***Faculty Caucus Minutes***

***September 14, 2016***

***(Approved)***

***Call to Order***

Senate Chairperson Kalter called the meeting to order.

***Roll Call***

Senate Secretary Gizzi called the roll and declared a quorum.

***Council for Teacher Education Faculty Confirmations***

Karen Douglas, SED (one-semester sabbatical replacement for Uphold)

CAS Humanities vacancy

***University Library Committee Election***

Kathy Webster, HSC, 2016-2019 (Replaces Xie)

**Motion:** By Senator Blum, seconded by Senator Dyck, to approve slate of nominees for CTE and University Library Committee. The two candidates were unanimously approved.

***Classified Research Review Committee Faculty Representative Election***

The following individual was elected by ballot to the Classified Research Review Committee:

Reecia Orzeck, GEO

***Honorary Degree Committee Faculty Representative Election***

The following individual was elected by ballot to the Honorary Degree Committee:

Beth White, TCH

***Honorary Degree Committee Senate Faculty Representative Election***

The following Senator was elected by acclamation to the Honorary Degree Committee:

Marie Dawson, ACC

***Intellectual Property Senate Faculty Representative Election***

The following Senator was elected by acclamation to the Honorary Degree Committee:

Martha Horst, MUS

***Proposed ASPT Articles on Sanctions, Suspension and Dismissal, revised drafts***
Senator Kalter: We move on to our only item of business. So what you have in front of you… Many of you were not here last year when we did a ton of heavy lifting on the appointment, salary promotion, and tenure stuff. We did basically the five-year review. And in addition to that worked all last year… We fit four new disciplinary articles that are proposed to be added to the ASPT book. I'm going to ask our URC members to come to the table, although I'm not sure that we have any questions really for you, given that what we're seeing right now is an attempt to collect the feedback from the information item sessions from last year and put it into a draft that we will, if we agree tonight or if we agree in a subsequent night… We will be sending this to the University Review Committee for further review, and then they will send us back their recommendations, and at that time we will actually bring these to action. So let's just do this article by article.

You may remember… This was a long time ago. But about this time last year, September 23rd, we talked about the first article which right now is proposed new article XI. Currently in the ASPT book, the article XI is actually the dismissal article. So it's a little bit confusing. This would be potentially becoming a new article XI. And instead of being the dismissal part of our policy, it is General Considerations, essentially the definitions and rights section of the four disciplinary actions articles. So what happened last September was that the main critique of what we received in draft at that time was that it was saying that we have types of disciplinary actions, but it was actually talking about the conditions under which they may be applied, and so there was a lot of back and forth about, well, should we get rid of this article. Should we change the article? Should we shorten it, etc.? And in looking at it over the summer in order not to give anybody any one committee too much work, it seemed the better part of valor to essentially just make sure that it had both things in it, both defining the types of disciplinary actions and then adding that it was also about the conditions under which they may be applied and making sure that that was consistently happening in XI.A.1, 2, 3, and I think 4 and 5.

And then you'll see also additions to the faculty rights sections, specifically a longer addition about suspensions and sort of precautions that we might want to observe when we suspend somebody and also some discussion of trying to minimize any use of uniformed security or police so as to not to embarrass a faculty member unnecessarily, especially in front of students or colleagues if for some reason somebody were to be suspended.

Does anybody want me to sort of go into further detail about this one? And so the question that we're asking is, "Does this draft, in your minds, capture what we would want to see, what we said last year, what we would want to see in a General Consideration section?"

Senator Cox: This is just a point of clarification to make sure that the numbers align correctly. On page 2 when we're looking at the first type of suspension, they're provided in XIII, ASPT XIII. And the second type follows the same process in XIV. Is that correct?

Senator Kalter: Yes.

Senator Cox: There won't be renumbering as a result of substituting the current XI.

Senator Kalter: This is an excellent question. So right now, the current ASPT is, as I said, the number XI is basically Dismissal or Termination. We still have to decide how we're going to put these four new articles into the book, but the original proposal was to make them XI, XII, XIII, and XIV - in other words, shoving the current XI down to XIV. So what you're seeing there is that in that paragraph that you're referring to, ASPT XIV is in fact referring to the article on dismissal. It may be renumbered if we decide that the order should be different, because to explain that a little bit… When we got to the dismissal article, we realized that not all dismissals are disciplinary, whereas it's most likely this sanction is disciplinary. It's almost by definition - a sanction is disciplinary. A suspension is almost always disciplinary in some way or preventative, which is almost the same thing. But a dismissal could happen for other reasons than that a faculty member has done something wrong.

So we wanted to make sure that we weren't saying any time you get dismissed it's a black mark on your record. Sometimes it could be financial exigency. It could be program closure. It could be a kind of inability to perform the job any more but with an honorable career. So we wanted to make sure. So that's why it might be renumbered, but right now that XIV is referring to what will become the dismissal article. And the reason that it's worded in that way, that there are two different kinds of suspension… One of them is a free-standing suspension that's sort of not related to a potential dismissal, for example, and the AAUP recommends that whenever you suspend anybody that you go through the same process as you would in a dismissal except that that you know from the outset that you're just giving the severest of sanctions short of dismissal, so that’s why that part changed – to differentiate two different kinds of suspension.

