

SUMMARY OF AGENDA

April 6, 1992

- I. **ADOPTION OF THE AGENDA**
- II. **APPROVAL OF THE MINUTES: March 2, 1992**
- III. **REMARKS BY PROVOST PIPES and/or ASSOCIATE PROVOST ANDERSEN**
- IV. **ANNOUNCEMENTS: Senate President Taggart**
- V. **NEW BUSINESS**
 - A. Report on the Library budget
 - B. Proposal to alter the membership of the Committee on Rules
 - C. Proposal to alter the charge to the Committee on Graduate Studies
 - D. Proposal to establish hearing procedures for the Committee on Faculty Welfare and Privileges
 - E. Proposal to alter the charge to the Committee on Faculty Welfare and Privileges
 - F. Introduction of new business






University of Delaware

UNIVERSITY FACULTY SENATE
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March 25, 1992

TO: All Faculty Members

FROM: Harrison B. Hall, Vice President
University Faculty Senate 

SUBJECT: Regular Faculty Senate Meeting, April 6, 1992

In accordance with Section IV, paragraph 6 of the Constitution, the regular meeting of the University Faculty Senate will be held on Monday, April 6, 1992 at 4:00 in room 110 Memorial Hall.

AGENDA

- I. Adoption of the Agenda.
- II. Approval of the minutes of the Senate meeting of March 2, 1992.
- III. Remarks by Provost Pipes and/or Associate Provost Andersen.
- IV. Announcements: Senate President Taggart
- V. New Business
 - A. Report on the Library budget by Susan Brynteson, Director of Libraries. (Memorandum from the Library Committee to Provost R. Byron Pipes is at Attachment 1. The reply from Provost Pipes is at Attachment 2.)
 - B. Proposal from the Committee on Committees and Nominations (D. Smith, Chairperson) for a modification of the membership to the Faculty Senate Committee on Rules.

WHEREAS, the Rules Committee has an important role in reviewing and formulating changes to the Bylaws, and

WHEREAS, according to its charge, the Committee currently has only three members, and

WHEREAS, the Committee could benefit from an enlarged membership, which would bring with it an increased diversity of opinion, be it therefore

RESOLVED, that the second paragraph of the charge to the Rules Committee, as it appears in the Faculty Handbook, Section I, page I-21, be changed to read as follows:

[Added text is in bold type, deleted text is within brackets and double underlined.]

This committee shall consist of the Secretary of the Senate, who shall be its chairperson, and four [two] other members chosen by the Senate. **Of these four appointed members, no more than two may be from the same College.**

- C. Proposal from the Committee on Committees and Nominations (D. Smith, Chairperson) to alter the charge to the Committee on Graduate Studies. [Added text is in bold type, deleted text is within brackets and double underlined.]

WHEREAS, the Committee on Graduate Studies deals with a number of minor alterations to graduate programs, be it therefore

RESOLVED, that the second paragraph of the charge to the Committee on Graduate Studies, as it appears in the Faculty Handbook, Section I, page I-18, be changed to read as follows:

This committee shall review and consider matters relating to graduate education and shall receive, and may stimulate and originate, proposals for its development.

This committee shall formulate, for determination by the Faculty Senate, the policies for admission to graduate study. It shall have the power to act on the alteration, addition or deletion of individual graduate courses recommended by college committees and to delegate this authority to the individual colleges, Office of the University Registrar, or Office of Graduate Studies, as it deems appropriate. **It shall have the power to act on minor modifications of approved graduate programs and [It] shall make recommendation to the Faculty Senate on courses of study leading to graduate degrees and on matters of policy concerning graduate study and may employ outside consultants toward this end. The committee shall have the authority and responsibility for general policies concerning**

the judicial system for graduate students. In the absence of a duly constituted graduate student government, each academic year it shall appoint the graduate student member of the Committee on Student Life. **(Detailed procedures for instituting or modifying graduate degree programs are on file in the Senate Office and Office of Graduate Studies.)**

- D. Proposal from the Committee on Committees and Nominations (D. Smith, Chairperson) to establish hearing procedures for the Committee on Faculty Welfare and Privileges. (The present and proposed summary of hearing procedures are at Attachment 3. The proposed hearing procedures are at Attachment 4.)

WHEREAS, written procedures for the operation of the Committee on Faculty Welfare and Privileges do not exist, and

WHEREAS, unambiguous written procedures are desirable both for faculty members with academic complaints as well as for the members of the Committee as they discharge their function, and

WHEREAS, the Committee on Committees and Nominations was instructed to examine the operation of the Committee on Faculty Welfare and Privileges and to establish written procedures, be it therefore

RESOLVED, that the procedures prepared by the Committee on Committees and Nominations, in consultation with the Executive Committee and the Committee on Faculty Welfare and Privileges, be approved as the operating instructions for the conduct of the Committee on Faculty Welfare and Privileges, and that these procedures be maintained in the Faculty Senate Office and made available to anyone upon request, and be it further

RESOLVED, that the summary of these procedures prepared by the Committee on Committees and Nominations be included in the Faculty Handbook, Section III, currently page III-O-1, under the heading "Academic Complaint Procedure," as a replacement for the paragraph which is currently in that location in the Faculty Handbook.

