *Faculty Organization Plan* are matters of great interest and concern to the Faculty because they represent a part of the contract of each member of the Faculty with the University (subject, in the case of certain part-time members of the Faculty, to the terms of a collective bargaining agreement between the University and Service Employees International Union, Local 500),¹ and, in that regard, (1) the inside cover page of the *Faculty Code* declares that it provides “the statement of the rights and privileges, and the responsibilities, of the academic personnel of the University”; and (2) several decisions of courts in the District of Columbia have recognized that the *Faculty Code* constitutes part of a binding and enforceable contract between each member of the Faculty and the University;¹
- WHEREAS,** Pursuant to the University’s unbroken tradition of collaborative shared governance, the Faculty Senate, as the elected representative of the Faculty, has always considered and acted on amendments to the *Faculty Code* that have been proposed by the Administration, the Board of Trustees or other members of the University community before such amendments have been transmitted by the Administration to the Board of Trustees for final consideration and approval;

¹ See *Kyriakopoulos v. George Washington University*, 866 F.2d 438 (D.C. Cir. 1989); *Saha v. George Washington University*, 577 F. Supp. 2d 439 (D.D.C. 2008); *Brown v. George Washington University*, 802 A.2d 382 (D.C. App. 2001); *Kakaes v. George Washington University*, 663 A.2d 128 (D.C. App. 1996).

- WHEREAS,** The Professional Ethics and Academic Freedom (PEAF) Committee is the Standing Committee that has been established and designated by the Faculty Senate, pursuant to Article III., Section 5(c) of the *Faculty Organization Plan*, to review proposed amendments to the *Faculty Code* and to make recommendations concerning such amendments to the Faculty Senate for its consideration;
- WHEREAS,** After receiving the recommendations of the PEAFF Committee (as well as other Standing Committees), it has been the universal and longstanding practice of the University that the Faculty Senate votes to adopt or reject recommended amendments to the *Faculty Code* before such amendments are forwarded to the Administration for transmission to the Board of Trustees for final consideration and approval;
- WHEREAS,** There is no precedent during the University's history in which a substantive change has been made to the *Faculty Code* unless the above-described process of review, recommendation and adoption by the Faculty Senate, as the representative of the Faculty, has first occurred before that change was approved by the Board of Trustees;
- WHEREAS,** The Faculty Senate recognizes that the *Faculty Code* must be updated on a regular basis to meet changing conditions and needs within the University and emerging trends within the academic enterprise more generally, and the Faculty Senate has a long history of considering and recommending amendments to the *Faculty Code* in order to improve the quality of education and academic life within the University;
- WHEREAS,** The PEAFF Committee, the Executive Committee and the Committee on Appointment, Salary and Promotion Policies of the Faculty Senate (collectively, the "Senate Committees") carefully reviewed the proposals by the Working Group for sweeping and far-reaching changes in the *Faculty Code* with respect to procedures for dean searches and reviews, and the Senate Committees informed the Working Group that its proposals were not acceptable unless major modifications were made;
- WHEREAS,** The Working Group largely disregarded the advice of the Senate Committees and presented revised proposals that, if adopted, (1) would significantly impair the primary role of tenured faculty members, and the important role of the regular, full-time faculty as a whole, in dean searches, and (2) would potentially allow the President and the Provost to appoint deans who do not have the confidence of the regular, full-time faculties of their respective schools;
- WHEREAS,** As recognized by Part C.2. of the *Procedures for the Implementation of the Faculty Code*, it is essential to the long-term success of deans and their schools that deans enjoy the confidence of the full-time faculties of their respective schools when they are appointed and retain that confidence during their tenures;
- WHEREAS,** The Senate Committees have therefore jointly recommended amendments to the *Faculty Code* with respect to dean searches and dean reviews, as set forth on Exhibit A attached to this Resolution, and those recommended amendments are substantially different from the Working Group's revised proposals, as shown on

Exhibit B attached to this Resolution (which is marked to show changes from the Working Group's revised proposals);

WHEREAS, The Faculty Senate believes that the amendments to the *Faculty Code* recommended by the Senate Committees would (1) allow additional flexibility for schools in determining the composition of dean search committees and the participation of non-faculty representatives on dean search committees, while retaining the primary and vital role of tenured faculty members on search committees and the important role of the regular, full-time faculty in electing faculty members of search committees and establishing criteria for dean searches, and (2) establish a highly desirable new process for reviewing the performance of deans at least once every three years;

WHEREAS, The Senate Committees and the Faculty Senate have carefully considered the proposals by the Working Group to grant rights to participate in dean searches and dean reviews to full-time Specialized Faculty members;

WHEREAS, The Senate Committees and the Faculty Senate are concerned that Specialized Faculty members have not had an adequate opportunity to consider and express their views on the question of whether they would favor amendments to the *Faculty Code* granting them rights to participate in dean searches and dean reviews even if such amendments might impair their existing potential rights to engage in collective bargaining under the National Labor Relations Act; and,

WHEREAS, The Senate Committees and the Faculty Senate have not had adequate time to perform a survey or to obtain other reliable evidence of the views of Specialized Faculty members on the foregoing question;

WHEREAS, The Senate Committees and the Faculty Senate believe that without such reliable evidence it would not be appropriate to consider any amendments to the *Faculty Code* to grant Specialized Faculty rights to participate in dean searches and dean reviews until such evidence has been obtained and reviewed;

WHEREAS, The Faculty Senate believes that the amendments recommended by the Senate Committees are consistent with the best interests of the University and all of its constituencies and stakeholders (including the Faculty); and

WHEREAS, The Faculty Senate is greatly concerned that any decision by the Board of Trustees to approve changes to the *Faculty Code* that are different from the recommended amendments (as set forth on Exhibit A attached to this Resolution) would be likely to cause great alarm among the Faculty and gravely impair the confidence of the Faculty Senate and the Faculty in the University's Administration and system of shared governance;

NOW, THEREFORE, BE IT RESOLVED BY THE FACULTY SENATE OF THE GEORGE WASHINGTON UNIVERSITY

- (1) That the *Faculty Code* be amended as set forth in Exhibit A attached to this Resolution;
- (2) That the President is requested to submit the proposed amendments to the *Faculty Code* set forth on Exhibit A to the Board of Trustees for final consideration and approval;

- (3) That the Faculty Senate respectfully urges the Board of Trustees not to approve changes to the *Faculty Code* that are different from the amendments set forth on Exhibit A attached to this Resolution without further consultation with and concurrence by the Faculty Senate in keeping with the University's unbroken tradition of collaborative shared governance.

Faculty Senate Committee on Professional Ethics and Academic Freedom
Faculty Senate Committee on Appointment, Salary, and Promotion Policies
Faculty Senate Executive Committee

April 24, 2015

**EXHIBIT A to “A Resolution on Recommended Changes to the *Faculty Code*
With Respect to Dean Searches and Reviews (16/1)**

Faculty Code, Procedures of the Implementation of the Faculty Code, Section C.2(b)

b. Deans

i. Selection

1. Search Committee Composition. When a vacancy in a school’s deanship arises, the regular, full-time faculty of the school shall establish a search committee. The regular, full-time faculty of the school shall approve procedures to govern the composition of the search committee, subject to the following requirements:
 - i. The search committee shall include (a) at least five and not more than nine regular, full-time faculty members elected by the regular, full-time faculty of the school, of whom not more than one may hold an appointment without tenure, (b) the Provost or a representative designated by the Provost, (c) one or two current students, and (d) one or two alumni. The search committee may include other members in accordance with procedures approved by the school’s regular, full-time faculty. The elected faculty members of the search committee shall select one of their group (who must hold a tenured appointment with the rank of professor) as the chair of the search committee.
 - ii. The Chair of the Board of Trustees will appoint one or more trustees (ordinarily one or two) to serve as members of the search committee.
 - iii. The elected faculty members and the appointed trustee(s) shall be voting members of the search committee. In accordance with procedures approved by a school’s regular, full-time faculty, voting rights may be extended to other members, but the composition of the search committee must ensure that the elected faculty members with tenured appointments constitute at least two-thirds of the voting members of the search committee.
 - iv. Each search committee shall establish criteria for the dean search, including a position description, and those criteria shall be approved by the school’s regular, full-time faculty and the Provost prior to the official public announcement of the search.
2. Search Committee Recommendations. The search committee shall recommend candidates for the deanship in a non-prioritized list to the President and Provost.

The President and Provost may specify how many candidates the search committee will recommend, but the maximum number of recommended candidates shall not exceed three without the approval of the school’s regular, full-time faculty. When required by the school’s accreditation standards, the search committee shall obtain the approval of the regular, full-time faculty before recommending any candidate.
- ii. **Continuance.** The Provost will meet with each dean annually to discuss the dean’s past performance and future goals. The Provost shall periodically initiate a comprehensive review of each dean that systematically solicits input from the school’s constituencies, including but not limited to the faculty, senior staff, alumni, and students. The comprehensive review shall include the following steps:
 1. The Provost will discuss with each Dean, at the time of the Dean’s appointment or reappointment, the criteria by which the Provost will review the Dean.

2. The comprehensive review shall occur at least once every three years.
3. The process for the comprehensive review, established by the Provost, shall generally be consistent across schools, subject to adjustment for the differing conditions of each school.
4. After completing a comprehensive review, the Provost shall provide to the school's full-time faculty a summary that describes the conclusions of the review with respect to each of the established criteria for the dean's performance. After receiving the written request of 60 percent or more of the school's full-time faculty, the Provost shall meet with the full-time faculty for the purpose of answering questions and addressing concerns the full-time faculty may have with respect to the dean's performance. The details of the final evaluation shall be conveyed only to the Dean, Provost, President, and the Board of Trustees.

c. Associate Deans, Assistant Deans, and Similar Academic Administrative Officers.

The Dean shall appoint associate deans, assistant deans, and similar officers having responsibility for administering academic programs after receiving the affirmative recommendation of the school's regular, full-time faculty (acting either through an elected committee or a committee of the whole) in accordance with procedures approved by the school's regular, full-time faculty, and after receiving the Provost's approval

d. College of Professional Studies. In the case of a vacancy for the position of Dean, a special faculty committee shall be appointed jointly by the Provost and the deans of the schools whose programs are most directly affected by the College of Professional Studies unless the Provost determines, after consultation with such deans, that a search is not required for the position.

e. No-Confidence. It is essential that such appointees retain the confidence of the faculty concerned. A formal proceeding to question the continued confidence of the faculty of a school in an academic administrative officer shall be instituted only after faculty members have made a reasonable effort to bring the substance of their concerns to the attention of such officers informally or through the Provost's decanal review processes. The formal proceeding shall be conducted as follows:

- i. A petition signed by one-third of the school's regular, full-time faculty shall be submitted to the Chair of the Executive Committee of the Faculty Senate.
- ii. The Chair of the Executive Committee shall call a special meeting of the school's regular, full-time faculty for consideration of the matter. The meeting shall be held within twenty days (on which classes are regularly held in the University) of the time the petition is submitted. Written notice of the meeting shall be given to all regular, full-time faculty members of the school.
- iii. The Chair of the Executive Committee shall preside over the meeting. At this meeting, procedures for balloting shall be determined.
- iv. Within ten days (on which classes are regularly held in the University) of the first special meeting, a secret ballot of the school's regular, full-time faculty shall be taken at a special meeting or by mail on the question of confidence in the administrator in question. The balloting shall be supervised by the Executive Committee of the Faculty Senate.
- v. The affirmative vote of a majority of the school's regular, full-time faculty members shall be necessary for the passage of a vote of no confidence. If the resolution passes, the Chair of the Executive Committee shall forward the results of the vote to the Provost, and the Provost shall take prompt action to address the problems identified by the faculty's vote of no confidence.