Senator Cox: Thank you.

Senator Kalter: The other one is usually in a scenario of imminent harm to either individuals or property. Any other comments on XI? The only thing that I want to call your attention to there… On the very last page, which is page 4, there are two marginal comments. SK5 and SK8. SK5 says essentially, "Should we place here the right to have legal counsel speak in suspension cases or just in general?" We could put that in the general section, or we could simply leave it in the suspension section, and I wanted to make sure we gathered opinion about that. So let me ask that one first. Does anybody think that it should be inserted into the General Consideration section, or should it stay? Should the right to have your counsel there be simply in the suspension article?

Senator Cox: The right to counsel, then, is applicable to more than just a suspension event?

Senator Kalter: I think in practice it probably it wouldn't be invoked much, but, yes, I think that that would be what would be considered the best practice, because these are all… You know, some of these have to do with reduction in salary or things like that. So, I mean, it's very unlikely that you would call in legal counsel for a written reprimand, but if you're talking about the list of potential ways that you could have sanctions, they go up to things like fine, reduction in salary – you know, that kind of thing. So, yes, it could apply to other sanctions.

Senator Blum: So, is the question whether we actually want to have right to counsel for other things or where it's inserted?

Senator Kalter: My question was where it's inserted, because I'm kind of assuming that we should go with the national standard on that, which is the recommendation that counsel… Usually counsel doesn't come into academic due process, but there are times when it would, because it's essentially an employment contract kind of situation. So I'm sort of assuming that we want to ensure that faculty have the right of counsel. And then the question is, "Where should we put that?" But we can also debate that, whether we want to, you know, have that right to counsel.

Senator Horst: When my committee worked on this originally two or three years ago, we were presented with this long of AAUP regulations, and we did come up with this idea of a section on faculty rights. We thought it was important to coalesce them together so that there was one section where they could turn to and see something positive. So if it is added, I would like to see it in this section so that you do have a section that really reaffirms what the faculty rights are as opposed to having point after point after point after point of procedural rules that faculty would have to wade through to try to figure out actually what is on their side. So if it is added, I'd like it to be added here. Okay. That was the intent of the committee, to clarify the positive going forward for the faculty.

Senator Kalter: In XI.B in particular. And it sounded, Senator Cox, like you were going in that direction as well?

Senator Cox: I certainly think, having a tidy and easily accessible place for faculty to find applicable rights and so on is much… I think that that general category also would cover cases in which the faculty may let faculty counsel if we decide that there are other cases in which that could be done. So you're saying that we still are at the point where we're debating whether or not counsel can be called in other cases?

Senator Kalter: I think we could debate that. I'm not sure I would say it quite that way, but I would say that from what I've read of the national standards, it's pretty much an assumption that counsel can be called in at the faculty's wish for things that threaten their livelihood, their reputation, their income. You know, things like that – that it would be assumed if we were to call, you know, the AAUP that they would say, yes, it would be advisable for you to have a right to counsel, even just for the sanction section.

Now, again, we hope that the person isn't going to invoke that every single time, like for an oral reprimand, but I think that it's a possibility. And, of course, that does change the conversation once somebody does that, but that's their choice that they're making to bring in their legal counsel. Any other comments on that particular question?

And then the other question was SK8. I say I'm not quite satisfied with the way I reworded this particular paragraph. The wording "and not held against the faculty member" is not quite right. Can we find wording that prevents tenure denial as a type of dismissal for cause after the person's already been disciplined? In other words, you could have a person who is pre-tenure. Somebody accuses them of something. They are either exonerated of that, or they are found to have done something that deserved a sanction. And then when they come up for tenure, suddenly they don't get tenured, even though they've gone through a process of remediation. What I call their sort of a double jeopardy problem, right? That they've been… It's been sort of adjudicated, but then it gets re-adjudicated by that DFSC that says, "Okay, sorry. We don't want you on our faculty anymore anyway." So one of the things that I might say here is we might not want to debate this particular article right now on the floor, but if you can figure out a way to word it so that it applies… You're protecting somebody from getting judged twice, the second time in a harsher way than they deserved. , but also don’t prevent a DFSC from saying, “You know, really, this has been a problem, and it’s continuing to be a problem, and even though the person did go through, you know, something in the past, we are still seeing this problematic behavior, and we don’t want them tenured.” And, that would be legitimate; that wouldn’t be double jeopardy so much as there’s a continuing pattern of bad behavior. So, suggestions for how that section XI.B.5 might be worded.