- E. Proposal from the Committee on Committees and Nominations (D. Smith, Chairperson) to alter the charge to the Committee on Faculty Welfare and Privileges.

[Replacement paragraphs are in bold type, original paragraphs to be deleted follow and are within brackets.]

WHEREAS, the procedures for the Committee on Faculty Welfare and Privileges have been clarified, be it therefore

RESOLVED, that the charge to the Committee on Faculty Welfare and Privileges, as it appears in the Faculty Handbook, Section I, pages I-17 and I-18, be amended to read as follows:

This committee is charged to develop and review general policies in the areas of reappointment, dismissal, faculty evaluation and appraisal, academic freedom and other areas of personnel policy and conditions of faculty employment, and to prepare recommendations concerning such policies for transmission to the Trustees through the faculty or its Senate, and through the President of the University, in accordance with Trustee Bylaws.

[This committee is charged to develop and review general policies in the areas of reappointment, dismissal, faculty evaluation and appraisal, salary adjustment, sabbatical leave, fringe benefits, academic freedom and other areas of personnel policy and conditions of faculty employment, and to prepare recommendations concerning such policies for transmission to the Trustees through the faculty or its Senate, and through the President of the University, in accordance with Trustee Bylaws.]

This committee is charged with jurisdiction over faculty complaints which are not grievances as defined in the Collective Bargaining Agreement. Procedures for mediation and hearing of complaints are detailed in "Mediation and Hearing Procedures" which was approved by the University Faculty Senate April 6, 1992 and is maintained in the office of the University Faculty Senate. The committee's decisions on complaints are presented as advisory opinions to the Provost.

[It shall be available to hear, investigate, advise, and, as far as it may be able, mediate specific questions of individual faculty members, seeking the informal resolution of possible grievances or complaints. It shall, with the acquiescence of both parties to a grievable or complainable dispute, receive and file copies of correspondence pursuant to such disputes, that it may better serve its function, and that it may develop and maintain a file of precedents. If, prior to a hearing or review, a faculty member complains about the membership of a College or Division Committee of Review, this committee shall consider those charges.]

[The following two paragraphs are being retained without change:]

A subcommittee, consisting of five members of the committee, one of whom shall be chair, shall serve at Step 3 of the Academic Complaint Procedure in hearing each case and rendering its advisory decision to the Vice President for Academic Affairs. The chair of the Committee on Faculty Welfare and Privileges shall appoint this subcommittee and designate its chair.

This committee shall consist of seven faculty members, one of whom shall be designated chair and one of whom shall be an assistant professor.

Nothing in the charge to this committee shall be interpreted as overriding the Collective Bargaining Agreement or the laws of the State of Delaware governing collective bargaining.

[Nothing in the charge to this committee shall operate to result in conflict with any current Collective Bargaining clause or requirement or with state law governing collective bargaining.]

- F. Such items as may come before the Senate. (No motion introduced under new business, except a motion to refer to committee, shall be acted upon until the next meeting of the Senate.)

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Attachments: Committee Activities Reports

1. Memo from the Library Cte.
2. Memo from Provost Pipes
3. Summary of Hearing Procedures
4. Hearing Procedures

COMMITTEE ACTIVITIES REPORT

Education, Coordinating Committee on (Kenneth Lomax)

Nothing currently before committee

Faculty Welfare and Privileges, Committee on (Reed Geiger)

1. Discussing charge to Committee
2. Discussing hearing procedures
3. Discussing Policy on Academic Freedom

Promotions and Tenure, Committee on (Russell F. Settle)

The Committee has nearly completed its review of 56 promotion or tenure cases and the appeals stemming from its initial decisions.

Research, Committee on (Carroll Izard)

1. Discussing nomination of candidates for Vice Provost for Research
2. Developing plans/schedule for interviewing finalists for above position
3. Continuing discussion of guidelines for GUR awards (the Provost wants the GUR money to be leveraging funds primarily to junior faculty)

Student Life, Committee on (Robert Bennett)

1. Discussing Academic Dishonesty Policy (implementation, pending passage)
2. Discussing current status of special interest housing (Ray Street)
3. Revising handbook definition of plagiarism

Undergraduate Studies, Committee on (Michael Keefe)

1. Discussing Reading Day, finals week policy
2. Discussing multicultural requirement
3. Discussing resolution by Committee on Academic Appeals (grievance procedure)
4. Discussing curriculum change in Agricultural Sciences
5. Conducting/reviewing open hearing on permanent status for the Program in Hotel, Restaurant and Institutional Management

/wc



UNIVERSITY FACULTY SENATE

February 28, 1992

MEMORANDUM

To: Dr. R. Byron Pipes, Provost & Vice-President for Academic Affairs

From: Faculty Senate Library Committee, Dr. L. W. Schwartz (Chair)

L. W. Schwartz

Subject: Library matters including solicitation of funds

The Library Committee wishes to express its gratitude for the opportunity to meet with you on December 13, 1991 to discuss items of mutual concern. We feel the meeting was most productive and value your continuing interest in the welfare of the University Library.