EXHIBIT B to “A Resolution on Recommended Changes to the Faculty Code With Respect to Dean Searches and Reviews (16/1)”

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[The following document has been marked to show changes made by the Faculty Senate to the revised Working Group proposals]:

Recommendations to amend the Faculty Code Working Group on Deans Search and Review

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Faculty Code, Procedures of the Implementation of the Faculty Code, Section C.2(b)

b. Deans

i. Selection

1. Search Committee Composition. When a vacancy in a school’s deanship arises, the regular, full-time faculty of the school ~~will form~~shall establish a search committee. The regular, full-time faculty of the school shall approve procedures to govern ~~has discretion to determine~~ the composition of the search committee, subject to these following requirements:
 - i. The search committee ~~must~~shall include (a) at least five and not more than nine regular, full-time faculty members elected by the regular, full-time faculty of the school, of whom not more than one may hold an appointment without tenure, (b) the Provost or a representative designated by the Provost, (c) one or ~~more~~two current students, and (d) one or ~~more~~two alumni. The search committee may include other members, in accordance with procedures approved by ~~at~~the school’s regular, full-time faculty. The elected faculty members of the search committee shall select one of their group (who must hold a tenured appointment with the rank of professor) as the chair of the search committee.
 - ii. ~~In consultation with the Provost, t~~The Chair of the Board of Trustees will appoint one or more trustees (ordinarily one or two) to serve as members of the search committee.
 - iii. ~~The elected Full-time~~ faculty members and the appointed trustee(s) ~~wi~~shall be voting members of the search committee. In accordance with procedures approved by a school’s regular, full-time faculty, voting rights may be extended to other members, but the composition of the search committee must ensure that the elected faculty members with tenured appointments constitute at least two-thirds of the voting members of the search committee.
 - iv. Each search committee shall establish criteria for the dean search, including a position description, ~~which~~and those criteria shall be approved by the school’s regular, full-time faculty and the Provost prior to the official public announcement of the search.
2. Search Committee Recommendations. The search committee ~~will~~shall recommend candidates for the deanship in a non-prioritized list to the President and Provost. The President and Provost may specify how many candidates the search committee will recommend, but the maximum number of recommended candidates shall not exceed three without the approval of the school’s regular, full-time faculty. When required by the school’s accreditation standards, the search committee shall obtain the approval of the regular, full-time faculty before recommending any candidate.

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- ii. **Continuance.** The Provost will meet with each dean annually to discuss the dean’s

past performance and future goals. The Provost ~~will~~shall ~~also~~ periodically initiate a comprehensive review of each dean that systematically solicits input from the school's constituencies, including but not limited to, the faculty, senior staff, of the school, alumni, and students. ~~Review~~The comprehensive review Procedures shall include the following steps:

1. The Provost will discuss with each Dean, at the time of the Dean's appointment or reappointment, the criteria by which the Provost will review the Dean.
2. The comprehensive review ~~wi~~shall occur at least once every three years.
3. The process for the comprehensive review, established by the Provost, shall generally be consistent across schools, subject to adjustment for the differing conditions of each school.
4. After completing a comprehensive review, the Provost will summarize the general conclusion of the review shall provide to the school's full-time faculty a summary that describes the conclusions of the review with respect to each of the established criteria for the dean's performance. After receiving the written request of 60 percent or more of the school's full-time faculty, the Provost shall meet with the full-time faculty for the purpose of answering questions and addressing concerns the full-time faculty may have with respect to the dean's performance.

The details of the final evaluation shall be conveyed only to the Dean, Provost, President, and the Board of Trustees.

c. Associate Deans, Assistant Deans, and Similar Academic Administrative Officers.

The Dean shall appoint associate deans, assistant deans, and similar ~~academic~~

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~~administrative~~ officers having responsibility for administering academic programs after receiving the affirmative recommendation of the school's regular, full-time faculty (acting either through an elected committee or a committee of the whole) in accordance with procedures approved by the school's regular, full-time faculty, and ~~with~~ after receiving the Provost's approval.

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d. College of Professional Studies. In the case of a vacancy for the position of Dean, a special faculty committee shall be appointed jointly by the Provost and the deans of the schools whose programs are most directly affected by the College of Professional Studies ~~when~~ unless the Provost determines, after consultation with such deans, that a search is not required for the position.

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e. No-Confidence. It is ~~important~~ essential that such appointees retain the confidence of the faculty concerned. A formal proceeding to question the continued confidence of the faculty of a school in an academic administrative officer shall be instituted only after faculty members have made a reasonable effort to bring the substance of their concerns to the attention of such officers informally or through the Provost's decanal review processes. The formal proceeding shall be conducted as follows:

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- i. A petition signed by one-third of the school's regular, full-time faculty shall be submitted to the Chair of the Executive Committee of the Faculty Senate.
- ii. The Chair of the Executive Committee shall call a special meeting of the school's regular, full-time faculty for consideration of the matter. The meeting shall be held within twenty days (on which classes are regularly held in the University) of the time the petition is submitted. ~~Written~~ Notice of the meeting shall be given to all regular, full-time faculty members of the school eligible to vote on the matter.
- iii. The Chair of the Executive Committee shall preside over the meeting. At this meeting, procedures for balloting shall be determined.
- iv. Within ten days (on which classes are regularly held in the University) of the first special meeting, a secret ballot of the school's regular, full-time faculty shall be taken at a special meeting or by mail on the question of confidence in the administrator in question. The balloting shall be supervised by the Executive Committee of the Faculty Senate.
- v. The affirmative vote of a majority of the school's regular, full-time faculty members eligible to vote in the school shall be necessary for the passage of a vote of no confidence. If the resolution passes, the Chair of the Executive Committee shall forward the results of the vote proceedings to the Provost, and the Provost shall take prompt action to address the problems identified by the faculty's vote of no confidence.

**A RESOLUTION ON RECOMMENDED CHANGES TO THE
FACULTY CODE WITH RESPECT TO SCHOOL FACULTY
COMPOSITION AND GOVERNANCE (16/2)**

- WHEREAS,** The University’s Board of Trustees established working groups on university governance in 2014, and one of those working groups (the “Working Group”) recommended sweeping and far-reaching changes to the University’s *Faculty Code* with respect to the composition of school faculties and the participation of various categories of faculty members in school governance;
- WHEREAS,** Article IX.A. of the *Faculty Code* provides: “The regular, active-status faculty shares with the officers of administration the responsibility for effective operation of the departments and schools and the University as a whole. . . . The regular, active-status faculty also participates in the formulation of policy and planning decisions affecting the quality of education and life at the University”;
- WHEREAS,** Article III, Section 1 of the *Faculty Organization Plan* provides that (1) the Faculty Senate has authority to “consider any matters of concern or interest to more than one college, school, or division, or to the Faculty, and make its recommendations or otherwise express its opinion with respect thereto, to the [Faculty] Assembly, the President, or through the President to the Board of Trustees;” and (2) the Faculty Senate is “the Faculty agency to which the President initially presents information and which he consults concerning proposed changes in existing policies or promulgation of new policies.”
- WHEREAS,** The *Faculty Code* and the *Faculty Organization Plan* establish a proven and highly successful model of collaborative shared governance between the faculty of the University (the “Faculty”) and the Administration, which has enabled the University to make notable and sustained progress since the 1930s;
- WHEREAS,** The *Faculty Code* and the *Faculty Organization Plan* are matters of great interest and concern to the Faculty because they represent a part of the contract of each member of the Faculty with the University (subject, in the case of certain part-time members of the Faculty, to the terms of a collective bargaining agreement between the University and Service Employees International Union, Local 500),¹ and, in that regard, (1) the inside cover page of the *Faculty Code* declares that it provides “the statement of the rights and privileges, and the responsibilities, of the academic personnel of the University”; and (2) several decisions of courts in the District of Columbia have recognized that the *Faculty Code* constitutes part of a binding and enforceable contract between each member of the Faculty and the University;¹
- WHEREAS,** Pursuant to the University’s unbroken tradition of collaborative shared governance, the Faculty Senate, as the elected representative of the Faculty, has always considered and acted on amendments to the *Faculty Code* that have been proposed by the Administration, the Board of Trustees or other members of the

¹ See *Kyriakopoulos v. George Washington University*, 866 F.2d 438 (D.C. Cir. 1989); *Saha v. George Washington University*, 577 F. Supp. 2d 439 (D.D.C. 2008); *Brown v. George Washington University*, 802 A.2d 382 (D.C. App. 2001); *Kakaes v. George Washington University*, 663 A.2d 128 (D.C. App. 1996).

University community before such amendments have been transmitted by the Administration to the Board of Trustees for final consideration and approval;

WHEREAS, The Professional Ethics and Academic Freedom (PEAF) Committee is the Standing Committee that has been established and designated by the Faculty Senate, pursuant to Article III., Section 5(c) of the *Faculty Organization Plan*, to review proposed amendments to the *Faculty Code* and to make recommendations concerning such amendments to the Faculty Senate for its consideration;

WHEREAS, After receiving the recommendations of the PEAFF Committee (as well as other Standing Committees), it has been the universal and longstanding practice of the University that the Faculty Senate votes to adopt or reject recommended amendments to the *Faculty Code* before such amendments are forwarded to the Administration for transmission to the Board of Trustees for final consideration and approval;

WHEREAS, There is no precedent during the University's history in which a substantive change has been made to the *Faculty Code* unless the above-described process of review, recommendation and adoption by the Faculty Senate, as the representative of the Faculty, has first occurred before that change was approved by the Board of Trustees;

WHEREAS, The Faculty Senate recognizes that the *Faculty Code* must be updated on a regular basis to meet changing conditions and needs within the University and emerging trends within the academic enterprise more generally, and the Faculty Senate has a long history of considering and recommending amendments to the *Faculty Code* in order to improve the quality of education and academic life within the University;

WHEREAS, The PEAFF Committee, the Executive Committee and the Committee on Appointment, Salary and Promotion Policies of the Faculty Senate (collectively, the "Senate Committees") carefully reviewed the proposals by the Working Group for sweeping and far-reaching changes in the *Faculty Code* with respect to school faculty composition and governance, and the Senate Committees informed the Working Group that its proposals were not acceptable unless major modifications were made;

WHEREAS, The Working Group largely disregarded the advice of the Senate Committees and presented revised proposals that, if adopted, (1) would be likely to reduce significantly the percentages of tenured and tenure-accruing faculty that are currently required by the *Faculty Code* for schools and departments, thereby severely weakening the primary role of tenured and tenure-accruing faculty in the governance of schools and departments, and (2) would permit schools and departments to hire unlimited numbers of full-time faculty members holding specialized appointments, which lack the financial and professional independence needed to ensure that those faculty members could engage in robust and meaningful policy discussions with members of the Administration without fearing for their future job security;

WHEREAS, If adopted, the Working Group's revised proposals to reduce significantly the percentages of tenured and tenure-accruing faculty required by the *Faculty Code*

for schools and departments would permit an outcome that is directly contrary to the University's current Strategic Plan, which identifies as a primary goal the need to "[e]xpand and improve our research and teaching," and also states: "In recent decades, our student body has grown more rapidly than our tenure-line faculty. Over the coming decade, we need to reverse this trend";²

WHEREAS, The Senate Committees have therefore jointly recommended amendments to the *Faculty Code* with respect to school faculty composition and governance, as set forth in Exhibit A attached to this Resolution, and those recommended amendments are substantially different from the Working Group's revised proposals, as shown on Exhibit B attached to this Resolution (which is marked to show changes from the Working Group's revised proposals);

WHEREAS, The Faculty Senate believes that the amendments to the *Faculty Code* recommended by the Senate Committees would allow additional flexibility for schools and departments in determining the composition of their faculties and the rights of different categories of faculty members to participate in school and department governance, while retaining the primary and vital role of tenured and tenure-accruing faculty in advancing the University's research and instructional goals;

WHEREAS, The Senate Committees and the Faculty Senate have carefully considered the proposals by the Working Group to grant to Specialized Faculty members governance rights in schools and departments;

WHEREAS, The Senate Committees and the Faculty Senate are concerned that Specialized Faculty members have not had an adequate opportunity to consider and express their views on the question of whether they would favor amendments to the *Faculty Code* granting them governance rights in schools and departments even if such amendments might impair their existing potential rights to engage in collective bargaining under the National Labor Relations Act; and,

WHEREAS, The Senate Committees and the Faculty Senate have not had adequate time to perform a survey or to obtain other reliable evidence of the views of Specialized Faculty members on the foregoing question;

WHEREAS, The Senate Committees and the Faculty Senate believe that without such reliable evidence it would not be appropriate to consider any amendments to the *Faculty Code* to grant Specialized Faculty governance rights in schools and departments until such evidence has been obtained and reviewed;

WHEREAS, The Faculty Senate believes that the amendments recommended by the Senate Committees are consistent with the best interests of the University and all of its constituencies and stakeholders (including the Faculty); and

WHEREAS, The Faculty Senate is greatly concerned that any decision by the Board of Trustees to approve changes to the *Faculty Code* that are different from the recommended amendments (as set forth on Exhibit A attached to this Resolution) would be likely to cause great alarm among the Faculty and gravely impair the

² "Vision 2021: A Strategic Plan for the Third Century of The George Washington University," page 29, available at https://provost.gwu.edu/sites/provost.gwu.edu/files/downloads/Strategic%20Plan_May13.pdf

confidence of the Faculty Senate and the Faculty in the University's Administration and system of shared governance;

NOW, THEREFORE, BE IT RESOLVED BY THE FACULTY SENATE OF THE GEORGE WASHINGTON UNIVERSITY

- (1) That the *Faculty Code* be amended as set forth in Exhibit A attached to this Resolution;
- (2) That the President is requested to submit the proposed amendments to the *Faculty Code* set forth on Exhibit A to the Board of Trustees for final consideration and approval;
- (3) That the Faculty Senate respectfully urges the Board of Trustees not to approve changes to the *Faculty Code* that are different from the amendments set forth on Exhibit A attached to this Resolution without further consultation with and concurrence by the Faculty Senate in keeping with the University's unbroken tradition of collaborative shared governance.