So, let me read it aloud: “The records of the disciplinary process including documentation of exoneration and/or imposition of sanctions may not be reviewed in the tenure and/or promotion process except when necessary to affirm exoneration or imposition of sanctions, and then only as it bears on the faculty member’s performance in teaching, research, and service. The purpose of such review will be to ensure that only the documented facts of the individual’s exoneration and/or sanctions are considered…” and then that’s the problematic part, “…and not held against the faculty member.”

Unidentified Senator: [Inaudible.]

Senator Kalter: Okay. That’s a possibility.

Senator Laudner: Yeah, do you need that last sentence?

Senator Kalter: That last little, after “consider?” Just to take out that? Or, are you talking, Senator Laudner, about the whole sentence?

Senator Laudner: Yeah, I don’t know if you need the whole sentence. I think the beginning of that sums it up.

Senator Kalter: So that the other thing is redundant, repetitive, and you could stop at “teaching, research, and service.”

Several people: Right. Yeah. Yes.

Senator Kalter: Senator Blum, you’re saying yes to that also?

Senator Blum: Yes, yes, yes.

Senator Kalter: Okay. I heard somebody else say yes. Senator Wortham thought that was the case also.

Senator Winger: I don’t understand. It sounds like it’s saying, “Records of the disciplinary process including documentation, exoneration, and/or imposition of sanctions may not be reviewed…” unless it is.

(Laughter)

Senator Kalter: I couldn’t agree with you more, Senator Winger.

(Laughter)

Senator Kalter: I’m so glad that you said that. So, the intention was to say you’re not reviewing the whole record; you’re just reviewing whether or not they were exonerated or whether a sanction was imposed, not the whole evidence and all of that. That was the intention, but as I was reading it out loud, I was thinking it’s very circular, it sounds. So, we may need to have some word crafting from URC, some help on making sure that that sentence is even clear.

Senator Winger: So, just to be clear, what you’re trying to say is that the imposition of sanctions or not, the fact of it, can be introduced as it relates to teaching, research, and service, but the trial transcript, as it were, cannot.

Senator Kalter: Yeah, the records. For example, if somebody is sitting on the DFSC and they say, “Wasn’t that person sanctioned for XYZ three years ago?” And the chair says, “Well, as a matter of fact, no. I think you’re confused about what that was. That never happened. That might be a rumor in the department, but that never happened.”

Senator Winger: Wow, it sounds to me like it either can’t be mentioned or it can. I don’t know. I don’t get it.

Senator Pancrazio: I thought Dr. Catanzaro had a hand up over there? No, no, no, Sam.

Senator Cox: Oh, I thought you said, “Cox.”

Senator Kalter: Would any of you like to come to the table? Absolutely. Sure. We missed you over the summer, all of you.

Dr. Catanzaro: And we missed you all very much, too. A couple of comments if I might, thank you. First, to speak to Senator Winger’s question, I think it is a nuance to point, the intent would be that the DFSC or SFSC would not re-hear the matter. But, I’ll note that research, service, and teaching are what faculty are evaluated on at tenure. One of our tenure criteria is that the person can, I forget the exact wording but it is something like, responsibly contribute to university goals. And, I think the point you were trying to make is, let’s say someone did get sanctioned, and it’s done, and they’ve corrected whatever needed to be corrected and there’s been no repetition. That’s a very different scenario than someone who got sanctioned and never needed to get sanctioned again but perhaps kind of flirted with it. And, a DFSC, I think, has the right to consider how this person will contribute in the classroom, as a colleague, contribute in service, contribute to the functioning of the department, and perhaps even in their own scholarly work, depending on what it is. And, I think that is part of what DFSCs are doing when they’re making tenure decisions.

So, the suggestion of deleting a sentence is always attractive to me. I’m very proud that this body passed a revised ASPT document that was shorter than the previous one. That runs counter to a bureaucratic law that almost is like a law of nature, that bureaucracies and rules and regulations only ever get bigger and never get smaller. So, congratulations to the faculty for doing that. That’s an aside.

Senator Kalter: As I said to Sam, as soon as he told me that, we’re about to make it much bigger by adding these articles.

Dr. Catanzaro: That’s true, but that’s because we’re adding content. So, that tangent aside, in reviewing this, I thought about re-writing the second sentence that’s a candidate for deletion now, and the suggestion that I came up with would be to delete everything after the word “considered” and replace it with “during a summative review in the context of the faculty member’s entire professional record,” which I think captures what Chairperson Kalter was talking about earlier for the DFSC to make that judgment as to whether the matter really is closed and we’ve moved on, or if the concerns that were sanctionable at one point continue to exist. So that’s a suggestion. Do what you will.

Senator Pancrazio: Perhaps something similar to the notion of the records, I mean because the entire issue, you don’t want to cook that up again, but you want to have some confirmation or non-confirmation that there’s been a successful remediation. I don’t think it should be an invitation to re-execute or re-try a person, but if someone did what they were supposed to do, then it should be over and done with. And, if it’s not, I think just some type of statement saying, “The records are germane only to the extent where they can confirm or deny successful remediation,” maybe something like that.

