

**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),<sup>1</sup> 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;<sup>1</sup>
- 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;

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<sup>1</sup> 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 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 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

Adopted by the Faculty Senate  
May 8, 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 withafter 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.