Faculty Senate Committee on Professional Ethics and Academic Freedom
Faculty Senate Committee on Appointment, Salary, and Promotion Policies
Faculty Senate Executive Committee

April 24, 2015

**EXHIBIT A to “A Resolution on Recommended Changes to the *Faculty Code*
With Respect to School Faculty Composition and Governance” (16/2)**

Faculty Code, Article I

The grades of academic personnel are:

- A. **Retired Status:** University professor emeritus, professor emeritus, professor emeritus in residence, associate professor emeritus, associate professor emeritus in residence, and retired (in any given rank for age or disability).
- B. **Regular Faculty:** Regular Faculty are full-time faculty members with the title of University professor, professor, associate professor, assistant professor, and instructor who are tenured or tenure-accruing, and non-tenure-accruing faculty who are currently on a renewable contract, do not hold either a regular or tenured appointment at another university, have a nine or twelve month appointment and have contractual responsibilities for all of the following areas: research, teaching and service. At least 75 percent of the regular, full-time faculty members in each school shall hold tenured or tenure-accruing appointments, and at least 50 percent of the regular, full-time faculty members in each department of a departmentalized school shall hold tenured or tenure-accruing appointments. The foregoing percentage requirements shall not apply to the faculties of the School of Medicine and Health Sciences, the School of Nursing, and the College of Professional Studies.
- C. **Specialized Faculty:** Specialized Faculty are faculty members with the title of professor, associate professor, assistant professor, and instructor who are currently on a renewable nine or twelve month contract, do not hold either a regular or tenured appointment at another university, and have contractual responsibilities for one or two of the following areas: research, teaching and service. Specialized Faculty include but are not limited to Research Faculty and Teaching Faculty, and their titles should ordinarily include designations indicating their specialized status, such as “research” or “teaching” or other designations approved by the Provost. The number of full-time Specialized Faculty in each school shall not exceed 25 percent of the total number of full-time faculty members in that school. The foregoing percentage limitation shall not apply to the faculties of the School of Medicine and Health Sciences, the School of Nursing, and the College of Professional Studies.
- D. **Visiting Faculty:** Visiting Faculty are faculty members with the title of visiting professor, visiting associate professor, visiting assistant professor, and visiting instructor. Visiting faculty hold limited term appointments approved by the Provost and, due to the temporary nature of their appointments, do not have any of the governance rights described by the Faculty Code unless such rights are expressly granted.
- E. **Part Time Faculty:** Part Time Faculty are faculty members with a title of adjunct professor, adjunct associate professor, adjunct assistant professor, adjunct instructor, clinical professor, professorial lecturer, associate clinical professor, associate professorial lecturer, assistant clinical professor, assistant professorial lecturer, clinical instructor, lecturer, studio instructor, and special instructor, who are on a fixed

semester or 9-month appointment (that may or may not be subject to reappointment), including but not limited to Part Time Faculty subject to a Collective Bargaining Agreement. This Faculty Code does not apply to Part Time Faculty covered under the terms of a Collective Bargaining Agreement except to the extent expressly provided in the Collective Bargaining Agreement.

F. **Secondary and Courtesy Appointments:** A faculty member holding a regular faculty appointment in one department or school may be granted a secondary or courtesy appointment in another department or school for a specified term. A secondary or courtesy appointment shall require the recommendation of the appropriate faculty and officers of administration of the unit granting that appointment and shall comply with rules and procedures for such appointments established by the unit granting that appointment and by the Provost. A secondary or courtesy appointment is not a regular, faculty appointment and does not automatically confer any of the rights provided by the Faculty Code and the Faculty Organization Plan to participate in faculty governance in the unit granting that appointment. Unlike a courtesy appointment, a secondary appointment shall allow a faculty member to exercise one or more specified governance privileges in the faculty unit granting the appointment, but such privileges shall be approved by that unit's regular faculty. A secondary or courtesy appointment terminates automatically upon the expiration of its specified term or upon termination of the faculty member's regular appointment. This paragraph does not affect the terms, conditions, and designations of secondary and courtesy appointments in existence as of May 1, 2008.

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*Faculty Code, Procedures for the Implementation of the Faculty Code, Section
A*

A. Governance of Departments and Schools*

The regular, full-time faculty of each department, school, or comparable educational division shall establish written procedures, rules and criteria for the governance of that unit. All school, department, or comparable educational division's procedures shall be consistent with the Faculty Code and the Faculty Organization Plan.

All school procedures, rules, and criteria shall be reviewed by the Faculty Senate Executive Committee and approved by the Provost.

All school procedures, rules and criteria, shall at a minimum provide:

1. The administrative and academic divisions of the school
2. Steps for enacting procedures, rules, and criteria of the school, such as the appointment of school administrators with faculty appointments
3. Elections (or appointments) to, and responsibilities of, standing committees and faculty advisory councils (as appropriate)
4. Policies and procedures for maintaining academic standards such as:

- a. Determining standards for graduation
 - b. Reviewing curricula, including new academic programs
 - c. Resolving student allegations of arbitrary or capricious academic evaluation
5. Policies and procedures for reviewing and approving procedures, rules and criteria of departments or comparable educational divisions
6. Policies and procedures for appointment, periodic performance review, promotion, and/or tenure of faculty (as appropriate based on their position)

*In the governance of the School of Medicine and Health Sciences, all faculty of that School who are eligible for membership in the Faculty Assembly shall be eligible to participate whenever the term “regular” faculty appears in this document.

EXHIBIT B to “A Resolution on Recommended Changes to the *Faculty Code*

With Respect to School Faculty Composition and Governance” (16/2)

[The following document is marked to show changes approved by the Faculty Senate to the Working Group’s revised proposals];

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**Recommendations to amend the *Faculty Code*
Working Group on School Rules and Procedures**

Faculty Code, Section I

The grades of academic personnel are:

- A. **Retired Status:** University professor emeritus, professor emeritus, professor emeritus in residence, associate professor emeritus, associate professor emeritus in residence, and retired (inf any given rank for age or disability).
- B. **Regular Faculty:** Regular Faculty are full-time faculty members with the title of University professor, professor, associate professor, assistant professor, and instructor who are tenured or tenure-accruing, and non-tenure-accruing faculty who are currently on a presumptively renewable contract, do not hold either a regular or tenured appointment at another university, have a nine or twelve month appointment and who have contractual responsibilities for all of the following areas: research, teaching and service. Each school shall set as a goal that At least 75% percent of its the regular, full-time faculty members in each school shall hold tenured or tenure-accruing appointments, and at least 50 percent of the regular, full-time faculty members in each department of a departmentalized school shall hold tenured or tenure-accruing appointments. The foregoing percentage requirements shall not apply to the faculties of the School of Medicine and Health Sciences, the School of Nursing, and the College of Professional Studies. A school, with the support of the majority of its regular faculty, may request a different percentage as a goal. In such cases, the requested percentage change of tenure-accruing appointments shall be requested of the Provost, in consultation with the Executive Committee of the Faculty Senate. Any school not in compliance with the percentage established for it as a goal by this provision or through an agreement with the Provost shall submit, on an annual basis, a report to the Provost and to the Executive Committee of the Faculty Senate notifying them of the situation and outlining any steps planned to bring it into compliance.
- C. **Specialized Faculty:** Specialized Faculty are faculty members with the title of professor, associate professor, assistant professor, and instructor who are currently on a presumptively renewable nine or twelve month contract, do not hold either a regular or tenured appointment at another university, and who have contractual responsibilities for one or two of the following areas: research, teaching and service. Specialized Faculty include but are not limited to Clinical Faculty, Research Faculty, and Teaching Faculty, and their titles should ordinarily include designations indicating their specialized status, such as “research” or “teaching” or other designations approved by the Provost. The number of full-time Specialized Faculty in each school shall not exceed 25 percent of the total

number of full-time faculty members in that school. The foregoing percentage limitation shall not apply to the faculties of the School of Medicine and Health Sciences, the School of Nursing, and the College of Professional Studies.

D. Visiting Faculty: Visiting Faculty are faculty members with the title of visiting professor, visiting associate professor, visiting assistant professor, and visiting instructor. Visiting faculty hold limited term appointments approved by the Provost and, due to the temporary nature of their appointments, do not have any of the governance rights described by the Faculty Code unless such rights are expressly granted.

E. Part Time Faculty: Part Time Faculty are faculty members with a title of adjunct professor, adjunct associate professor, adjunct assistant professor, adjunct instructor, clinical professor, professorial lecturer, associate clinical professor, associate professorial lecturer, assistant clinical professor, assistant professorial lecturer, clinical instructor, lecturer, studio instructor, and special instructor, who are on a fixed semester or 9-month appointment (that may or may not be subject to reappointment), including but not limited to Part Time Faculty subject to a Collective Bargaining Agreement. This Faculty Code does not apply to Part Time Faculty covered under the terms of a Collective Bargaining Agreement except to the extent expressly provided in the Collective Bargaining Agreement.

DE. Secondary and Courtesy Appointments: A faculty member holding a regular faculty appointment in one department or school may be granted a secondary or courtesy appointment in another department or school for a specified term. A secondary or courtesy appointment shall require the recommendation of the appropriate faculty and officers of administration of the unit granting that appointment and shall comply with rules and procedures for such appointments established by the unit granting that appointment and by the Provost. A secondary or courtesy appointment is not a regular, faculty appointment and does not automatically confer any of the rights provided by the Faculty Code and the Faculty Organization Plan to participate in faculty governance in the unit granting that appointment. Unlike a courtesy appointment, a secondary

appointment shall allow a faculty member to exercise one or more specified governance privileges in the faculty unit granting the appointment, but such privileges shall be approved by that unit's regular faculty. A secondary or courtesy appointment terminates automatically upon the expiration of its specified term or upon termination of the faculty member's regular appointment. This paragraph does not affect the terms, conditions, and designations of secondary and courtesy appointments in existence as of May 1, 2008.

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Faculty Code, Procedures for the Implementation of the Faculty Code, Section A

A. Governance of Departments and Schools*

The regular, full-time faculty of each department, school, or comparable educational division shall establish written procedures, rules and criteria for the governance of that unit. All school, department, or comparable educational division's procedures shall be consistent with the Faculty Code and the Faculty Organization Plan.

All school procedures, rules, and criteria shall be reviewed by the Faculty Senate Executive Committee and approved by the Provost.

All school procedures, rules and criteria, shall at a minimum provide:

1. The administrative and academic divisions of the school
2. Steps for enacting procedures, rules, and criteria of the school, such as the appointment of school administrators with faculty appointments
3. Elections (or appointments) to, and responsibilities of, standing committees and faculty advisory councils (as appropriate)
4. Policies and procedures for maintaining academic standards such as:
 - a. Determining standards for graduation
 - b. Reviewing curricula, including new academic programs
 - c. Resolving student allegations of arbitrary or capricious academic evaluation
5. Policies and procedures for reviewing and approving ~~rules and~~ procedures, rules and criteria of departments, or comparable educational divisions
6. Policies and procedures for appointment, periodic performance review, promotion, and/or tenure of faculty (as appropriate based on their position)

*In the governance of the School of Medicine and Health Sciences, all faculty of that School who are eligible for membership in the Medical Center Faculty Assembly shall be eligible to participate whenever the term "regular" faculty" appears in this document.

**A RESOLUTION ON RECOMMENDED CHANGES TO THE
FACULTY CODE WITH RESPECT TO TENURE AND PROMOTION
STANDARDS AND PROCEDURES (16/3)**

WHEREAS, The University’s Board of Trustees established working groups on university governance in 2014, and one of those working groups (the “Working Group”) recommended sweeping and far-reaching changes to the University’s *Faculty Code* with respect to standards and procedures for approving applications for tenure and promotion;

WHEREAS, Article IX.A. of the *Faculty Code* provides: “The regular, active-status faculty shares with the officers of administration the responsibility for effective operation of the departments and schools and the University as a whole. . . . The regular, active-status faculty also participates in the formulation of policy and planning decisions affecting the quality of education and life at the University”;

WHEREAS, Article III, Section 1 of the *Faculty Organization Plan* provides that (1) the Faculty Senate has authority to “consider any matters of concern or interest to more than one college, school, or division, or to the Faculty, and make its recommendations or otherwise express its opinion with respect thereto, to the [Faculty] Assembly, the President, or through the President to the Board of Trustees;” and (2) the Faculty Senate is “the Faculty agency to which the President initially presents information and which he consults concerning proposed changes in existing policies or promulgation of new policies.”