Senator Kalter: One easy example might be, let’s say in their third year somebody was never showing up to class, ever, and they got sanctioned for that, like maybe a written reprimand or something. Yes, and then that never happened again as opposed to somebody who was sanctioned for the same thing and then they’re sort of like, “Well, they were coming to class half the time, after the remediation.” And, so then the DFSC is sort of considering new problematic behavior, so to speak.

Senator Cox: But, wouldn’t the DFSC be concerned with that repetitive behavior in the interim rather than at the point of applying for tenure and promotion? For example, if it happened in the fourth year, there should be some process, right? If it happened in the fifth year, there should be some process, rather than evaluate, try that individual during the tenure promotion for behavior that may have flirted with a previous behavior that was sanctioned. Do you understand what I’m saying? If the individual continues to misbehave, I don’t understand why the individual isn’t consistently reprimanded.

Senator Day: I think if the DFSC is doing its job, they would not reappoint that person, period, you know, they would just be, “Okay, you’re out of here next year.” That’s what we do. We’ve had quite a few non-reappointments in our program.

Dr. Catanzaro: Yes.

(Laughter)

Senator Day: We should be doing our jobs on campus. It should never come to this point.

Dr. Catanzaro: It’s difficult, I think, to come up with great examples. I think imagining this scenario where someone actually is performing adequately in teaching and research and making good progress in those traditional ways and violates some policy, and it’s a bad enough violation that it is sanctionable but maybe doesn’t quite rise to the bar of non-reappointment. I think that’s the scenario that we want to have some kind of documentation and some mechanism for a DFSC to come together and say, “That problem appears to be solved.” You know, that is the benefit of having it documented, and then you can trust that. The lack of intervening documentation of recurrence really does mean something.

I mean, imagine the nightmare scenario like Berkeley had with the famous astronomer who was a serial sexual harasser, and they couldn’t even dismiss that person because they didn’t have a policy in place to dismiss him, and his colleagues shamed him into retiring or resigning. I believe that’s how that played out. But, we don’t want our DFSCs to want to do the right thing. I mean, these are going to be very rare cases anyway, but we want to have our policies create a way for them, a procedure so that they can do it and know that they’re proceeding fairly.

Senator Kalter: I think also one of the things about Senator Cox’s question is that there are different timelines towards tenure. Some people come in with years. So, you could potentially be sanctioned in your, whatever, third year and be going up in the fourth. Or, you could be sanctioned in your third year, remediated just enough to slip by the radar of sanctioning in the fourth year and then in the fifth year when you go up.

You know, in other words, what I’m suggesting is a scenario in which a faculty member is trying to get through tenure, and then they’re just going to go back to their old behavior of never showing up to class. Right? And depending on how many years they bring in, you only have a short time period to go through those kinds of sanctions. In other words, in many ways, we shouldn’t be talking about what should happen, but what does happen or what can happen. In any case, what I would say is that we should sort of just circle this one for URC to sort of scrutinize further because the wording isn’t quite there yet.

Senator Horst: I was just going to ask, too, what sorts of events would happen that wouldn’t show up in the annual letters that would be teaching, research, and service oriented? And, so, wouldn’t everything that pertains to teaching, research, and service already be in the annual letters which would be part of the record? And anything else might be personal/confidential, and if it is, then the DFSC potentially shouldn’t see it.

Senator Kalter: Sam, why don’t you answer that first and then I’ll go to Senator Blum.

Dr. Catanzaro: It should be in there, but sometimes it’s not. In the annual performance evaluation letters, such concerns sometimes are not documented as clearly as they might be. And, the DFSC does have the mandate to review confidential personnel material because it is a confidential personnel committee.

Senator Blum: Yes, just what I was going to say. Yeah. So, departments, units, whatever, have different ways of writing letters, and some even within our own college, right? I can tell you that the format of the letter, because of the choice of that internal department or school, influences what goes into the letter. And, so, it’s their bylaws. It’s the way they set it up, right? So there are discrepancies even within colleges, right, about how well things are documented. I think it happens, honestly, all the time.

Senator Kalter: Any further comments about provisional section XI? Alright, let’s move on to section XII, sanctions. You’ll notice here a couple things, lots of insertion because the main thing here was, first of all, putting in what is the most minor sanction and graduating it up to most major sanction. The point of this is to talk about something called progressive discipline, and so we tried to make that very clear that an oral reprimand is less severe than a recorded one. That’s less severe than a fine, etc. Then, also in XII.A there are a couple of notes about specific ones of these. The fifth one would only apply to stuff that the university controls, not stuff that the state controls. The eighth one, suspension for a stated period has to go through the same process as dismissal. That demotion in rank, which is actually not listed on the one through eight, the AAUP has some language that talks about how some universities have demoted people in rank, for example, if they lied about something and therefore got promoted, for example, from associate to full. And, I will point out there that the way that’s worded right now, it should actually say, “If promotion or appointment to the associate professor level or to the full professor level was found to have been obtained by fraud or academic dishonesty.” So that language, as you have it typed up, needs a little bit of an insertion there.

