



A RESOLUTION TO AMEND THE *FACULTY CODE* (4) (19/5)

WHEREAS, Articles IV.B and C of the *Faculty Code (Code)* should be amended to ensure that evaluative materials are not disclosed to tenure and promotion candidates while their candidacy is considered and that such material should be disclosed, after making appropriate redactions to protect the confidentiality of the reviewer(s), only in cases of a grievance filing.

WHEREAS, Article X.B of the *Code* should be amended to clarify the circumstances and grounds upon which a grievance may be filed.

WHEREAS, Section B.7 of the Procedures for the Implementation of the *Faculty Code (Code Procedures)* should be amended to allow the President to receive additional written information from candidates and from the recommending faculty units in promotion and tenure cases in which there have been non-concurrences.

WHEREAS, Part E.6 of the *Code Procedures* should be amended to ensure that a Hearing Committee or the Dispute Resolution Committee may not recommend the granting of tenure or promotion following the completion of a grievance proceeding.

NOW, THEREFORE,

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

1. Article IV.B of the *Faculty Code* should be amended by adding the language in italics as a new paragraph 4 at the conclusion of that section:

4. The confidentiality of sources of information and evaluations obtained during the promotion process (including external review letters and evaluative transmittal memoranda) shall be strictly maintained, and will not be made available to a candidate for promotion, including under Section E.4.c)3) of the Procedures for the Implementation of the *Faculty Code*. Notwithstanding the above, the substance of evaluative reviews may be shared with a candidate for promotion in appropriate circumstances (e.g., under Section B.6 of the Procedures for the Implementation of the *Faculty Code*) only to the extent that such sharing does not jeopardize the confidentiality of the source's identity.

2. Article IV.C of the *Faculty Code* should be amended by adding the language in italics as a new paragraph 4 at the conclusion that section:

4. The confidentiality of sources of information and evaluations obtained during the promotion process (including external review letters and evaluative transmittal memoranda) shall be strictly maintained, and will not be made available to a candidate for tenure, including under Section E.4.c)3) of the Procedures for the Implementation of the *Faculty Code*. Notwithstanding the above, the substance of evaluative reviews may be shared with a candidate for promotion in appropriate circumstances (e.g., under Section B.6 of the Procedures for the Implementation of the *Faculty Code*) only to the extent that such sharing does not jeopardize the confidentiality of the source's identity.

3. Article X.B of the *Faculty Code* should be amended by adding the language in italics and deleting the lined-out language:

To maintain a grievance, the complaining party must allege that he or she has suffered a substantial injury resulting from *the violation of rights or privileges concerning academic freedom, research or other scholarly activities, tenure, promotion, reappointment, dismissal, or sabbatical or other leave*, arising from:

1. Acts of discrimination prohibited by federal or local law;
2. Failure to comply with the *Faculty Code*, ~~or Faculty Handbook~~, *the terms and conditions of the grieving party's letter of appointment or reappointment*, or other rules, regulations, and procedures established by the university;
3. Arbitrary and capricious actions on behalf of the university, or arbitrary and capricious applications of federal or local statutes and regulations; or
4. Retaliation for exercise of *Code*-protected rights.

Proposed Changes to the Procedures for the Implementation of the Faculty Code

4. Section B.7 of the *Code Procedures* should be amended by adding the language in italics and deleting the lined-out language:

The Provost's decision in such matters shall be final, subject to the remainder of this Paragraph B.7 and Paragraph B.8. Variant or nonconcurring recommendations from a School-Wide Personnel Committee or administrative officer, together with supporting reasons identified in Sections C.1 and E of Part IV of the *Faculty Code*, shall be sent to the Executive Committee of the Faculty Senate. The Executive Committee may seek information and advice and make recommendations to the department or the appropriate unit thereof, to the School-Wide Personnel Committee, and to the appropriate administrative officers. If concurrence cannot be obtained after opportunity for reconsideration [of the faculty recommendation (whether positive or negative)]¹ in light of the recommendations of the Executive Committee, the recommendations of the School-Wide Personnel Committee and appropriate administrative officers, accompanied by the recommendation of the department, and the report of the Executive Committee shall be transmitted to the President ~~who will make a final decision, subject to Paragraph B.8.~~ *The President*

¹ This addition was approved by the Faculty Senate last year but awaits Board approval.

may invite the unit making the initial recommendation on tenure or promotion, and the faculty candidate, to provide written explanatory statements to the President. The President will thereafter make a final decision, subject to Paragraph B.8.

5. Section E.6 of the *Faculty Code* should be amended by adding the language in italics:

A Hearing Committee and the Dispute Resolution Committee may recommend that the university action being challenged be upheld, modified, reconsidered or remanded under specified conditions, or reversed, in whole or in part, *except that a Hearing Committee and the Dispute Resolution Committee may not recommend the granting of tenure or promotion.* A Hearing Committee and the Dispute Resolution Committee may not include as part of their recommendations any monetary damages, punitive damages, or any other actions or measures outside of the scope of the underlying university action being challenged.

Faculty Senate Committee on Professional Ethics and Academic Freedom
February 8, 2019

Adopted as Amended by the Faculty Senate
February 8, 2019