A number of issues were highlighted in our meeting. The difficulty in coordinating the up-loading of newly-acquired information software was discussed and you offered to help expedite the process. We are pleased to report that real progress has been made. Thank you. The Committee feels that the Library Administration is to be commended for the rapidity with which these new technologies are being implemented at Delaware.

Perhaps the most important issue for the Library is maintaining and improving our collection during a period of tight budgets. As you know, we are about to start a third round of cuts in periodical subscriptions and book purchases. The net effect of these cuts is that purchasing power for these items will have been reduced by about 30 per cent compared to three years ago. A reduction of this magnitude can not help but have significant adverse impact, particularly on the effectiveness and productivity of University researchers. Many researchers help support the Library via the overhead component of their research contracts. The fact that many other research universities are experiencing similar difficulties provides no comfort, and, in some ways, compounds our own problem.

We believe that the University Library plays a unique role, associated with the fact that Delaware is the only private state university in the nation. It is generally true that public libraries and libraries of state institutions have an acknowledged responsibility to provide for the information needs of the general public, since they are supported, for the most part, by tax revenues. Our University Library has assumed a similar responsibility, and provides a high level of services to the community; yet the Library is not a direct recipient of government funds. Certainly the Library receives funding from the State indirectly, via the substantial yearly State grant to the University. [Much of the State grant is, of course, logically related to the defrayal of educational costs for in-state students.] Most University functions exist, essentially exclusively, for the benefit of the University community. Only the Library and a few others provide direct services to the citizens of the State, both private and corporate. It is not unreasonable to believe, therefore, that the Library's unique status should be appropriately recognized by the State.

It is worthwhile to list some of the services provided by the Library to the outside community:

- (i) **The Library is open to all.** We estimate that about 10 per cent of Library users have no University affiliation. A number of state-funded university libraries do not have open access and very few private libraries do. Princeton University, for example, charges \$50 *per day* to individuals for "browsing privileges."
- (ii) **Our electronic catalog, DELCAT, is available to anyone with a modem.** This is a very heavily-used service. In addition the University provides toll-free service for calls from southern Delaware.
- (iii) **Our interlibrary loan service supplies technical and other items, free-of-charge, to Delaware's large corporations, contributing directly, thereby, to their profitability.**
- (iv) **Our Patent Collection is the only one in the State.** The primary users are corporate employees and unaffiliated individuals.
- (v) **Many student groups, from primary and secondary schools, visit the Library and are hosted by Library personnel.** We provide other services, free-of-charge, to public and private schools.
- (vi) **We provide professional reference service from highly-trained and specialized reference librarians, both on-site and over the telephone.**
- (vii) **Borrowing privileges are available to the public upon payment of a nominal yearly charge.** This charge is probably less than 2 % of what our own students pay for use of the Library through their tuition.

We believe that seeking outside support for the library is an institutional priority and wish to work with the University Development Office to solicit contributions from Delaware corporations. At a time when large Delaware corporations are reducing support for their own libraries, we will indicate to these corporations the services provided to them, including to their walk-in employees. We will also inform them of the Library's weakened financial condition, which impacts upon them as well, especially for specialized materials. We hope for direct support for the collections which has not been received in the past.

We realize that the University's yearly negotiation with the State is a complicated process involving many issues. The Committee would like the University Administration to carefully consider requesting specific line-item funding for the Morris Library, commensurate with the level of services provided that is independent of our educational mission. Such a request is easily justified and is, in our opinion, only fair and reasonable. Director Brynteson will be pleased to provide the Administration with documentary information as required.

We invite your thoughts on these matters.

c. Dr. R. Taggart, President
University Faculty Senate



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MAR 23 1992

FACULTY SENATE

March 20, 1992

MEMORANDUM

To: Leonard Schwartz
Chair, Faculty Senate Library Committee

From: R. Byron Pipes
Provost

I am responding to your recent memorandum about "library matters including solicitation of funds." You raise many important and complex issues.

The Library has been informed that its 1992/93 operating budget is not projected to be reduced and that the Budget Council had targeted the library as a priority for non-reduction for 1992/93. I am pleased that we are able to support the Library in this manner.

I recognize that this means that the Library is thus undertaking planning to deal with a steady state budget while facing loss of purchasing power and increased service demands. Nevertheless it is clear that while other parts of the University are facing reductions, the Library stands out as a priority.

It is my understanding that in order to meet this reduced purchasing power situation, all journal subscriptions have been or are being reviewed by faculty and librarian advisory groups with the goal of identifying journals in priority order for cancellation. I believe the cancellation process is being well managed and that enormous consultation and communications has and is occurring very effectively among all those involved.