WHEREAS, The *Faculty Code* and the *Faculty Organization Plan* establish a proven and highly successful model of collaborative shared governance between the faculty of the University (the “Faculty”) and the Administration, which has enabled the University to make notable and sustained progress since the 1930s;

WHEREAS, The *Faculty Code* and the *Faculty Organization Plan* are matters of great interest and concern to the Faculty because they represent a part of the contract of each member of the Faculty with the University (subject, in the case of certain part-time members of the Faculty, to the terms of a collective bargaining agreement between the University and Service Employees International Union, Local 500),¹ and, in that regard, (1) the inside cover page of the *Faculty Code* declares that it provides “the statement of the rights and privileges, and the responsibilities, of the academic personnel of the University”; and (2) several decisions of courts in the District of Columbia have recognized that the *Faculty Code* constitutes part of a binding and enforceable contract between each member of the Faculty and the University;¹

WHEREAS, Pursuant to the University’s unbroken tradition of collaborative shared governance dealing with policies governing the Faculty’s responsibilities, rights and privileges, the Faculty Senate, as the elected representative of the Faculty, has always considered and acted on amendments to the *Faculty Code* that have been

¹ See *Kyriakopoulos v. George Washington University*, 866 F.2d 438 (D.C. Cir. 1989); *Saha v. George Washington University*, 577 F. Supp. 2d 439 (D.D.C. 2008); *Brown v. George Washington University*, 802 A.2d 382 (D.C. App. 2001); *Kakaes v. George Washington University*, 663 A.2d 128 (D.C. App. 1996).

proposed by the Administration, the Board of Trustees or other members of the University community before such amendments have been transmitted by the Administration to the Board of Trustees for final consideration and approval;

WHEREAS, The Professional Ethics and Academic Freedom (PEAF) Committee is the Standing Committee that has been established and designated by the Faculty Senate, pursuant to Article III., Section 5(c) of the *Faculty Organization Plan*, to review proposed amendments to the *Faculty Code* and to make recommendations concerning such amendments to the Faculty Senate for its consideration;

WHEREAS, After receiving the recommendations of the PEAF Committee (as well as other Standing Committees), it has been the universal and longstanding practice of the University that the Faculty Senate votes to adopt or reject recommended amendments to the *Faculty Code* before such amendments are forwarded to the Administration for transmission to the Board of Trustees for final consideration and approval;

WHEREAS, There is no precedent during the University's history in which a substantive change has been made to the *Faculty Code* unless the above-described process of review, recommendation and adoption by the Faculty Senate, as the representative of the Faculty, has first occurred before that change was approved by the Board of Trustees;

WHEREAS, The Faculty Senate recognizes that the *Faculty Code* must be updated on a regular basis to meet changing conditions and needs within the University and emerging trends within the academic enterprise more generally, and the Faculty Senate has a long history of considering and recommending amendments to the *Faculty Code* in order to improve the quality of education and academic life within the University;

WHEREAS, The PEAF Committee, the Executive Committee and the Committee on Appointment, Salary and Promotion Policies of the Faculty Senate (collectively, the "Senate Committees") carefully reviewed the proposals by the Working Group for sweeping and far-reaching changes in the *Faculty Code* with respect to standards and procedures for approving applications for tenure and promotion, and the Senate Committees informed the Working Group that its proposals were not acceptable unless major modifications were made;

WHEREAS, The Working Group largely disregarded the advice of the Senate Committees and presented revised proposals that, if adopted, (1) would severely weaken the long-established role of the Faculty (especially departmental faculties in departmentalized schools) in presenting recommendations for tenure and promotion, and (2) would permit the Administration to overrule faculty recommendations for promotion and tenure without satisfying the "compelling reasons" standard currently embodied in the *Faculty Code*;

WHEREAS, The Senate Committees have therefore jointly recommended amendments to the *Faculty Code* with respect to standards and procedures for tenure and promotion, as set forth in Exhibit A attached to this Resolution, and those recommended amendments are substantially different from the Working Group's revised

proposals, as shown on Exhibit B attached to this Resolution (which is marked to show changes to the Working Group's revised proposals);

WHEREAS, The Faculty Senate believes that the amendments to the *Faculty Code* recommended by the Senate Committees would accomplish the most important goals identified by the Working Group, including (1) increasing the standards for tenure and promotion from "competence" to "excellence" in research, teaching and service; (2) clarifying and improving the procedures for adopting faculty recommendations and resolving administrative nonconcurrences with faculty recommendations; and (3) relieving the Board of Trustees from their current duty of making final determinations in appeals from tenure and promotion decisions;

WHEREAS, The Faculty Senate believes that the amendments recommended by the Senate Committees are consistent with the best interests of the University and all of its constituencies and stakeholders (including the Faculty), and would help to advance the University's stated goals to "[e]xpand and improve our research and teaching"² and "to match the excitement of discovery and excellence of instruction with superior research";³ and

WHEREAS, The Faculty Senate is greatly concerned that any decision by the Board of Trustees to approve changes to the *Faculty Code* that are different from the recommended amendments (as set forth on Exhibit A attached to this Resolution) would be likely to cause great alarm among the Faculty and gravely impair the confidence of the Faculty Senate and the Faculty in the University's Administration and system of shared governance;

NOW, THEREFORE, BE IT RESOLVED BY THE FACULTY SENATE OF THE GEORGE WASHINGTON UNIVERSITY

- (1) That the *Faculty Code* be amended as set forth in Exhibit A attached to this Resolution;
- (2) That the President is requested to submit the proposed amendments to the *Faculty Code* set forth on Exhibit A to the Board of Trustees for final consideration and approval;
- (3) That the Faculty Senate respectfully urges the Board of Trustees not to approve changes to the *Faculty Code* that are different from the amendments set forth on Exhibit A attached to this Resolution without further consultation with and concurrence by the Faculty Senate in keeping with the University's unbroken tradition of collaborative shared governance.

Faculty Senate Committee on Professional Ethics and Academic Freedom
Faculty Senate Committee on Appointment, Salary, and Promotion Policies
Faculty Senate Executive Committee

April 24, 2015

² "Vision 2021: A Strategic Plan for the Third Century of The George Washington University," page 29, available at https://provost.gwu.edu/sites/provost.gwu.edu/files/downloads/Strategic%20Plan_May13.pdf.

³ See "GW Overview: University Priorities - Research," available at <http://www.gwu.edu/university-priorities>.

EXHIBIT A to “A Resolution on Recommended Changes to the *Faculty Code* With Respect to Tenure and Promotion Standards and Procedures” (16/3)

Faculty Code, Section IV.B

B. Promotion

1. Promotion to the ranks of associate professor and professor is granted by the university to faculty members who have achieved excellence in their disciplines through their contributions to research, scholarship, or creative work in the arts (hereinafter *scholarship*), teaching, and engagement in service, and who demonstrate the potential to continue to do so, so that the university may advance its mission of scholarship, higher education, and service to the community. Each school, and each department in a departmentalized school, shall define, establish and publish criteria for excellence consistent with this Paragraph B.1. The university seeks to apply the highest standards of academic rigor in evaluating faculty members for promotion. Promotion to professor is reserved for those who have established a record since promotion to associate professor that demonstrates a sustained, high level of distinction in their field through scholarly contributions, excellence in teaching, and active engagement in service. In addition, it is expected that the candidates’ record of scholarship, teaching, and service provide confidence that they will continue to contribute in all these areas at a level of excellence in a pattern of sustained development and substantial growth in achievement and productivity. Time served in the rank of associate professor is not a sufficient basis for promotion.
2. Each school shall establish and publish written criteria, consistent with paragraph B.1, on which promotion to the ranks of associate professor and professor will be based, including any appropriate distinctions between the criteria for tenure-track and tenured faculty and those for non-tenure track faculty members due to the different nature of their appointments. Each department shall define, establish and publish additional written criteria for promotion, consistent with Paragraph B.1 and with the written criteria established and published by the relevant school. Each school and department shall also establish and publish the procedures used for making promotion decisions and for appointing tenured faculty members. The procedures should provide for informing faculty members periodically, or at their request, whether they are making satisfactory progress toward promotion. Such information shall not be construed as a promise to recommend promotion. Each faculty member has the prerogative to determine whether and when to request consideration for promotion to the rank of professor. Recommendations for promotion originate from the faculty – for departmentalized schools, from the faculty of the relevant department, after application by the candidate. Faculty recommendations must be based on substantial evidence of excellence based on the criteria stated in Paragraph B.1 and the additional criteria established and published by the relevant school and department.

3. As general practice, a promotion shall be accompanied by an appropriate increase in salary.

C. Tenure

1. Recognizing the university's commitment when it grants tenure and the university's mission as a preeminent research university, tenure is reserved for members of the faculty who demonstrate excellence in scholarship, teaching, and engagement in service and who show promise of continued excellence. Each school, and each department in a departmentalized school, shall define, establish and publish criteria for excellence consistent with this Paragraph C.1. Excellence in teaching and engagement in service are prerequisites for tenure, but they are not in themselves sufficient grounds for tenure. Tenure is reserved for faculty members whose scholarly accomplishments are distinguished in their fields, and a candidate's record must compare favorably with that of candidates in similar stages in their careers at peer research universities in the candidate's field. Upon a specific showing that the academic needs of the University have changed with respect to a particular position, that factor may be considered in determining whether tenure shall be granted. The granting of tenure is generally accompanied by promotion to associate professor.
2. Each school shall establish and publish written criteria, consistent with Paragraph C.1, on which the recommendation for tenure will be based. Each department shall define, establish and publish additional written criteria for tenure, consistent with Paragraph C.1 and with the criteria established and published by the relevant school. In addition, each school and each department shall establish and publish written procedures for making decisions concerning tenure and for hiring tenured faculty at the rank of associate professor or professor. Recommendations for tenure originate from the faculty—for departmentalized schools, from the faculty of the relevant department. Faculty recommendations must be based on substantial evidence of excellence based on the criteria stated in Paragraph C.1 and the additional criteria published by the relevant school and department.
3. So that faculty members may assess their potential for achieving tenure, each school, or each and every one of a school's departments, shall establish and publish written procedures to provide reviews to guide faculty members concerning progress toward tenure. Reviews do not constitute a commitment to recommend tenure. Such reviews may be satisfied by, but need not be limited to, evaluations of annual reports and mid-tenure reviews, which should be communicated to the faculty member.

D. School-Wide Personnel Committees

[RETAIN EXISTING SECTION IV.D. OF THE CURRENT *FACULTY CODE*]

E. University-Wide Nonconcurrency Committee

1. Structure
 - i. The university shall establish a University-Wide Nonconcurrency Committee to review and make a determination with respect to each tenure, promotion and appointment with tenure case in which the Provost has nonconcurred, or has upheld a nonconcurrency by the dean, with a faculty recommendation.
 - ii. The University-Wide Nonconcurrency Committee shall be composed of (1) nine tenured faculty members, each with the rank of professor, with one

member elected by each of the university's schools other than the College of Professional Studies, and (2) two senior administrators (who may be faculty members) designated by the Provost. The President and Provost; vice presidents, associate vice presidents, and assistant vice presidents; vice provosts and associate vice provosts; deans, associate deans, and assistant deans shall be ineligible to serve as elected faculty members of the Committee.

- iii. Elected faculty members of the University-Wide Nonconcurrency Committee shall be nominated and elected by the tenured faculty of their respective schools in accordance with procedures approved by the tenured faculty of each school. Any school with fewer than six tenured faculty members may obtain permission from the Faculty Senate Executive Committee to elect an untenured faculty member to serve on the Committee.
- iv. Elected faculty members of the University-Wide Nonconcurrency Committee shall serve staggered three-year terms, with a maximum of two consecutive terms. Members rendered ineligible due to their service for two consecutive terms shall be deemed eligible for nomination and re-election following one year of absence from the Committee.
- v. The elected faculty members of the University-Wide Nonconcurrency Committee shall elect one of their number annually to serve as Chair of the Committee.
- vi. If an elected member of the University-Wide Nonconcurrency Committee is unable to complete his or her term, the tenured faculty of the relevant school shall nominate and elect a replacement member to complete that term, in accordance with the provisions of this Paragraph E.1.
- vii. If a University-Wide Nonconcurrency Committee member belongs to the same department as a candidate for tenure or promotion, or has a conflict of interest, the member shall be recused from voting but may participate in the discussion of the case. That a Committee member belongs to the same school as a candidate does not by itself create a conflict of interest.

