

**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

Adopted by the Faculty Senate
May 8, 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.

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 - 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.