Predicting the future is, as you know, difficult. It is my understanding that it is probably the case that \$253,000-\$274,000 (12-13% of 1990/91 expenditures) in current subscriptions will need to be cancelled effective January 1993. This amount of increase is not available from other parts of the University to transfer to the Library. The University has requested a specific line item of an additional \$160,000 from the State to assist the Library with journal price increases.

I certainly do agree with you that the Library plays a unique role, and especially so in the community and the State. Of course, the primary role of

the Library is to serve instructional and research needs of the University and its students, faculty and staff. Even though the major proportion of library use is by University users, as an institution which receives annual state support, the University makes many library services and collections accessible to the general public as well. The history of state support includes \$9 million of the total \$15 million cost for the renovation and expansion of the Morris Library which was completed in 1986.

The use of the library collections and services increases each year, and the effect of this use on facilities and staff, including use by

non-University users, is recognized. The library gives highest priority to the needs of University students, faculty and staff when determining staffing levels, collection priorities, hours, and levels of service, while still attempting to provide assistance to citizens of Delaware.

You raise the question of seeking outside support for the Library from large Delaware corporations. As you may know, the Library has a fine record of obtaining grants from government agencies in relation to other research libraries. In addition, the Library has an active and dedicated "friends" group, the University of Delaware Library Associates, which makes an annual gift to the Library and which also right now is conducting a membership campaign. I encourage you and your colleagues to become members of the Library Associates.

To directly solicit contributions for the Library from large Delaware corporations is somewhat complex. As you know, the University is presently conducting a major fund drive for the Lamont Dupont Chemistry Building; for academic scholarships; and for Bob Carpenter Center. At the moment these are the highest priorities for the University of Delaware in relation to corporate fundraising. Priorities change and the situation also changes. Direct solicitation of Delaware corporations for the Library is a possibility that may be given consideration in the future, especially when new leadership of the University Development Office is identified.

There is a positive side to library activities even with the financial difficulties being faced. The University of Delaware Library is participating in many exciting developments whose goal is to make more and more information available to users.

Electronic and networked information enhance access to information which exists in many formats, i.e., books, journals, microforms, CD-ROMs, online databases, networked information, etc. Library users continue to benefit from the strides made in the automated environment and the library automation outlook thrives on the improvements in information tools which can be used to locate, retrieve, and disseminate information. For example, DELCAT, is an especially valued service to the user community, and is extremely heavily used.

Leonard Schwartz
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I believe there will be many changes that will occur in "scholarly communication" as the relationships between the world of print information and electronic access to information grow, change and transform the way scholarly information is obtained, utilized and shared.

I would welcome the opportunity to discuss any of these matters with you, with the Faculty Senate Library Committee or with the full Senate.

cc: Dr. R. Taggart, President, University Faculty Senate
Susan Brynteson, Director of Libraries

PRESENTLY READS:

ACADEMIC COMPLAINT PROCEDURE

[Complaints dealing with academic judgment decisions may be processed from Step 1 through Step 2 as described in Article VIII of the Collective Bargaining Agreement. If an academic judgment complaint is not resolved at Step 2, the Committee on Faculty Welfare and Privileges shall hear the case and render its advisory decision to the Vice President for Academic Affairs.]

PROPOSED SUMMARY OF PROCEDURES

Mediation and Hearing of Complaints by
Committee on Faculty Welfare and Privileges

The Committee on Faculty Welfare and Privileges is charged with mediating and hearing faculty complaints which are not "grievances" as defined in the Collective Bargaining Agreement. Disputes within the jurisdiction of the Welfare and Privileges Committee include, but are not limited to, the areas of reappointment, dismissal, faculty evaluation and appraisal, salary adjustment, sabbatical leave, fringe benefits, academic freedom and other areas of personnel policy and conditions of faculty employment.

Before bringing a dispute before the Committee by lodging a complaint, a faculty member is expected to have exhausted all other reasonable means of resolving the dispute. Such reasonable means will usually include discussions with the faculty member's department Chairperson and/or college Dean.

Procedures for mediating and hearing complaints are detailed in "Mediation and Hearing Procedures", approved by the University Faculty Senate, April 6, 1992, available in the Faculty Senate Office. A flow chart summarizing the complaint process is attached to those procedures. The purpose of the procedures is the resolution of disputes in a fair and collegial manner.

An important feature of the Committee's procedures is to encourage the resolution of disputes by mediation, without resort to a formal hearing. If a formal hearing becomes necessary, all parties to the dispute are required to attend that hearing, and to participate honestly and fully. After the hearing, the Committee shall write an opinion which shall include its conclusions about the dispute and any remedies the Committee may recommend. This opinion shall be advisory to the Provost, who has final authority in the disposition of all complaints. In addition, the Committee may recommend to the Provost revisions in or additions to portions of University policy relevant to the dispute.

