



MEMORANDUM

To: Tessa Dysart, Secretary of the Faculty

From: Robert C. Robbins, President

Date: August 21, 2023

Subject: Decisions: Proposed Faculty Constitution and Bylaws Revisions

Robert C. Robbins
8/21/2023

Thank you for affording me additional time to complete my review of the proposed revisions of the Constitution of the General Faculty of the University of Arizona and the Faculty Bylaws, as endorsed by the Faculty Senate and submitted for presidential approval April 10, 2023.

In reviewing the redlined versions of each in-effect document, I note that most of the proposed changes to the Constitution and Bylaws are consistent with both University and Arizona Board of Regents policies as well as state law and similarly raise no practical institutional concerns. Thanks again for your significant efforts to review Faculty Senate records, to clarify voting results, and to address document discrepancies in advance of my consideration.

Regarding the several proposed changes that, in my opinion, are inconsistent with law and/or policy or merit concern, I detail my feedback below.

Constitution of the General Faculty Proposed Revisions

The proposed revision to **Article VII, Section 4 of the Constitution** that extends the authority to call additional Faculty Senate meetings beyond the Chair of the Faculty and the President to elected faculty senators following their petition and majority vote merits some concern. This mechanism potentially would enable senators to override the Chair's judgment, hinder adherence to meeting agendas, and/or impede progress on the Senate's regular business and toward long-term objectives. I raise this issue primarily for awareness purposes.

Similarly, I share for your and the Faculty Senate's general consideration that caution should be given to the practice and labelling of "housekeeping changes" in proposed revisions to foundational and governing documents such as the Constitution of the General Faculty. While administrative, non-substantive changes are expected to be categorized under this heading,

several of the proposed changes were noted to exceed what typically would be considered housekeeping. One such example is the proposed Constitution Article II, Section 5 language that revises and reforms who elected Faculty Senators are considered to represent. I appreciate your understanding and future sensitivity to this concern.

Faculty Bylaws Proposed Revisions

Primary among the proposed revisions of concern within the Faculty Bylaws are those affecting Article VII, elements of which contradict both state law and ABOR policy. **Bylaws Article VII, Section 6** describes the University's Committee on Academic Freedom and Tenure role in the faculty grievance process, which concludes with the committee's handing up of a recommendation to the Executive Office of the President for final decision. Upon issuing of the President's decision, the faculty member may request reconsideration, as outlined in Bylaws Article VII, Section 6(a)(viii)(14), with the President then making a decision on the reconsideration request. The final step in the grievance hearing procedures, as described in the Bylaws, is:

“The President's decision on reconsideration shall include a statement that an appeal to Superior Court pursuant to the Administrative Review Act, A.R.S. § 12-901 et. seq., if desired, must be filed within thirty-five (35) days from the date when a copy of the decision is served upon the party affected.”

The Arizona Administrative Review Act, and rights afforded therein, does not extend to decisions on internal faculty grievances. Under ABOR Policy 6-201 (J), the right by a member of the faculty to seek administrative review is limited to dismissal and suspension-without-pay decisions, and the Faculty Senate cannot, through its Bylaws, unilaterally extend the scope of A.R.S. § 12-901 et. seq. Therefore, Article VII, Section 6(a)(viii)(14)(c) should be deleted from the proposed Bylaws revisions and replaced with the following: “(c) The President's decision on reconsideration is final and not subject to further review.”

Additionally, I would like to call to your attention to additional concerns regarding **Bylaws Article VII, Sections 5 and 6**, guiding grievance reviews and hearings. These sections were exposed via 2022 spring semester grievance hearings for their inclusion of confusing language that was either incongruent with the University Handbook for Appointed Personnel or was not followed in practice. Because clarity is paramount for faculty members who seek resolution in grievance matters and expect to obtain due process — and failure in this regard exposes the University to undue risk of lawsuits and faculty dissatisfaction — I ask that you please refer to the Faculty Senate's Constitution and Bylaws Committee (CBC) Article VII, Sections 5 and 6 for significant revisions. I am confident the CBC can replace the current confusing and inconsistent format, which undermines our institutional commitment to a fair and transparent process, with improved, practical grievance review and hearing procedures befitting our faculty's needs and expectations.

Another proposed revision of concern within the Faculty Bylaws is **Article VIII, Section 2**, relating to *ex officio* membership and, specifically, the removal of voting rights possessed by *ex officio* members the President, the Provost, the Chief Research Officer (i.e., Senior Vice President for Research and Innovation), and the Deans' representative. The justification for this proposed change to remove from the voting process these administrators who hold chief academic responsibilities and should be enabled to express their support or dissent to faculty resolutions as appropriate, is not provided. While such a revision is not precluded legally, procedurally, or otherwise, I disagree with this voting disenfranchisement and therefore will not approve the proposed Bylaws revision in Article VIII, Section 2(a) that would change these voting members to non-voting members.

Summary

With the preceding items of concern related to the Constitution of the General Faculty now flagged for awareness — specifically changes to Article VII, Section 4 and the liberal use of the “housekeeping changes” categorization — I hereby approve the proposed and submitted April 10, 2023 revision of the Constitution of the General Faculty.

My reconsideration of the proposed revision of the Faculty Bylaws will follow the Faculty Senate's attention to the aforementioned items that include deletion of Article VII, Section 6(a)(viii)(14)(c) consistent with state law and ABOR policy and, I hope, the Faculty Senate Constitution and Bylaws Committee's revision of Bylaws Article VII, Sections 5 and 6.

Finally, I want to reiterate my appreciation for your diligence and your faculty colleagues' collaborative engagement throughout the process to update the Constitution of the General Faculty and the Faculty Bylaws, with an eye toward improving each to the benefit of all involved.

Thank you again.

cc: Leila Hudson, Chair of the Faculty
Mona Hymel, Vice Chair of the Faculty
Mark Stegeman, Parliamentarian, Faculty Senate Executive Committee
Ronald Marx, Interim Senior Vice President for Academic Affairs and Provost
Jon Dudas, Senior Vice President, Secretary of the University