Right after that paragraph, there is a paragraph in general. A department should try to apply the least amount of sanction that would be likely to correct the behavior. Then there is something that we might want to talk about. We had a big conversation about oral directives versus oral instructions versus oral reprimands, and the suggestion here is that either – and part of this is not actually listed but is an option – that if you have something that is an oral reprimand agreed on by the entire DFSC, that that take place in front of the DFSC and that that would distinguish it from a chair’s instructions or directives.

Now, one possibility there, instead of the whole DFSC would be to just have the chair and another member of the DFSC or the chair and the senior member or something like that. So those are sort of potential options, and I have some questions. You’ll notice in SK9 at the bottom, I say that Senator Clark had asked after the meeting about this, and so we can sort of look at that in a moment.

On the next page, XII.B, this is about how many different places can a suggestion for a sanction originate? In other words, it could come from a finding about ethics from the State Ethics Act or other relevant laws; it could come from the Office of Equal Opportunity and Access, I think that’s now just Equal Opportunity and Access, no OEOEA; or, the chairperson has otherwise become aware of credible evidence, so that allows something from within the department, for example, to be the cause of a sanction.

And then, let’s see, C is about sanctions being implemented after the appeals process is complete. And, D is sort of trying to work out how would you document that an oral reprimand has been given if we had a conversation about the fact that once you put it in in writing, it’s no longer an oral reprimand. So, that language. So, any comments about that section XII? Has this captured sufficiently what we discussed and put it in a form that we might find acceptable?

Senator Pancrazio: The last point about the difference between oral reprimand and the written reprimand. If there needs to be a witness, there needs to be some documentation, it’s already collapsing into it. I mean, I like that individuals have the opportunity to give someone, as we say in Spanish, a tug on the ear, now and then, but for it to have any effect, it eventually has to be put in writing. I mean, it could be collapsed into one broader category and just say, “Verbal” because verbal is both written and oral. Because somebody will leave a position, and if it’s not actually written, then why have it? Because it’s not useful. It becomes hearsay.

Senator Kalter: So, let me see if I can clarify. Are you going in the direction of actually not having oral reprimands be part of the process? Because that’s part of what was debated last time, was whether we should just take that out of the list.

Senator Pancrazio: I mean, I’m questioning whether it’s even useful because it eventually has to get documented. I mean, if you have a serious problem, it has to be written down somewhere. And, if you have just oral reprimand after oral reprimand after oral reprimand, I’m not sure that’s even useful information.

(Laughter)

Senator Pancrazio: Just call it verbal reprimand.

Senator Kalter: You’ll see that the only reason it’s left in is because this particular chair was uncomfortable with not taking the national body’s recommendation, because apparently, you know, around the country, oral reprimands are used. So, for that reason, it was not taken out, but I do catch your point, and I catch your point of maybe we should just make the policy shorter.

Senator Cox: And avoid the written reprimand category if documentation was simply in the form of something like a minutes, a note, that so-and-so met on such-and-such a day, and reprimanded so-and-so for this. That’s not the reprimand. That’s just the record of the oral reprimand.

Senator Kalter: That’s an interesting point. So, an oral reprimand is issued to XYZ on this date in the presence of this DFSC member.

Senator Cox: Regarding…

Senator Kalter: Well, but that… yeah. Have fun in URC debating this one.

Senator Winger: We were working on the same problem. We were just dealing with SK5. It’s the same problem.

Senator Kalter: Senator Winger, what do you mean?

Senator Winger: It’s neither here nor there, but these two problems that we’re dealing with tonight are almost identical in form.

Senator Kalter: Yeah.

Senator Winger: You’re trying to make a distinction whether you can talk about something without talking about it.

Senator Kalter: Yes.

Senator Hoelscher: I see a very clear distinction if we were to say an oral reprimand as Senator Cox said, is documented via notes whereas a written reprimand is a letter to the person, and that’s much more serious. But I agree completely, oral is just a conversation unless you document it in some way so you could clarify that by saying an oral reprimand is documented via notes, but a written reprimand is literally a letter to that individual.

Provost Krejci: I would just echo that in other organizations and in other conversations, an anecdotal note that doesn’t go into a personnel file records that there was a discussion and that they agreed up on the discussion, but it’s not a written reprimand that goes into a file, but it’s an anecdotal note that’s kept by the person giving that and sent to that other person. That may or may not solve that problem.

Senator Kalter: It sounds to me like we should have URC really, sort of, bat this out. What are the different levels? And, especially looking at SK9 and Senator Clark’s question. And, Senator McHale, what were you going to say?

Senator McHale: I was just going to say that I want to speak in opposition to deleting this category, that’s pre-written reprimand. It’s good that there is something before the written reprimand.