2. Responsibilities

- i. The Provost shall refer to the University-Wide Nonconcurrency Committee for its consideration and determination each tenure, promotion, and appointment with tenure case in which the Provost has nonconcurred, or has upheld a nonconcurrency by a dean, with a faculty recommendation as provided in Paragraph B.7 of the Procedures for the Implementation of the Faculty Code. In each such case, the Committee shall determine whether the administrative nonconcurrency is supported by one or more of the compelling reasons defined in Paragraph F.1 below. The Provost shall bear the burden of persuasion on that question.
- ii. The University-Wide Nonconcurrency Committee shall make its determination in accordance with the procedures set forth in Paragraph E.3 below.

3. Procedures

- i. The Provost shall provide the University-Wide Nonconcurrency Committee with the relevant dossiers for all cases indicated in Paragraph E.2 above. The Committee may request additional information, advice or

documentation, which the Provost shall provide or assist in providing to the extent practicable.

- ii. The University-Wide Nonconcurrency Committee shall determine, and shall advise the Provost in writing, whether the administrative nonconcurrency is supported by one or more of the compelling reasons defined in Section F.1 below. If the Committee determines that the administrative nonconcurrency is not supported by any compelling reason, the Provost and the President shall approve the application for tenure, promotion, or appointment with tenure unless the President determines that such application should be denied based on one or more of the extraordinary circumstances defined in Paragraph F.2 below. In that event, the President shall provide a written explanation of such extraordinary circumstance(s) to the Committee, the appropriate dean, the appropriate department chair, and the candidate. The Committee's review process established by this Paragraph E shall not constitute or replace the grievance procedure established by Section X.B of the Faculty Code.
- iii. The University-Wide Nonconcurrency Committee may adopt rules governing its internal procedure, which shall be published. Each determination by the Committee shall require the affirmative vote of a majority of the members entitled to vote in the relevant case.

F. Compelling Reasons and Extraordinary Circumstances. Departments, school-wide personnel committees, deans, the University-Wide Nonconcurrency Committee, and the Provost are each entrusted with ensuring that faculty recommendations concerning tenure, promotion, and appointments with tenure are consistent with published criteria, are supported by sufficient evidence and preserve the schools' and the university's interest in building a distinguished faculty.

1. The following shall constitute compelling reasons for a school-wide personnel committee to advise a dean (see Section D), for the University-Wide Nonconcurrency Committee to uphold an administrative nonconcurrency (see Section E), or for a dean or the Provost to nonconcur with a faculty recommendation (see Procedures for the Implementation of the Faculty Code, Sections B.5 and B.7):
 - i. Insufficient evidence or inadequate reasons provided by the recommending faculty and external reviewers to demonstrate that the candidate has satisfied the published criteria defining the applicable standards of excellence; or
 - ii. Failure by the recommending faculty to conform to published appointment, tenure or promotion policies, procedures, and guidelines; or
 - iii. Arbitrary, capricious, or discriminatory action at any point in the process.
2. The following shall constitute extraordinary circumstances for the President to deny an application for tenure, promotion, or an appointment with tenure despite a decision by the Provost to concur with the faculty recommendation (see Procedures for the Implementation of the Faculty Code, Section B.6) or a determination by the University-Wide Nonconcurrency Committee not to uphold an administrative nonconcurrency (see Procedures, Section B.8 and Section E of Article IV of the Faculty Code):
 - i. The need to terminate an entire instructional program for a reason specified in Part V.D.2 of the Faculty Code; or
 - ii. Extraordinary financial exigency as defined in Part V.D.3 of the

- Faculty Code; or
- iii. Other extraordinary financial or programmatic constraints that would cause the approval of the faculty recommendation to impair the fiscal health of the University.

G. **Nondiscrimination.** Appointments, renewals, terminations, promotions, tenure, compensation, and all other terms and conditions of employment shall be made consistent with the University's Policy on Equal Opportunity.

Faculty Code, Procedures for the Implementation of the Faculty Code, Section B.

B. Faculty Participation in Action Concerning Faculty Membership

1. The regular faculty of each school shall establish procedures enabling an elected standing committee or committee of the whole to submit its recommendations on the allocation of regular, tenure-accruing appointments within that school.
2. The regular faculty of the rank of assistant professor or higher of a department or of a nondepartmentalized school shall, subject to such limitations or guidelines as may be established by the faculties of the respective schools, establish procedures enabling an elected standing committee or a committee of the whole to submit its recommendations for appointments. Recommendations for actions other than appointments concerning instructors, assistant professors, or associate professors shall be determined by the tenured members of the faculty of higher rank, or of equal and higher rank, as the tenured faculty may have determined by previously established procedures. Recommendations for actions other than appointments concerning professors shall be determined by tenured members of the rank of professor. In the College of Professional Studies, the Dean's Council shall take the place of the elected standing committee or committee of the whole described in this paragraph B.2.
3. The regular faculty of each school shall establish and publish written criteria upon which promotion, tenure, and appointments with tenure shall be based, in accordance with Sections B and C of Part IV of the Faculty Code. The regular faculty of each department in each departmentalized school shall establish and publish additional written criteria, also in accordance with Sections B and C of Part IV.
4. The regular faculty of each school shall establish a school-wide personnel committee, as provided in Section D of Part IV of the Faculty Code, to advise the dean with respect to recommendations for tenure, promotion, and appointments with tenure. The tenured faculty of each school shall nominate and elect their school's representative on the University-Wide Nonconcurrency Committee, in accordance with Section E of Part IV of the Faculty Code.
5. Appointments and actions by deans and by the Provost affecting renewal of appointments, promotion, tenure designation, and termination of service shall normally follow faculty recommendations. Administrative nonconcurrences with faculty recommendations, at any level, shall be based on one or more of the compelling reasons defined in Section F.1 of Part IV of the Faculty Code.

6. Faculty recommendations concurred in or nonconcurred in by the appropriate deans shall be transmitted by them to the Provost. If the Provost concurs with a faculty recommendation for tenure, promotion, or appointment with tenure (whether or not the dean has concurred), the Provost and the President shall approve the application unless the President determines that the application should be denied based on one or more of the extraordinary circumstances defined in Section F.2 of Article IV of the Faculty Code. In that event, the President shall provide a written explanation of such extraordinary circumstance(s) to the appropriate dean, the appropriate department chair and the candidate.

7. If the Provost nonconcurs with a faculty recommendation for tenure, promotion, appointment with tenure, or if the Provost upholds a nonconcurrence by a dean with a faculty recommendation, the Provost shall make a written determination that identifies one or more of the compelling reasons defined in Section F.1 of Part IV of the Faculty Code. The Provost shall refer each administrative nonconcurrence to the University-Wide Nonconcurrence Committee for its determination in accordance with Section E of Part IV of the Faculty Code. The dean and the Provost shall promptly notify the appropriate department chair and school-wide personnel committee of each administrative concurrence or nonconcurrence with a faculty recommendation. In addition, the Provost shall promptly notify the candidate and the President in the event of an administrative nonconcurrence with a faculty recommendation, and the Provost shall provide sufficient information to the candidate to reasonably inform the candidate as to the reasons for the administrative nonconcurrence.

8. If the University-Wide Nonconcurrence Committee determines that an administrative nonconcurrence with a faculty recommendation for tenure, promotion, or appointment with tenure is not supported by any compelling reason, the Provost and the President shall approve the application unless the President determines that the application should be denied based on one or more of the extraordinary circumstances defined in Paragraph F.2 of Article IV of the Faculty Code. In that event, the President shall provide a written explanation of such extraordinary circumstance(s) to the Committee, the appropriate dean, the appropriate department chair, and the candidate. The Committee's review process established by Section E of the Article IV of the Faculty Code shall not constitute or replace the grievance procedure established by Section X.B of the Faculty Code.

9. In any tenure or promotion case in which an administrative nonconcurrence is upheld by the University-Wide Nonconcurrence Committee, the candidate may request a review of the case by the President. In such cases, the President's decision shall be final, subject to Paragraph B.10 below. The President's review process established by this Paragraph B.9 shall not constitute or replace the grievance process established by Article X.B of the Faculty Code.

10. A decision by the Provost and the President, or by the President pursuant to Paragraph B.9 above, to approve tenure shall be transmitted to the Board of Trustees, which shall ordinarily confer tenure.

**EXHIBIT B to “A Resolution on
Recommended Changes to the *Faculty Code*
With Respect to Tenure and Promotion
Standards and Procedures”
(16/3)**

**[The following document is marked to show
changes approved by the Faculty Senate to the
revised Working group proposals]:**

March 23, 2015

**Recommendations to amend the *Faculty Code*
Working Group on Appointment, Promotion, and Tenure**

Faculty Code, Section IV.B

B. Promotion

1. Promotion to the ranks of associate professor and professor is granted by the university to faculty members who have achieved excellence in their disciplines through their contributions to research, scholarship, or creative work in the arts (hereinafter *scholarship*), teaching, and engagement in service, and who demonstrate the potential to continue to do so, so that the university may advance its mission of scholarship, higher education, and service to the community. Each school, and each department in a departmentalized school, shall define, establish and publish criteria for excellence consistent with this Paragraph B.1. The university seeks to apply the highest standards of academic rigor in evaluating faculty members for promotion. Promotion to professor is reserved for those who have established a record since promotion to associate professor that demonstrates a sustained, high level of distinction in their field through scholarly contributions, excellence in teaching, and active engagement in service. In addition, it is expected that the candidates' record of scholarship, teaching, and service provides confidence that ~~the or she~~ will continue to contribute in all these areas at a level of excellence in a pattern of sustained development and substantial growth in achievement and productivity. Time served in the rank of associate professor is not a sufficient basis for promotion.
2. Each school shall establish and publish written criteria, consistent with paragraph B.1, on which promotion to the ranks of associate professor and professor will be based, including any appropriate distinctions between the criteria for tenure-track and tenured faculty and those for non-tenure track faculty members due to the different nature of their appointments. ~~Each department may~~ shall define, establish and publish additional written criteria for promotion, to the extent consistent with Paragraph B.1 and with the written criteria established and published by the relevant school, which shall also be published. Each school and department shall also establish and publish the procedures used for making promotion decisions and for ~~hiring~~ appointing tenured faculty members. The procedures should provide for informing faculty members periodically, or at their request, whether they are making satisfactory progress

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toward promotion. Such information shall not be construed as a promise to recommend promotion. Each faculty member has the prerogative to determine whether and when to request consideration for promotion to the rank of professor.

Recommendations for promotion originate from the faculty – for departmentalized schools, from the faculty of the relevant department, after application by the candidate. Faculty recommendations must be based on substantial evidence of excellence based on the criteria stated in Paragraph B.1 and the additional criteria established and published by the relevant school and department.

3. As general practice, a promotion shall be accompanied by an appropriate increase in salary.

C. Tenure

1. Recognizing the ~~significance of the~~ university's commitment when it grants tenure, ~~including to~~and the university's ~~standing~~mission as a preminent research university, tenure is reserved for members of the faculty who demonstrate excellence in scholarship, teaching, and engagement in service and who show promise of _

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continued excellence. Each school, and each department in a departmentalized school, shall define, establish and publish criteria for excellence consistent with this Paragraph C.1. Excellence in teaching and engagement in service are prerequisites for tenure, but they are not in themselves sufficient grounds for tenure. Tenure is reserved for faculty members whose scholarly accomplishments are distinguished in their fields, and a candidate's record must compare favorably with that of candidates in similar stages in their careers at peer research universities in the candidate's field. Upon a specific showing that the academic needs of the University have changed with respect to a particular position, that factor may be considered in determining whether tenure shall be granted. The granting of tenure is generally accompanied by promotion to associate professor.

2. Each school shall establish and publish written criteria, consistent with Paragraph C.1, on which the recommendation for tenure will be based. ~~Each departments shall define, establish and publish~~ may establish and publish additional written ~~written~~ criteria for tenure, to the extent consistent with Paragraph C.1 and with the criteria established and published by the relevant school, ~~which shall also be published.~~ In addition, each school and each department shall establish and publish written procedures for making decisions concerning tenure and for hiring tenured faculty at the rank of associate professor or professor. Recommendations for tenure originate from the faculty—for departmentalized schools, from the faculty of the relevant department. Faculty recommendations must be based on substantial evidence of excellence based on the criteria stated in Paragraph C.1 and the additional criteria published by the relevant school and department.
3. So that faculty members may assess their potential for achieving tenure, each school, or each and every one of a school's departments, shall establish and publish written procedures to provide reviews to guide faculty members concerning progress toward tenure. Reviews do not constitute a commitment to recommend tenure. Such reviews may be satisfied by, but need not be limited to, evaluations of annual reports and mid-tenure reviews, which should be communicated to the faculty member.