Ultimate authority for its committees is vested in the Senate, which therefore has responsibility to oversee committee operations and modifications in committee procedures. The Committee on Faculty Welfare and Privileges shall have the authority to initiate requests for amendment to the detailed procedures. These requests will be evaluated by the Committee on Committees and Nominations, which will determine whether the proposed changes are minor or major. Requests for minor changes may be decided by the Committee on Committees and Nominations. Requests for major changes require approval by the Senate.

Committee on Faculty Welfare and Privileges
Mediation and Hearing Procedures

I. Jurisdiction

II. Definitions

III. Procedures

- A. General Provisions
- B. Procedures for the Mediation of Faculty Complaints
- C. Procedures for the Hearing of Faculty Complaints
 - 1. Preliminary Steps for the Hearing of Faculty Complaints
 - 2. The Hearing
 - 3. The Hearing Panel
 - 4. Attendance
 - 5. Witnesses
 - 6. Advisors and Observers
 - 7. Committee Opinion

I. Jurisdiction

The Faculty Constitution charges the Faculty Senate with the right to delegate responsibility to and charge Faculty Committees. The Faculty Welfare and Privileges Committee (FWP) has jurisdiction over all faculty Complaints pertaining to faculty reappointment, dismissal, evaluation, salary adjustment, sabbatical leave, fringe benefits, academic freedom, and other areas of personnel policy and conditions of faculty employment.

All Faculty are within the jurisdiction of and are subject to the procedures of the Faculty Welfare and Privileges Committee.

The Faculty Welfare and Privileges Committee may refuse to consider a dispute in two instances: 1) if the Committee determines that the issue is not in its purview; 2) if the matter under dispute is deemed insubstantial by a majority of the Committee after the Initiator(s) has(have) followed the steps outlined in Section III (B).

II. Definitions

For the purposes of Faculty Welfare and Privileges Committee procedures as outlined below, the following words have these specific meanings:

- A. A Complaint is any question within the jurisdiction of the Faculty Welfare and Privileges Committee brought by a Faculty member for mediation or hearing. Note that a "Complaint" is not the same as a "grievance". A grievance is an alleged violation of the AAUP bargaining agreement and is pursued through the AAUP Grievance Procedure.
- B. Mediation refers to the specific steps in (III)(B) below for resolution of faculty Complaints.
- C. Hearing refers to the specific steps in (III)(C) below for the hearing and investigation of faculty Complaints after the failure of Mediation.
- D. Faculty refers to all voting and non-voting Faculty members as defined by the Faculty Constitution, I, Section I.

- E. The Committee refers to the Faculty Welfare and Privileges Committee.
- F. Initiator refers to a Faculty member who brings a Complaint to the Committee.
- G. Respondent refers to Faculty member(s), including administrators, against whom a Complaint is brought by Initiator(s).
- H. Party refers to either Initiator(s) of or Respondent(s) to a Complaint.
- I. Hearing Panel refers to the Committee members selected to hear a particular Complaint.
- J. Working Day refers to the days when the University conducts regular business, normally Monday through Friday and excluding all University holidays. Winter and Summer session days are included. To count Working Days, Parties exclude the day of the receipt of materials or notice requiring response.
- K. Response refers to the Respondent's written reply to the Initiator's Complaint.

III. Procedures

A. General Provisions

1. All Faculty may avail themselves of these procedures.
2. All Parties to a Complaint before the Committee must comply with the Committee's procedures. In particular, all Parties must attend and participate fully in any duly scheduled Committee Hearings on the Complaint to which they are Parties, unless they are excused from attending in accordance with (III)(C)(4) below.
3. A Party's failure to attend or participate fully in a duly scheduled Committee Hearing constitutes a violation of the obligations of Faculty at the University of Delaware and will result in such sanctions as the administration deems appropriate.
4. A Party's failure to comply with a provision of Committee procedures will result in that Party's loss of those rights provided by that part of the procedure (for example, documents not submitted within specified time limits will not be admitted as evidence at the Hearing). One Party's failure to comply with Committee procedures does not abrogate the other Party's responsibility to comply.
5. Parties engaged in a Hearing (Section C below) may enlist the help of any employee of the University of Delaware who shall act as an advisor (Section (C)(6)(b) below). In cases of non-renewal or termination of employment, or other cases the Committee deems appropriate, a Party's advisor may be any non-employee of the University of Delaware.

B. Procedures for Mediation

1. Before bringing a dispute to the Committee by communicating a Complaint to the Committee Chair, a faculty member is expected to have exhausted all other reasonable means of resolving the dispute, including, where appropriate, discussion with the faculty member's Chair and/or Dean.