Senator Kalter: You’d like to have a level of sanction that’s not a written reprimand; it’s lower than a written reprimand but it’s higher than just the chair saying, “You know, you shouldn’t have done that,” or, “Maybe you should start going to class,” or things like that.

Senator McHale. Yes, that is true. Even though we feel that after an official oral reprimand is made a record might be made, it’s still good to have that level of reprimand before an official letter outlining the grievance, as it were.

Senator Hoelscher: I completely agree, and I could imagine that the written reprimand would even state that as noted in the written notes, you’ve been reprimanded these many times on these many dates, no corrective action was taken; therefore, this is the next step of more serious. And, I could see a progression that would work very, very well. So I would agree. I would hate to take it out. It provides us a somewhat more gentle way of beginning the process.

Senator Blum: Yeah, I was just going to suggest that maybe the focus after listening to people is not whether it’s oral or not but whether it’s informal or formal. Okay? That seems to be the distinction. So, like a written reprimand is sort of this more serious level. You could document it, make it a more informal one. You can call it that, informal reprimand. You have some documentation about what actually occurred. Right? But it is less intensive of a reprimand than the actual written reprimand.

Senator Kalter: I think that’s the intent, in that there’s even a lower level of informality, that doesn’t go to the DFSC, right?

Senator Blum: Yeah, there would be.

Senator Kalter: That a chair has become aware of a certain, you know, behavior of some sort and has pulled the person into their office or aside or gone to their office and said, you know, “Tell me about this,” and the person acknowledges it, and they have a conversation about that. That wouldn’t ever get to the DFSC level, and so that would be the most informal. Then there would be the oral reprimand, slightly higher level of formality, and then written.

Senator Cox: What is the difference, then, between the written reprimand and the recorded reprimand?

Senator Kalter: That’s an excellent question. My understanding of that is that you actually would do what we’re doing right now, and tape record-- audio record, audio record. I’ve been chastised for my Luddite behavior. Audio record or possibly video. Is video alright? Is it video? Alright.

Senator Horst: I guess you could still do video tape. No more audio tapes.

Senator Hoelscher: It would be digital, right?

Senator Kalter: Gotcha. Yeah. No tape, except for duct tape.

Senator Hoelscher: How do you use duct tape in a reprimand?

Senator Kalter: Yeah, you might get reprimanded for it. So, that’s what I understand, the recorded reprimand. We can have Senator Horst tell the AAUP what language really should be, whether it’s recorded or not, whether that’s now been superseded by other verbs. Anything else on sanctions, Article XII? Do we see this as in shape to go to URC with these little questions? Alright.

Let’s see, Article XIII, fun article, suspensions. This is actually the reason why these are all in front of us in the first place because we had no suspension policy, and, yet, there have been some suspensions in the history of our university. So, you will notice a number of edits. So, A is that all parties involved should go back to the definition section. That’s in this article but not the other simply because it’s such a serious step. That because a suspension without academic due process is tantamount to summary dismissal, only the president may authorize it, and it says that the AFEGC then has to give an opinion about that, either before the fact, or if that’s not possible because of safety concerns, immediately after the fact. C, that a suspension can only be imposed if there is a threat of imminent harm. D, that ordinarily the suspensions will be paid and that only if it’s not allowed by law would that not be the case. Then, E is the procedures, how does this go? It would go through the AFEGC. How many days? What does the AFEGC do? So they are asked to give opinions about the length of the suspension and the nature of the suspension and these kinds of things, and how do you facilitate that meeting with the faculty member and make sure that there’s a reasonable timeframe?

Let’s see, what else. Part of this process in AAUP recommendations is that it’s best to simply have an informal meeting with the faculty member and see if you can get to a mutual agreement that the person will be not in classes, for example, but able to do research while something is being looked into, or that in some instances it’s as severe as being taken off campus and you can’t come on to campus, etc. So part of this is about trying that step first of informal conversations. Then if an informal solution cannot be found, what would occur?

And, by the way, in that number, XIII.E.5, right now it’s worded that a full hearing would take place if there’s no agreement. That is usually at the request of the faculty member. That part is not in there right now, but a hearing does not have to take place if the faculty member just sort of says, “Well, forget about it. Do what you will. I don’t agree to it, but I’m not going to go through a hearing.” You know, that could happen. So, we might want to insert in E.5 that a full hearing with the AFEGC would take place upon the request of the faculty member rather than just point blank.

And then, on the next page, “A suspended faculty member may appeal through the ordinary process,” etc., etc., just sort of laying out some more, and then, “A faculty member may be suspended during the dismissal proceedings only if imminent harm standard applies.” And, then finally, F would say that suspensions cannot be of indefinite duration, and you can’t make them contingent upon corrective action. This is also an American Association of University Professors recommendation, because if you make a suspension contingent on corrective action, essentially you’re dismissing the person without an adequate due process. So that suspension has to be followed by reinstatement unless the person is dismissed, is essentially what that says, and that ordinarily the suspensions would not be longer than six months. Anybody see anything in that article that we may need to look at more closely, or is that one ready to go to URC?