D. School-Wide Personnel Committees

[RETAIN EXISTING SECTION IV.D. OF THE CURRENT FACULTY CODE]

- ~~1. To implement the procedures required in Sections B and C above, each school shall establish a school wide personnel committee composed of tenured faculty, either as a standing committee elected by the tenured and tenure track faculty of the school or as a committee of the whole composed of the school's tenured faculty, to consider recommendations for tenure, for promotion, or for appointments with tenure. In the College of Professional Studies, the Dean's Council shall act as the personnel committee.~~
- ~~2. In departmentalized schools, recommendations for appointment, renewal, tenure, promotion, and termination of service originate with the departments, and the function of the school wide personnel committee is to review all such recommendations and issue its own faculty recommendation. In schools without departments, the school wide personnel committee initiates recommendations to the dean for matters including but not limited to appointment, renewal, tenure, promotion, and termination of service.~~
- ~~3. In matters involving promotion and tenure, the school wide personnel committee shall recommend to the dean whether the candidate has met the relevant criteria (see Sections B.1 and B.2, and Sections C.1 and C.2) in order to ensure~~

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~~comparable quality and excellence across the school. The school-wide personnel committee shall include advice to the dean as to whether it has identified any compelling reasons for non-concurrence as defined in Section F.~~

~~4. The school-wide personnel committee may request and gather additional information, documentation, or clarification regarding recommendations they are considering. Recommendations shall be determined by committee members holding equal or higher rank relative to the considered action. Schools shall develop rules for recusal involving potential conflicts of interest for committee members, such as membership in the same department as the candidate.~~

~~5. The recommendations of a school-wide personnel committee constitute "faculty recommendations" in the sense of the Procedures for the Implementation of the Faculty Code, Section B.5.~~

E. University-Wide ~~Personnel~~Nonconcurrency Committee

1. Structure

- i. The university ~~wi~~shall establish a University-Wide ~~Personnel~~Nonconcurrency Committee to review and ~~provide advice~~ make a determination with respect to each ~~concerning certain tenure, and promotion and appointment with tenure cases~~ matters in which the Provost has nonconcurred, or has upheld a nonconcurrency by the dean, with a faculty recommendation.
- ii. The University-Wide ~~Personnel~~Nonconcurrency Committee shall be composed of ~~(1) nine~~ tenured faculty members, each with the rank of professor, with one member ~~from~~elected by each of the university's schools other than the College of Professional Studies, ~~and (2) two senior administrators (who may be faculty members) designated by the Provost.~~ The President and Provost; vice presidents, associate vice presidents, and assistant vice presidents; vice provosts and associate vice provosts; deans, associate deans, and assistant deans shall be ineligible ~~for election to serve as elected faculty members of the University-Wide Personnel Committee.~~
- iii. ~~The Provost, in consultation with the dean of each school and the Faculty Senate Executive Committee, shall for each school nominate a slate of at least two candidates eligible to serve on the University-Wide Personnel Committee. The tenured and tenure track faculty members for each school will elect their school's representative from this slate. Elected faculty members of the University-Wide Nonconcurrency Committee shall be nominated and elected by the tenured faculty of their respective schools in accordance with procedures approved by the tenured faculty of each school. Any school with fewer than six tenured faculty members may obtain permission from the Faculty Senate Executive Committee to elect an untenured faculty member to serve on the Committee.~~
- iv. Elected faculty members of the University-Wide ~~Personnel~~Nonconcurrency Committee ~~members w~~shall serve staggered three-year terms, with a maximum of two consecutive terms. Members rendered ineligible due to their service for two consecutive terms ~~wi~~shall be deemed eligible for nomination and re-election following one ~~term~~year of absence from the ~~University-Wide Personnel~~ Committee.
- v. The elected faculty members of the University-Wide Nonconcurrency Committee shall elect one of their number annually to serve as Chair of the Committee.
- vi. If an elected member of the University-Wide ~~Personnel~~Nonconcurrency Committee ~~member~~ is unable to complete his or her term, ~~a school's~~ the tenured faculty of the relevant school shall nominate and elect a replacement member to complete that term, ~~in accordance with the~~ in accordance with ~~to the~~ procedures above ~~provisions of this Paragraph E.1.~~

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vii. If a University-Wide ~~Personnel~~Nonconcurrency Committee member belongs to the same department as a candidate for tenure or promotion, or has a conflict of interest, the member ~~should~~shall be recused from voting but may participate in the discussion of the case. That a ~~University-Wide Personnel~~ Committee member belongs to the same school as a candidate does not by itself ~~pos~~create a conflict of interest.

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2. Responsibilities

i. The Provost shall refer to the University-Wide ~~Personnel~~Nonconcurrency Committee

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~~of~~ for its consideration and ~~advice~~determination ~~at~~each tenure, promotion, and appointment with tenure cases ~~involving which the Provost has nonconcurred, or has upheld a nonconcurrency by a dean, with disagreement between~~ a faculty recommendation as provided in Paragraph B.7 of the Procedures for the Implementation of the Faculty Code, made by a department or a school-wide personnel committee and the recommendation of a dean. In each such cases, the ~~University-Wide Personnel~~

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Committee ~~will advise the Provost~~ shall determine whether the ~~recommendation of the dean~~ administrative nonconcurrency is supported by one or more of the compelling reasons ~~as defined in Section Paragraph F.1 below.~~ The Provost shall bear the burden of persuasion on that question.

- ii. The University-Wide Nonconcurrency Committee shall make its determination in accordance with the procedures set forth in Paragraph E.3 below. ~~The Provost may also refer to the University-Wide Personnel Committee for its consideration and advice any other tenure, promotion, or appointment with tenure case. In such cases, the University-Wide Personnel Committee may be asked to advise the Provost whether there are compelling reasons, as defined in Section F, to disagree with a faculty recommendation.~~

3. Procedures

- i. The Provost shall provide the University-Wide ~~Personnel~~ Nonconcurrency Committee with the relevant dossiers for all cases indicated in Paragraph Section E.2 above. ~~The University-Wide Personnel Committee may request additional information, advice or documentation, which the Provost shall provide or assist in providing to the extent practicable.~~
- ii. ~~Advice provided by the University-Wide Personnel Committee to the Provost is nonbinding. Moreover, such advice does not constitute a faculty recommendation as that term is used in Section IV of the Faculty Code or in Section B.5 of the Procedures for Implementation of the Faculty Code, nor does it.~~ The University-Wide Nonconcurrency Committee shall determine, and shall advise the Provost in writing, whether the administrative nonconcurrency is supported by one or more of the compelling reasons defined in Section F.1 below. If the Committee determines that the administrative nonconcurrency is not supported by any compelling reason, the Provost and the President shall approve the application for tenure, promotion, or appointment with tenure unless the President determines that such application should be denied based on one or more of the extraordinary circumstances defined in Paragraph F.2 below. In that event, the President shall provide a written explanation of such extraordinary circumstance(s) to the Committee, the appropriate dean, the appropriate department chair, and the candidate. The Committee's review process established by this Paragraph E shall not constitute or replace the grievance procedure ~~contemplate~~ established by Section [X].B of the Faculty Code.
- iii. The University-Wide ~~Personnel~~ Nonconcurrency Committee may adopt rules governing its internal procedure, which shall be published. Each determination by the Committee shall require the affirmative vote of a majority of the members entitled to vote in the relevant case. ~~It shall also conduct a periodic review of published tenure and promotion criteria, including the related standards of excellence stated in those criteria, and procedures at the department, school, and university levels with a view to ensuring that consistent and appropriate standards of excellence are maintained throughout the university. The University-Wide Personnel Committee shall report the results of the periodic review to the Provost.~~

- F. Review Process Compelling Reasons and Extraordinary Circumstances. Departments, school-wide personnel committees, deans, the University--Wide ~~Personnel~~ Nonconcurrency Committee, and the Provost are each entrusted with ensuring

that faculty recommendations concerning tenure, promotion, and appointments with tenure are consistent with published ~~standards~~criteria, and are supported by sufficient evidence and preserve the schools' and the university's interest in building a ~~n-~~outstandingdistinguished faculty.

1. The following ~~may~~shall constitute compelling reasons for a school-wide personnel committee to advise a dean (see Section D.~~3~~), for the University-Wide ~~Personnel~~Nonconcurrency Committee to ~~advise the Provost~~uphold an administrative nonconcurrency (see Section E.~~2~~), or for a dean or the Provost to ~~disagree~~nonconcur with a faculty recommendation (see Procedures for the Implementation of the Faculty Code, Sections B.5 and B.7):
 - i. ~~Insufficient evidence or inadequate reasons provided by the recommending faculty and external reviewers~~ to demonstrate that the candidate's ~~body of work meets~~ has satisfied the published criteria defining the applicable standards of excellence ~~in the discipline; or~~
 - ii. Failure by the recommending faculty to conform to published appointment, tenure or promotion policies, procedures, and guidelines; or
 - iii. ~~Arbitrary~~, capricious, or discriminatory action at any point in the process.
2. ~~Deans and the Provost are also entrusted with the fiscal health of the university and must consider significant financial or programmatic constraints. Upon a specific showing that the academic needs of the university have changed with~~

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~~respect to a particular position, that factor may be considered in determining whether tenure shall be granted.~~ The following shall constitute extraordinary circumstances for the President to deny an application for tenure, promotion, or an appointment with tenure despite a decision by the Provost to concur with the faculty recommendation (see Procedures for the Implementation of the Faculty Code, Section B.6) or a determination by the University-Wide Nonconcurrency Committee not to uphold an administrative nonconcurrency (see Procedures, Section B.8 and Section E of Article IV of the Faculty Code):

- i. The need to terminate an entire instructional program for a reason specified in Part V.D.2 of the Faculty Code; or
- ii. Extraordinary financial exigency as defined in Part V.D.3 of the Faculty Code; or
- iii. Other extraordinary financial or programmatic constraints that would cause the approval of the faculty recommendation to impair the fiscal health of the University.

G. Nondiscrimination. ~~Appointments, renewals, terminations, promotions, tenure, compensation, and all other terms and conditions of employment shall be made solely on the basis of merit and without regard to race, color, religion, sex, sexual orientation, natural origin, or other considerations prohibited by law consistent with the University's Policy on Equal Opportunity.~~

Faculty Code, Procedures for the Implementation of the Faculty Code, Section B.

B. Faculty Participation in Action Concerning Faculty Membership

1. The regular faculty of each school shall establish procedures enabling an elected standing committee or committee of the whole to submit its recommendations on the allocation of regular ~~service~~, tenure-accruing appointments within that ~~school unit~~.
2. The regular faculty of the rank of assistant professor or higher of a department or of a nondepartmentalized school ~~or comparable educational division~~ shall, subject to such limitations or guidelines as may be established by the faculties of the respective schools, establish procedures enabling an elected standing committee or a committee of the whole to submit its recommendations for appointments. ~~Recommendations for actions other than appointments concerning instructors, assistant professors, or associate professors shall be determined by the tenured members of the faculty of higher rank, or of equal and higher rank, as the tenured faculty may have determined by previously established procedures. Recommendations for actions other than appointments concerning professors shall be determined by tenured members of the rank of professor. In the College of Professional Studies, the Dean's Council shall take the place of the elected standing committee or committee of the whole described in this paragraph B.2.~~
3. The regular faculty of each school shall establish and publish written criteria upon which promotion, tenure, and ~~hiring tenured faculty~~ appointments with tenure shall be based, ~~as provided in~~ accordance with Sections B and C of Part IV of the Faculty Code. The regular faculty of each department in each departmentalized school ~~may~~ shall establish and publish additional written criteria, also ~~as provided in~~ accordance with Sections B and C of Part IV.
4. The regular faculty of each school shall establish a school-wide personnel

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committee, as provided in Section D of Part IV of the Faculty Code, to ~~consider~~advise the dean with respect to recommendations for tenure, promotion, and appointments with tenure. The tenured ~~and tenure-track~~ faculty of each school shall ~~also nominate and~~ elect ~~representatives to serve as~~ their school's representative on the University-Wide ~~Personnel~~Nonconcurrency Committee, ~~as provided in accordance with~~ Section E of Part IV of the Faculty Code.

5. Appointments and actions by deans and by the Provost affecting renewal of appointments, promotion, tenure designation, and termination of service shall normally follow faculty recommendations. Administrative nonconcurrences with faculty recommendations~~Departures from this standard~~, at any level, shall be ~~limited to the~~based on one or more of the compelling reasons ~~identified~~ defined in Section F.1 of Part IV of the Faculty Code.

6. Faculty recommendations concurred in or nonconcurred in by the appropriate deans shall be transmitted by them to the Provost. If the Provost concurs with a faculty recommendation for tenure, promotion, or appointment with tenure (whether or not the dean has concurred), the Provost and the President shall approve the application unless the President determines that the application should be denied based on one or more of the extraordinary circumstances defined in Section F.2 of Article IV of the Faculty Code. In that event, the President shall provide a written explanation of such extraordinary circumstance(s) to the appropriate dean, the appropriate department chair and the candidate.