2. An Initiator(s) begins the Mediation process by communicating a Complaint to the Chair of the Committee. If, after discussion with the Chair, the Initiator(s) decides to withdraw the Complaint, or if the Initiator(s) and the Chair mutually agree to drop the Complaint, then the matter is closed and no record of the Complaint is kept.
3. If the Complaint is not terminated through the discussion process in 1 above, the Initiator(s) may present a preliminary Complaint in writing to the Chair of FWP and to the person(s) against whom the Complaint is directed.
4. The Chair shall, with the concurrence of the Committee, refer the Initiator(s) to a member of the Faculty whom the Chair has appointed to act as Mediator. The Mediator shall work with the Initiator(s) and Respondent(s) to investigate the Complaint and effect a resolution agreeable to all Parties.
5. Mediation is concluded when:
 - a. The Complaint is withdrawn; or
 - b. The Complaint is resolved to the satisfaction of all Parties; or
 - c. The Mediator determines that no informal resolution is possible; or
 - d. After 30 Working Days (or after any extension agreed to by the Initiator(s), Mediator, and the Chair of FWP), the Complaint has not been resolved.
6. Upon conclusion of Mediation, the Mediator shall report the results to the Committee.
7. If a majority of the Committee determines that the Complaint falls within its purview, the Chair shall advise the Initiator(s) of her/his/their right to a Hearing under Section (C). If a majority of the Committee determines that the Initiator's Complaint does not fall within its purview or that the Complaint is insubstantial, then no Hearing on the matter shall be held.

C. Procedures for the Hearing

1. Preliminary Steps

a. Written Complaint

If the Committee agrees to hear the Complaint, the Initiator(s) files with the Committee an expanded written Complaint which specifies the charge(s), reviews the evidence, and includes the remedies sought.

b. Written Response

Within ten Working Days after the date that the Initiator(s) file(s) a Complaint, the Respondent(s) shall file with the Committee a Response that, at a minimum, indicates whether the Respondent(s) deny the Complaint.

c. Pre-Hearing Meeting

Within 15 Working Days after the Initiator(s) submit the expanded written Complaint, the Chair shall conduct a short Pre-Hearing Meeting with Initiator(s) and Respondent(s). At or before this meeting, any Party may raise any questions about procedure, the scope of the Complaint, the role of advisors, or any other procedural matter. At the meeting, the Chair shall:

- 1) Fix an expeditious and mutually agreeable time for the Hearing;
- 2) Review Hearing procedures, including the Parties' obligations, the roles of advisors and observers, the rules for submitting documentary evidence, and possible limits on the number of witnesses;
- 3) Set deadlines for submission of documentary evidence and names of witnesses to be called;
- 4) Identify advisors and observers selected by the Parties and;
- 5) Tentatively name the Hearing Panel, pursuant to any Party's claims of conflict of interest under Section (C)(3)(b) or other cause for excusing a Hearing panel member.

d. Witness Lists

Parties shall submit the names of witnesses to the Committee within the time agreed upon in section (c)(3) above. The Committee shall make the names available to all other Parties immediately. If the Committee decides to call additional witnesses, it will immediately communicate their names to all Parties.

e. Documents

- 1) Parties shall submit documents to the Committee at least 10 Working Days before the Hearing or lose the right to submit documents. Within 5 Working Days after receipt, the Committee shall make all documents available in the Senate office to all Parties and the Provost, and to no one else.
- 2) All documents shall be submitted in duplicate with one set being original documents if at all possible. All documents shall remain in the possession of the Committee. If original documents are in the possession of someone not a Party to the Hearing, then the Committee may request the submission of any such documents for the purpose of making a copy of such document which shall be regarded as if original. If original documents no longer exist, then copies may be accepted, subject to verification where possible.
- 3) All documents and correspondence received by the Committee that relate to a Hearing, or to an attempt at Mediation that precedes it, shall be made available by the Committee to the Parties to that Hearing, to the Provost, and to no one else. Parties may not remove original documents from the Senate Office, but may make and remove copies. Items made available shall be considered confidential and shall not be communicated to anyone not a Party, advisor or observer.

2. The Hearing

a. Attendance is limited to the following:

- 1) The Initiator(s) and the Respondent(s);
- 2) One advisor selected by each Initiator and one advisor selected by each Respondent;
- 3) One observer selected by each Initiator and one observer selected by each Respondent.
- 4) The members of the Committee and supporting staff;
- 5) Each witness during his/her testimony.

b. Conduct of the Hearing

- 1) It is the responsibility of the Committee and its support staff to arrange hearing space and maintain records of the Hearing.
- 2) The Committee Chair or his/her appointed representative shall serve as Chair of the Hearing. This Chair shall call the Hearing to order, determine all procedural questions and objections raised at the Hearing, and determine the admissibility of evidence.
- 3) All Parties, Advisors, Observers, and members of the Hearing Panel shall be identified for the record.
- 4) The record shall include both the Initiator(s)' Complaint and the Respondent(s)' response.
- 5) Only members of the Hearing Panel and the Parties may question a witness unless otherwise provided for pursuant to section (c), below.
- 6) Each witness shall be present in the hearing room only during the time of his/her testimony and shall refrain from discussing the case with other witnesses.

c. Statements and Questioning of Witnesses

- 1) First the Initiator(s) and then the Respondent(s) may make an opening statement.
- 2) The order in which witnesses shall be heard is as follows: first the witnesses called by the Initiator(s), second those called by the Respondent(s), and third those called by the Committee.
- 3) The order in which each witness shall be questioned is as follows:
 - a) Witnesses called by the Initiator shall be questioned first by the Initiator, then by the Respondent and then by the Committee.
 - b) Witnesses called by the Respondent shall be questioned first by the Respondent, then by the Initiator and then by the Committee.
 - c) Witnesses called by the Committee shall be questioned first by the Committee, then by the Initiator and then by the Respondent.
- 4) After the Hearing Panel and the Parties have questioned a witness, members of the panel and Parties may pose additional questions at the discretion of the Chair.