Senator Horst: I just wanted to have one brief comment. I enjoyed reading the minutes from last year, and I appreciate the substitution of the AFEGC instead of the DFSC, and I understood the logic. I do think this really extends the task list for the AFEGC beyond what it is in the current policy. So, I would like us to address that when we look at the AFEGC policy because it’s really taking the committee in a different direction. You might even have to rename it. So, I’m just putting that on the floor right now that I do think we have to address that at some point.

Senator Kalter: Can you explain the renaming part?

Senator Horst: Well, Academic Freedom, Ethics and Grievance, and now we’re talking about disciplinary actions.

Senator Kalter: Okay, yes, you’re right, because we will have appeals that could potentially, per all the sanctions for suspension and for dismissal, go to AFEGC, but I think the idea of an Academic Freedom Committee is to look specifically at the academic freedom issues around the suspension. In other words, is the person being suspended because the president didn’t like what they were teaching in their class? Or are they being suspended because they kicked a police officer? Do you see what I mean?

Senator Horst: Okay, if they kick a police officer, if they have a sexual harassment case, would it go through AFEGC?

Senator Kalter: So, what I’m saying is that the AFEGC reviewing the one about, you know, assaulting a police officer or a member of the community, there’s no academic freedom issue there.

Senator Horst: Okay.

Senator Kalter: They’re being suspended because of malfeasance, essentially, right? Or wrongdoing because of a felony or what have you, whereas in the one where the president is saying, “You know, I don’t really want you to be teaching about LGBTQ issues in your classroom, you’re suspended for doing that,” then the Academic Freedom Committee’s role in that would be to say, “That’s unacceptable because that infringes on the academic freedom of that faculty member and their department, potentially.”

Senator Horst: Then maybe I misread it. I didn't understand it was only select cases going through the AFEGC.

Senator Kalter: If there is an academic freedom or ethics issue.

Senator Horst: Okay.

Senator Kalter: Yeah. But you're right in your overall point that we need to make sure as we are approving this once we get to the approval stage that we need to re-examine how AFEGC policy is written to make sure that that policy allows for these cases to go there because right now that policy is very specific about what can and cannot go. But I was just afraid because of changing the name of AFEGC. It's hard enough to remember what it is, what it means. I'm not sure we want to change the name at this point when everybody on campus has memorized… I'm just kidding. But also I was just concerned. What exactly is being added to that long list of…

Senator Horst: Okay. So I didn't understand. So if there was some sexual harassment thing or something, that avenue for appeal would not be open to the faculty member through the AFEGC because it wouldn't be an academic freedom… Ethics. I guess it would be an ethics. I'm just wondering if it's open to everybody, that appeal process.

Dr. Catanzaro: If someone were accused of sexual harassment, there's a procedure that goes through OEOA that does include appeal to the president. So there's an appeal mechanism there. So that answers part of your question. I may have missed something, but I'd like to get some clarification because I think my reading was similar to Senator Horst's in that I think it reads to me that all suspension hearings go through AFEGC, but then I thought I heard you say it would be only the ones where there's an academic freedom or ethics component. Perhaps I was misunderstanding, and to bring this back to URC, I want to be sure we understand where we're starting so that we can dig into the issues and come back with a recommendation to caucus that…

Senator Kalter: I think you may have misunderstood. I didn't mean to say that AFEGC would not hear it if somebody kicked a police officer but that they would be unlikely to find it problematic on an ethical/academic freedom type of level, right? In other words, they would review the case and say, you know the president is well within his rights to suspend this person until we have clarity about what happened because somebody who is violent towards a police officer could be violent to somebody else on campus. So the AFEGC would hear that but would most likely say, well, they're not being… There's not a danger to academic freedom. There's not an ethics issue where the president is acting unethically in doing this, right? So it would go through that committee, and that's the national recommendation is that these always go through a committee, the Academic Freedom Committee of a university, but that's part of the purpose of doing that is to sort of give the person academic due process and to have the president have more eyes on it than just his own or her own.

Senator McHale: Just to clarify, then, the president makes a decision and then if that committee decides it's not a question of academic freedom, then there's no hearing?

Senator Kalter: No. There could certainly be a hearing.

Senator McHale: Okay, but it seems like the hearing mechanism is related to that Academic Freedom, Ethics and Grievance Committee. Is that not the correct… Right? Number five. If a mutually agreeable solution cannot be found, then there's a hearing with the AFEGC.

Senator Kalter: Yes. And I said there, "upon the request of the faculty member." We have to add that language there.

Senator McHale: But if it's not a question of academic freedom, then why is the AFEGC responsible for the hearing?

Senator Kalter: To make sure that there is no question of academic freedom or ethics.

Senator McHale: Okay. So, then if there is no question of ethics or academic freedom, then there's no other hearing.

Senator Kalter: I'm sorry. Say that again. There's no other hearing?