7. If the Provost nonconcurs with a faculty recommendation for tenure, promotion, appointment with tenure, or if the Provost upholds a nonconcurrency by a dean with a faculty recommendation, the Provost shall make a written determination that identifies one or more of the compelling reasons defined in Section F.1 of Part IV of the Faculty Code. The Provost shall refer each administrative nonconcurrency to the University-Wide Nonconcurrency Committee for its determination in accordance with Section E of Part IV of the Faculty Code. The dean and the Provost shall promptly notify the ~~relevant~~appropriate department chair and school-wide personnel committee of ~~any~~each administrative-concurrency or non-concurrency with ~~their~~

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**A RESOLUTION ON RECOMMENDED CHANGES TO THE
FACULTY ORGANIZATION PLAN REGARDING
FACULTY PARTICIPATION IN THE FACULTY SENATE (16/4)**

- WHEREAS,** The University’s Board of Trustees established four working groups on university governance in 2014, and the working group on faculty participation (“Working Group”) recommended changes to the *Faculty Organization Plan* regarding faculty participation in the Faculty Senate;
- WHEREAS,** Article III, Section 1 of the *Faculty Organization Plan* provides that (1) the Faculty Senate has authority to “consider any matters of concern or interest to more than one college, school, or division, or to the Faculty, and make its recommendations or otherwise express its opinion with respect thereto, to the [Faculty] Assembly, the President, or through the President to the Board of Trustees”; and (2) the Faculty Senate is “the Faculty agency to which the President initially presents information and which he consults concerning proposed changes in existing policies or promulgation of new policies”;
- WHEREAS,** Article IV of the *Faculty Organization Plan* provides that if amendments to the *Faculty Organization Plan* are proposed by the Faculty Senate, the Faculty Assembly must adopt such amendments before they can be submitted to the Board of Trustees for consideration and approval;
- WHEREAS,** The *Faculty Organization Plan* and the *Faculty Code* establish a proven and highly successful model of shared governance between the faculty of the University (the “Faculty”) and the Administration, which has enabled the University to make continuous progress since the 1930s;
- WHEREAS,** There has been no occasion on which a substantive change has been made to the *Faculty Organization Plan* unless that change was first adopted by the Faculty Assembly before it was approved by the Board of Trustees;
- WHEREAS,** The Faculty Senate recognizes that the *Faculty Code* and the *Faculty Organization Plan* must be updated to meet changing conditions and needs within the University and emerging trends within the academic enterprise more generally, and the Faculty Senate has a long history of considering and recommending amendments to both governance documents in order to improve the quality of education and life within the University;
- WHEREAS,** The Executive Committee, the Committee on Professional Ethics and Academic Freedom, and the Committee on Appointment, Salary and Promotion Policies of the Faculty Senate (collectively, the “Senate Committees”) and the Faculty Senate have carefully reviewed the proposals by the Working Group for changes in the *Faculty Organization Plan* with regard to faculty participation in the Faculty Senate;
- WHEREAS,** The Senate Committees and the Faculty Senate have concluded that the categories of faculty members eligible for service in the Faculty Senate should be expanded to include the following categories of faculty with at least three years of full-time service at the University: (1) tenured faculty members and (2) regular, full-time faculty members without tenure who have attained the rank of associate professor or higher;

WHEREAS, The Senate Committees and the Faculty Senate have determined that, in order to ensure the independence of the Faculty Senate from undue influence by the Administration, at least half of the Senators from each school should be required to hold tenured appointments, because tenured faculty members are more likely to engage in robust and meaningful policy discussions with members of the Administration without fearing for their future job security;

WHEREAS, The Senate Committees and the Faculty Senate have carefully considered the proposal by the Working Group to allow full-time Specialized Faculty members to serve in the Faculty Senate, and the Senate Committees and the Faculty Senate believe that this proposal deserves further consideration;

WHEREAS, The Senate Committees and the Faculty Senate are concerned that Specialized Faculty members have not had an adequate opportunity to consider and express their views on the question of whether they would favor an amendment to the *Faculty Organization Plan* granting them eligibility to serve in the Faculty Senate even if such an amendment might impair their existing potential rights to engage in collective bargaining under the National Labor Relations Act;

WHEREAS, The Senate Committees and the Faculty Senate have not had adequate time to perform a survey or to obtain other reliable evidence of the views of Specialized Faculty members on the foregoing question, and the Senate Committees and the Faculty Senate believe that it would not be appropriate to consider any amendment to the *Faculty Organization Plan* to grant Specialized Faculty eligibility to serve in the Faculty Senate until after such evidence has been obtained and reviewed; and,

WHEREAS, The Senate Committees and the Faculty Senate believe that the amendments to the *Faculty Organization Plan* set forth on Exhibit A attached to this Resolution (unmarked) and on Exhibit B attached to this Resolution (marked to show changes to the Working Group proposal) are consistent with the best interests of the University and all of its constituencies and stakeholders (including the Faculty) and would help to maintain an effective system of shared governance at the University; and

WHEREAS, The Senate Committees and the Faculty Senate are greatly concerned that any decision by the Board of Trustees to approve changes to the *Faculty Organization Plan* that are different from the recommended amendments set forth on Exhibit A attached to this Resolution would be likely to cause great alarm among the Faculty and would gravely impair the confidence of the Faculty Senate and the Faculty in the University's Administration and system of shared governance;

NOW, THEREFORE, BE IT RESOLVED BY THE FACULTY SENATE OF THE GEORGE WASHINGTON UNIVERSITY

- (1) That the *Faculty Organization Plan* be amended as set forth on Exhibit A attached to this Resolution, conditional upon the adoption of such amendments by the Faculty Assembly.
- (2) That the President, as Chairman of the Faculty Assembly, is petitioned to place on the agenda for the next meeting of the Faculty Assembly a resolution to adopt the

amendments to the *Faculty Organization Plan* set forth on Exhibit A attached to this Resolution.

- (3) That, upon adoption by the Faculty Assembly, the President is requested to forward those amendments to the *Faculty Organization Plan* for final approval by the Board of Trustees.
- (4) That the Faculty Senate respectfully urges the Board of Trustees not to approve any changes to the *Faculty Organization Plan* that are different from the amendments adopted by the Faculty Assembly without further consultation with the Faculty Senate and concurrence by the Faculty Assembly in keeping with the University's unbroken tradition of collaborative shared governance.

Faculty Senate Committee on Professional Ethics and Academic Freedom
Faculty Senate Committee on Appointment, Salary, and Promotion Policies
Faculty Senate Executive Committee

April 24, 2015

EXHIBIT A to “A Resolution to Recommend Changes to the *Faculty Organization Plan* Regarding Faculty Participation in the Faculty Senate” (16/4)

1. Membership in Faculty Senate

Faculty Organization Plan, Article III, Section 2(a)(3) [final two sentences]:

"...The faculty members of the Faculty Senate shall have completed at least three years of full-time academic service at the University and shall be either (1) tenured faculty members or (2) regular, full-time faculty members without tenure who have attained the rank of associate professor or higher. Vice presidents, associate vice presidents, assistant vice presidents, vice provosts, associate vice provosts, deans, associate deans and assistant deans shall be ineligible for election as faculty members of the Senate. At least half of the faculty members of the Senate from each school shall be tenured faculty members.

2. Election of Faculty Members

Faculty Organization Plan, Article III, Section 3(3):

“All members of the faculty in full-time service shall be eligible to vote with the exception of visiting faculty.”

EXHIBIT B to “A Resolution on Recommended Changes to the *Faculty Organization Plan* Regarding Faculty Participation in the Faculty Senate” (16/4)

[The following document is marked to show the changes approved by the Faculty Senate to the revised proposals of the Working Group]:

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March 9, 2015

**Recommendations to amend the *Faculty Organization Plan*
Working Group on Participation**

1. Membership in Faculty Senate

Faculty Organization Plan, Article III.2(a)(3)

"...The faculty members of the Faculty Senate shall have completed at least three years of full-time academic service at the University and shall be either (1) tenured faculty members or (2) regular, full-time faculty members (~~regular or specialized~~) ~~without tenure~~ who have attained the rank of associate professor or higher. Vice presidents, associate vice presidents, assistant vice presidents, vice provosts, associate vice provosts, deans, associate deans and assistant deans shall be ineligible for election as faculty members of the Senate. At least half of the faculty members of the Senate from each school shall be tenured faculty members.

2. Election of Faculty Members

Faculty Organization Plan, Article III.3(3)

“All members of the faculty in full-time service shall be eligible to vote with the exception of visiting faculty.”

DRAFT

The George Washington University
Faculty Senate Committee on
Appointment, Salary, and Promotion Policies
(including Fringe Benefits)

Friday, May 8, 2015

Annual Report

The Appointments, Salary and Promotion Policies (Including Benefits) Committee (ASPP) of the Faculty Senate has had four meetings during the Fall 2014 semester and six during the Spring 2015 semester.

The Interim report of the ASPP committee (q.v.), already presented to the Faculty Senate, covered the first seven meetings.

This report is comprised of edited minutes from the last three meetings.

(i) Meeting #8, March 20, 2015

Ms. Hayton gave further information on President Knapp's Task Force on benefits. This would be, in the short-term, an effort to identify suitable trade-offs and priorities within the whole benefits package. The co-chair of the task force was Professor Sarah Rosenbaum and several members of the ASPP, namely Professors Anbinder, Gupta and Rau were also members. The task force would be reporting its findings in May, 2015. The Benefits Advisory Committee (BAC) would then be able to continue the work over the summer of 2015. This raised the question of whether the BAC would have any influence on the package for the coming year as the Budget for the fiscal year 2015/2016 would be already set by June. Ms. Hayton informed the ASPP committee that she would be taking another post outside the University in a week or so and Ms. Musselman would be the HR liaison for the remainder of the Academic Year.

Professor Marotta-Walters then gave the committee an update on the deliberations of the Board of Trustees *Faculty Code Revisions Task Force on Appoints, Promotion & Tenure (APT)*. This Task Force was particularly relevant to the ASPP Committee. The original wording of the task force had used 'competence' as part of the departmental recommendation for tenure and/or promotion and the faculty had asked that this be replaced by 'excellence' as defined by the relevant department and would involve written & published work. There had been considerable discussion within the task force on the proposed University-Wide APT (UWAPT), of which the composition would be one tenured full professor from each school to be chosen by the Provost. The committee would be tasked

with looking at all non-concurrencies and any other recommendations for promotions and tenure the Provost would refer to it. The Board of Trustees would be effectively out of the loop for non-concurrencies, but the candidate could request a review by the President, if the non-concurrence was upheld by the UWAPT. There were too many issues to be resolved by the ASPP committee at this time and at the meeting in April, when the actual task force proposals would be available, the committee would have time to discuss these in detail.

(ii) **Meeting #9, April 3, 2015**

Following Professor Marotta-Walters' update at the committee's previous meeting on the deliberations of the Board of Trustees *Faculty Code* Revisions Task Force on Appointments, Promotion & Tenure (APT), the discussion was continued.

The feedback from the town hall meetings regarding this issue had been fairly acrimonious and the comments from the website had also been largely negative. The ASPP committee agreed that emphasis on departmental recommendations for promotion and tenure as paramount was required.

There had been considerable discussion within the task force on the proposed University-Wide APT committee (UWAPT), of which the composition would be one tenured full professor from each school. The ASPP committee agreed that the individual selected to serve on this committee must be elected by each school respectively and the elected faculty should not have recently served on the school-wide APT committee. The UWAPT committee effectively takes over the existing role of the Executive Committee.

Further discussion of the School-wide APT (SWAPT) committee brought up the requirement that the SWAPT recommendation shall not be a 'de nova' review, shall not be regarded as a secondary recommendation, and shall only be supported by compelling reasons for a non-concurrence.

The proposal that the candidate could request a review by the President, if the non-concurrence was upheld by the UWAPT was new.

The ASPP committee agreed that a resolution summarizing the committee's and faculties' response was needed otherwise faculty governance would be severely compromised. This would be discussed at a second meeting of the committee also in April.

(iii) **Meeting #10, April 17, 2015**

The deliberations of the Board of Trustees Faculty Code Revisions Working Group #4 on Appointments, Promotion & Tenure (APT) was the first item of discussion. Professor Galston gave the committee an update on the round-table meeting the Executive Committee (EC) held with the Board of Trustees (BoT) on April 14.

Professor Garris, Chair of the EC, had started the meeting by summarizing his general impressions gained from the town hall meetings and from the deliberations of the Senate committees. In particular, he sensed that the GW Faculty was unsure of the aim of the BoT Working groups especially where the Faculty Code was concerned but was committed to ensuring that GW was identified as the best university it could possibly be.