- 5) After all witnesses have been questioned, first the Initiator(s) and then the Respondent(s) may make closing statements. After the closing statements, the Hearing Panel may further question the Parties.

d. Transcript of Hearing

A transcript of the Hearing shall be made available by the Committee to the Parties to that Hearing, to the Provost, and to no one else. The Parties shall not provide a copy of the transcript or show it to anyone other than their advisors, observers or legal counsel.

3. The Hearing Panel.

a. Membership

The Hearing Panel shall consist of five members of the Committee unless, because of conflicts of interest as defined below (b), only four Committee members are eligible.

b. Conflict of Interest

- 1) Any member of the Committee who is a member of the department of the Initiator(s) or the Respondent(s) or who has a relationship of friendship, animosity, or some other nature that goes beyond mere personal acquaintance or professional association may not serve on the Hearing Panel unless otherwise agreed by all Parties.
- 2) Either Party may request that any member of the Hearing Panel be excused for cause. Such a request must be made in writing to the Committee no later than five Working Days after the Pre-Hearing Meeting. The Committee shall decide whether the alleged cause justifies excusing the member and shall notify all Parties of its decision and reasons therefore at least 5 Working Days prior to the Hearing.

4. Attendance

- a. All Parties to a Complaint before the Committee must attend and fully participate in any duly scheduled Hearings on that Complaint.
- b. The Committee may excuse a Party from attending under the following circumstances:
 - 1) At least 15 Working Days prior to the Hearing, the Party notifies the Committee in writing of a significant, conflicting obligation that prevents the Party from attending; or
 - 2) At any time prior to the Hearing, the Party notifies the Committee in writing of a serious and unexpected emergency or illness that prevents the Party from attending.
- c. A Party's failure to adhere to section a above, unless excused pursuant to sections b 1) or b 2) above, constitutes a violation of the obligations of Faculty at the University of Delaware and will result in such sanctions as the administration deems appropriate. In addition, at its discretion, the Committee may proceed with a Hearing in a Party's absence.

- d. If a Party is excused pursuant to sections b 1) or b 2) above, the Committee shall postpone the Hearing, reset the Hearing to the earliest possible mutually agreeable date, and officially notify all Parties and witnesses of the new hearing date within five Working Days.

5. Witnesses

- a. It is the responsibility of the Parties to name their witnesses by the deadline fixed in the Parties' preliminary agreement.
- b. In the event that either the Initiator(s) or the Respondent(s) discover new witnesses after the deadline agreed upon, their names shall be provided to the Committee immediately. If the Committee determines that this discovery is legitimate, then the other Parties shall be informed of the names of the new witnesses immediately. However, all new witnesses must be identified and their names communicated to all Parties at least eight Working Days prior to the Hearing.
- c. Each witness duly notified of a Hearing is obliged to attend and fully participate in hearing procedures.
- d. The Committee may excuse a witness from attending under the following circumstances:
 - 1) Within seven Working Days of the date of the witness' notice to appear, the witness notifies the Committee that he/she is unable to appear; or
 - 2) At any time prior to the Hearing, the witness notifies the Committee in writing of a serious and unexpected emergency or illness that prevents the witness from attending.
- e. If a witness fails to appear or is excused from attending under the provisions in d) above, the Committee shall determine whether the Hearing shall continue as scheduled or whether, in the interests of fairness, the Hearing should be rescheduled to the earliest possible mutually agreeable date. If the Hearing proceeds as scheduled, but either Party considers the absent witness' testimony to be essential, then that Party may, at the conclusion of the Hearing, petition the Committee for a subsequent Hearing to be limited to eliciting the absent witness' testimony.
- f. The Hearing Panel shall attempt to avoid inconveniencing witnesses by realistically scheduling the time each witness is expected to testify and by conducting the Hearing as expeditiously as is consonant with fairness and due process.
- g. Unless excused according to d) above, the failure of a witness who is a university employee to comply with sections c) above constitutes a violation of his/her responsibilities as a member of the University community and will result in whatever sanctions the administration deems appropriate.

6. Advisors and Observers

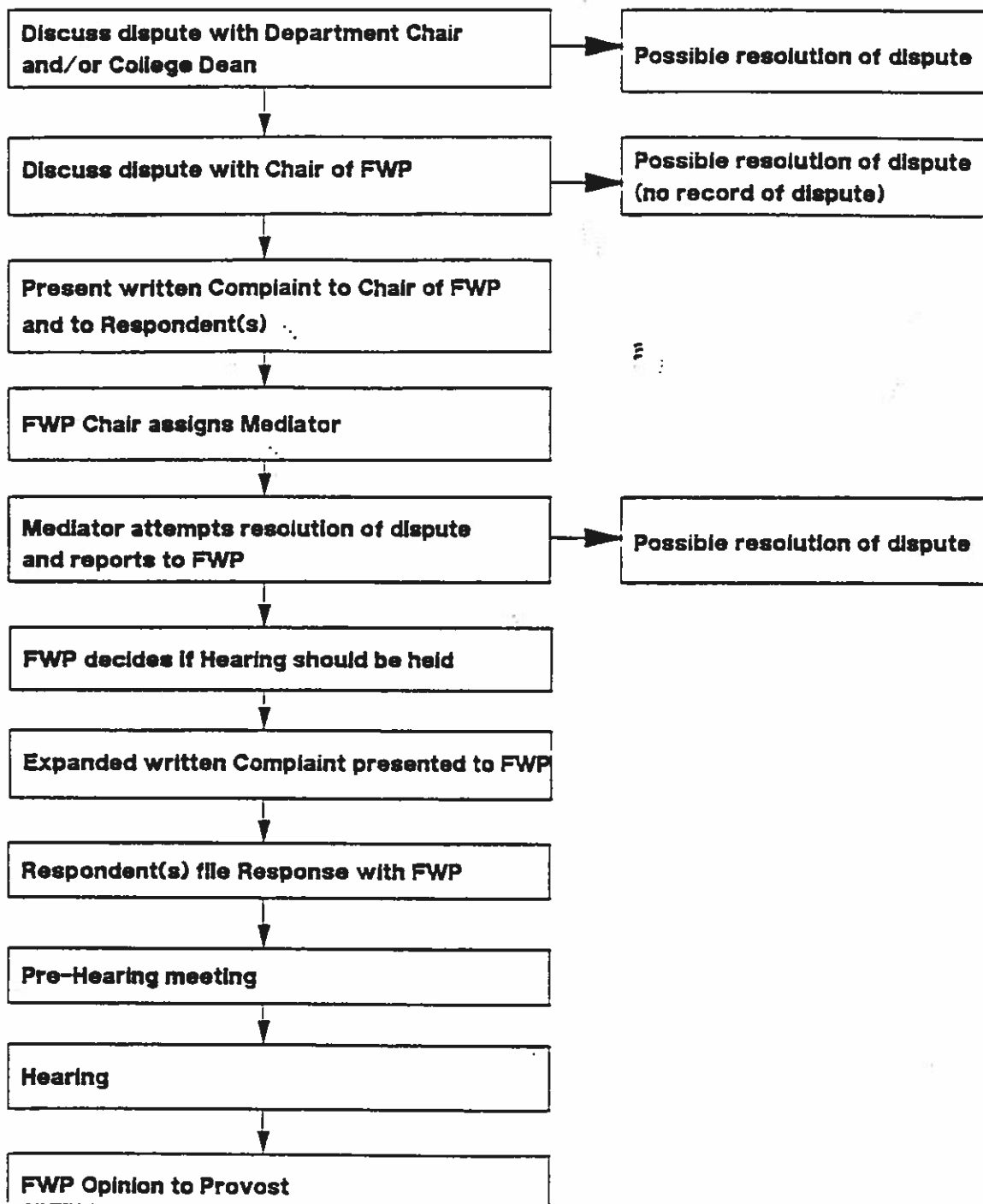
- a. Except in the circumstances outlined in section (A)(5) above, advisors shall be employees of the University of Delaware.

- b. Each advisor shall act only as an advisor unless the Hearing Panel agrees to a Party's request that his/her advisor undertake functions otherwise assigned to the Party under Section (C)(2)(b) and (c) above such as the presentation of opening and closing statements and the questioning of witnesses. Any such substitution by an advisor must also be agreed to by the other Party unless the Hearing Panel finds compelling reasons to agree to the substitution without the other Party's agreement. Without such agreement from the Hearing Panel, the advisor is not to take any action or make any statement either before or during the Hearing which would appear on the transcript of the Hearing.
- c. Each observer selected by a Party may only observe and may not otherwise participate in the Hearing.

7. Committee Opinion

- a. Upon conclusion of a Hearing, the Committee shall write an advisory opinion to the Provost that includes the Committee's conclusions about the case and any remedies the Committee may recommend. These remedies are not limited to those specified by the Initiator(s) in the Complaint.
- b. The Committee shall provide a copy of its opinion to the Provost and to each Party. The Committee shall not provide a copy of, or show, its opinion to anyone else. The Provost or the Parties may disclose the contents of the opinion at their discretion.

STEPS OF THE COMMITTEE ON FACULTY WELFARE AND PRIVILEGES DISPUTE PROCEDURE



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