The EC had expressed its view that the Faculty in general must have full confidence in the University-Wide Personnel Committee (UWPC) if it was to perform satisfactorily. The UWPC should only review Non-Concurrences except in exceptional circumstances and concentrate on the compelling reasons for the non-

concurrency. The membership of the UWPC should be of tenured faculty chosen by election from the faculty of each school without administration input so that the UWPC would be able to exercise an independent voice. Further the UWPC decisions, it should be emphasized, must be regarded as final. The elected faculty should not have recently served on the school-wide personnel committee. Mr. Carbonell, speaking for the BoT, accepted the last point but asked what could be done about awarding tenure to undeserving faculty.

The EC expressed its strong opposition to the School-Wide personnel committee (SWPC) recommendation being on a par with the departmental recommendation and emphasized that the SWPC's recommendation was secondary to the department's. Only on the basis of compelling reasons could the SWPC disagree with the department.

Professor Marotta-Walters, who had joined the meeting by phone, agreed with the summary Professor Galston had given the ASPP committee. She also mentioned that not many questions were asked by the BoT members.

Professor Galston also covered the round-table discussion on the Dean Search proposals from the Working Group #2. The EC felt that a maximum of two BoT members should serve as voting members on the Dean's Search committee. The ASPP agreed that the remaining members should be full professors with tenure and the committee should be comprised of at least two-thirds faculty members. It was pointed out by Mr. Carbonell that the faculty had no jurisdiction over the BoT membership, but the ASPP expressed the view that this limit of two BoT members was a strong recommendation irrespective of the jurisdiction.

With regard to the number of candidates the search committee could recommend to the Provost, the ASPP agreed that there should be at least two, but more could be recommended.

The issue of composition of tenured faculty within the various schools was addressed by the Working group and the EC disagreed strongly with the notion that the minimum requirements for the tenured faculty in each school and department was a 'goal'. Instead of this somewhat ambiguous phrase, the EC emphasized that the 75% regular faculty of the school should be tenured and of each department 50% should be tenured. The stated aim of the BoT's own strategic plan 'Vision 2021' was to ensure that the students at GW were taught by full-time tenured faculty. This effectively supported the required 75% tenured faculty within the school.

The BoT argued that there must be flexibility to consider tenure in the light of programmatic and financial needs, but the EC, while accepting that there might be exceptions due to catastrophic collapse of enrollments and/or financial exigency, believed that there was sufficient flexibility already built in to cope. The ASPP recognized that this is not possible in schools recently formed and in other cases. The individual schools could apply for an exception to the 75% rule to the EC and the Faculty Senate could then approve it.

The ASPP committee then edited the Working Group #4 proposals from March 16, 2015. These edits are attached to this report as Annex #1.

The ASPP committee agreed that a resolution summarizing the committee's and faculties' response was needed otherwise faculty governance would be severely compromised.

Professor Gupta's report herewith given in Annex #2 on administration salaries together with remarks by the Provost, was received by the ASPP committee with thanks. The accompanying document can be seen as a pdf file 'admin_salaries_2015'

The chair agreed to write up the minutes forthwith and Professor Marotta-Walters agreed to re-draft the Resolution previously circulated. This resolution would then be circulated as a draft to the ASPP committee members and ultimately sent to the EC for its approval and presentation at the Faculty Senate meeting (q.v.) on May 8. See Annex #3

Members of the ASPP Committee:

R.J. Harrington (Chair)

Professors: Anbinder, Abravanel, Briggs, Galston (Executive Committee Liaison), Gupta, LeLacheur, Marotta-Walters, Plack, Rau, Schanfield, Williams

VP Ellis, Exec VP & Treasurer Katz, Provost Lerman, Vice Provost Martin,

M. Shea (Gelman Library)

Respectfully submitted,

R.J. Harrington

April 30, 2015.

ANNEX #1

Exhibit A. ASPP Resolution May 8, 2015

Faculty Code: IV.B – Promotion

1. Promotion to the ranks of associate professor and professor is granted by the university to faculty members who have achieved excellence in their disciplines through their contributions to research, scholarship, or creative work in the arts (hereinafter *scholarship*), teaching, and engagement in service, and who demonstrate the potential to continue to do so, so that the university may advance its mission of scholarship, higher education, and service to the community. The university seeks to apply the highest standards of academic rigor in evaluating faculty members for promotion. Promotion to professor is reserved for those who have established a record since promotion to associate professor that demonstrates a sustained, high level of distinction in their field through scholarly contributions, excellence in teaching, and active engagement in service. In addition, it is expected that the candidate's record of scholarship, teaching, and service provides confidence that he or she will continue to contribute in all these areas at a level of excellence in a pattern of sustained and substantial achievement and productivity. Time served in the rank of associate professor is not sufficient basis for promotion.

Each school shall establish and publish written criteria, consistent with paragraph B.1, on which promotion to the ranks of associate professor and professor will be based, including any appropriate distinctions between the criteria for tenure-track and tenured faculty and those for non-tenure track faculty members due to the different nature of their appointments. Each department shall define, establish and publish specific criteria, consistent with Paragraph B.1 and with the written criteria established and published by the relevant school. Each school and department shall also establish and publish the procedures used for making promotion decisions and for appointing tenured faculty members. The procedures should provide for informing faculty members periodically, or at their request, whether they are making satisfactory progress toward promotion. Such information shall not be construed as a promise to recommend promotion. Each faculty member has the prerogative to determine whether and when to request consideration for promotion to the rank of professor.

2. As general practice, a promotion shall be accompanied by an appropriate increase in salary.

Faculty Code: IV.C - Tenure

C. Tenure

1. Recognizing the university's commitment when it grants tenure and the university's standing as a preeminent research university, tenure is reserved for members of the faculty who demonstrate excellence in scholarship, teaching, and service. Excellence is defined in the published policies and procedures of each department and school. Excellence in teaching and engagement in service are prerequisites for tenure, but they are not in themselves sufficient grounds for tenure. Tenure shall be reserved for faculty members whose scholarly accomplishments are distinguished in their fields and who show promise of continued excellence in scholarship and teaching over the course of their careers. A candidate's record must compare favorably to that of candidates at similar stages in their careers at peer research universities in the candidate's field. The granting of tenure is generally accompanied by promotion to associate professor.
2. To implement the factors itemized in Paragraph C(1), each school or comparable educational division shall establish and publish the criteria on which the recommendation for tenure will be based. Each

department shall define, establish and publish specific criteria for tenure consistent with the factors itemized in Paragraph C(1) and the criteria established and published by the relevant school or comparable educational division, which shall also be published. Each school and each department shall establish and publish the procedures followed for making decisions concerning tenure and hiring tenured faculty at the rank of associate professor or professor. Recommendations for tenure and promotion originate from the faculty of academic departments or equivalent units of the schools after application by the candidate. Faculty recommendations must be based on evidence of excellence as published in the criteria of each departmental unit and school.

So that faculty members may assess their potential for achieving tenure, each department or school shall establish regular procedures to review and guide faculty members concerning progress toward tenure. Such reviews may be satisfied by, but need not be limited to, evaluations of annual reports and mid-tenure reviews, which should be communicated to the faculty member.

Faculty Code- IV. E. University-Wide Personnel Committees (NEW)

1. Structure

- i. The university shall establish a University-Wide Personnel Committee (UWPC) to provide final resolution to all tenure and promotion cases in which there is an administrative non-concurrence.

ii.

The UWPC shall be composed of nine members, all tenured members of the regular faculty at the rank of professor, with one representative from each school with the exception of the College of Professional Studies. A school may request an exception to this rule from the Executive Committee if there is a limited number of tenured full professors available. The President and Provost; vice presidents, associate vice presidents, and assistant vice presidents; vice provosts and associate vice provosts; deans, associate deans, and assistant deans shall be ineligible for election as members of the University-Wide Personnel Committee.

- iii. Members of the UWPC shall be chosen through elections at the school level. All tenure accruing regular faculty members shall be allowed to vote in the election. Candidates for the UWPC must be nominated by a member of the regular faculty.
- iv. UWPC members will serve staggered three-year terms, with a maximum of two consecutive terms. Following one term of absence from the UWPC, former members may be re-elected.
- v. If a UWPC member is unable to complete his or her term, a school's faculty shall elect a replacement member to complete that term, according to the procedures above.

Faculty Code IV.G Review Process

Departments, school-wide personnel committees, deans, the Provost, and the President shall each ensure that recommendations concerning promotion and tenure are supported by published evidence of excellence and preserve the schools' and the university's interest in building an outstanding faculty.

1. Upon a specific showing that the academic needs of the University have changed with respect to a

particular position, that factor may be considered in determining whether tenure shall be granted.

2. The Deans and the Provost are also entrusted with the fiscal health of the university and must consider extraordinary financial or programmatic constraints.
3. Compelling Reasons for not following the departmental or unit recommendation are:
 - i. Insufficient evidence or inadequate reasons provided by the recommending faculty and external reviewers that the candidate's body of work meets the standards of excellence in the discipline
 - ii. Failure to conform to published tenure or promotion policies, procedures ,and guidelines
 - iii. Arbitrary, capricious, or discriminatory action at any point in the process

G. Nondiscrimination. Appointments, renewals, terminations, promotions, tenure, compensation, and all other terms and conditions of employment shall be made consistent with the University Policy on Equal Opportunity.

Annex #2

Dear Colleagues,

On request from many of you, I have compiled the latest version of administration salaries taken from Form 990 data that is publicly available. The last available 990 is for the year ending 2012. The next year's data should be available in May 2015.

I have also updated student tuitions and faculty salaries over the recent 5-6 year periods.

I make just a brief observation: While the tuition rise and faculty salary rise over the 5 year period are similar (17%, and 14.6%), the top administration salaries have been growing by significantly higher rates of increase.

Please note that I have used the total compensation data from Form 990; the faculty salaries are academic year salaries and do not include benefits.

I am happy to have your comments.

Murli

Dear Colleagues,

Here is some clarification from Provost Lerman on the way Form 990 data is published.

Thanks for your response. The entire 990 is a public document, so committee members were free to download it if they want more data. As you note, the next year's 990s (which will have compensation data for calendar 2013) will be available in May.

For those committee who are not familiar with the 990s, you might let them know that the financial information in them is for the academic year EXCEPT for compensation data. We report compensation for the calendar year on our 990s (as do most if not all universities now) because the compensation information can then be drawn from W-2 statements for those individuals we report on. This makes the information exact and consistent with what we report to the government by way to tax information.

Steve

Annex #3

**RESOLUTION TO RESPOND TO THE BOARD OF TRUSTEES RECOMMENDATIONS ON CHANGES TO THE
FACULTY CODE REGARDING APPOINTMENTS, PROMOTION AND TENURE**

- WHEREAS,** the Board of Trustees has established working groups of faculty members, administrators and staff to amend both the Faculty Organization Plan and the Faculty Code, and
- WHEREAS,** a working group (#4) was charged with making recommendations to sections of the Faculty Code dealing with Appointments, Promotion and Tenure, and
- WHEREAS,** the Faculty Senate Executive Committee sought the advice of the Professional Ethics and Academic Freedom (PEAF) and the Appointment, Salary, and Promotion Policies (ASPP) Committees on the draft recommendations provided by the working group, and
- WHEREAS,** both the Board of Trustees and the Faculty Senate Executive Committees have sought the advice of the faculty at large through Town Hall Meetings and an online forum during the spring 2015 semester, and
- WHEREAS,** the ASPP Committee has found that some of the changes to the Faculty Code recommended by the working group and discussed by the Senate committees, are consistent with the faculty's commitment to excellence in scholarship, teaching, and engagement in service, and
- WHEREAS,** the ASPP Committee has found that other changes to the Faculty Code related to appointments, promotions, and tenure, recommended by the various entities, need further study and discussion by the faculty, and
- WHEREAS,** the Faculty Senate believes that the proposed amendments to the Faculty Code as reflected in Exhibit A attached to this resolution, are consistent with the best interests of the University and its faculty, and
- WHEREAS,** the Faculty Senate believes that the working group draft recommendations to amend the Faculty Code as reflected in Exhibit B attached to this resolution, are in need of further study and discussion by the Faculty Senate through its committees, NOW THEREFORE

BE IT RESOLVED BY THE FACULTY SENATE OF THE GEORGE WASHINGTON UNIVERSITY:

- 1) That the Faculty Senate hereby endorses amendments to the Faculty Code as reflected in Exhibit A attached to this resolution; and
- 2) That the Faculty Senate will continue the study of the working group's draft recommendations during academic year 2015/2016 before proposing future amendments.

Faculty Senate Committee on Appointment, Salary, and Promotion Policies

May 8, 2015