Senator McHale: Yeah. There's no other hearing based… If it's not an academic freedom issue, then the president's decision is just validated.

Senator Kalter: Right. But remembering that there could be two different scenarios. One would be an imminent threat scenario where the person has already been suspended by the president and the AFEGC is reviewing it in retrospect. Right? And there has been no mutually agreed solution because you're in paragraph five. That's one scenario. The other scenario is if there's a suggestion that somebody… Let's say something happened in the middle of the summer and so you had… The president wouldn't need to suspend the person right then but would want to activate the process first of can we get to a mutually agreeable solution. Oh, we didn't. We were unable to. Now we need to send this through a committee to sort of review whether or not there's any problem with the proposal to suspend this person.

Senator McHale: Okay. I'm not hearing that from you. I'm hearing that there's a hearing to determine whether there's grounds to suspend them based on a lack of academic freedom. If the police officer assaulted them first and they responded but it's got nothing to do with academic freedom, then there's no hearing for that. It seems to me we just…

Senator Kalter: No, it would go through AFEGC regardless, but you don't pre-judge whether there's an issue. The AFEGC is doing that review. Is there an ethical issue here? Is there a problem of… For example, the president is acting prematurely to suspend this person when we have plenty of evidence that the police officer assaulted that person first and they were only defending themselves. This is unwise for the president to… In other words, we're not deciding before the decision. Nobody is deciding before it goes to a hearing whether it should go to a hearing. The AFEGC would hear it if the faculty member wanted it heard.

Senator McHale: Yeah, and my only issue is clarification. I mean, I really got no beef one way or the other, but it seems to me what we're seeing now is that that Academic Freedom Committee can say there are grounds to dismiss this… dismissal even if they're not academic freedom issues.

Senator Horst: … a horrible thing, but it seems as if it's opening them up to becoming a little bit more than an Academic Freedom, Ethics and Grievance Committee. They're also becoming the Suspension Hearing Committee. It seems to me that's what you're describing. And so all I'm saying is that that has to be worked into our other policies.

Senator Kalter: Yeah. And I'll say just to that, that this is the national recommendation that whenever there's a suspension or a proposed suspension, the recommendation is to put it through the Academic Freedom Committee on campus.

Senator Horst: But I guess we're having trouble understanding your guidelines for what they're doing.

Senator Kalter: As in, would they only look at academic freedom issues or… yeah.

Senator Cox: Yeah.

Senator Clark: So, it reads as though, that this committee is the due process appeal for everything that may be decided in this case by the president.

Senator Kalter: Say that last part again.

Senator Clark: So if the president makes a decision that we're going to suspend this faculty regardless of what the rationale, that this committee now becomes the appeal process for the faculty member whether it's an ethics or an academic freedom issue. So why don't we just call this committee the Appeals Committee?

Senator Kalter: Because we have a standing committee called the Academic Freedom, Ethics and Grievance Committee. So, in other words, we don't want to have to bring together ad hoc committees every single time this happens, so we're putting it through a standing committee. The recommendation is that that committee be the one that deals with academic freedom because when somebody is suspended, the biggest danger is that it's because that person did something that somebody in the administration didn't like rather than did something wrong. Does that make sense? But I do take… I think that, again, we probably shouldn't debate the title of the committee or whether the committee's charge needs to change here but to sort of call URC's attention and actually our own attention since we do the Academic Freedom, Ethics and Grievance policy, to the fact that if this goes through, are we changing the nature of what that committee does, and if so, should we change the title of it or change the language in the policy, etc? In other words, what you said in the beginning is we need to link these two policies together so that when we change one we make sure that, if needed, we change the other.

Senator Horst: And just to make sure that we're all understanding, this language is saying that this is now becoming an Appeals Committee as opposed to…

Senator Kalter: I'm not sure I would necessarily be calling it an Appeals Committee. It's a committee that's reviewing the legitimacy of a proposed or actual suspension and giving the president… It's always advisory to the president, but saying to the president, you know, this is very, very unwise. Or yes, we agree that you acted properly. That's what their role would be. So I'm not sure I would call it exactly an appeal. It's academic due process.

Provost Krejci: I had questions in the past from the people on this committee, and the distinction, because I had trouble finding it, the chair had said, "Do I have to call a hearing every time someone approaches me, or do I have the ability to just say, this is not appropriate for AFGC because it's not an academic freedom issue?" and of course I said, "That's not my call." But I have had questions more than once on that specific question, and I think it gets to who is deciding whether it's an academic freedom issue? So if it's an Academic Freedom Committee, do they have to have a hearing to decide whether it's an academic freedom issue or are you saying it's broader? And I think… You know, they called me because they didn't know who… And I referred them elsewhere, obviously, but that is, I think, in that policy that might need to be clarified to say, does it go there only if it's an academic freedom issue, and then do you hold a hearing every time someone comes to you? And I just don't think it's as clear and something to follow up, which is I think what you're saying, Martha, as well.

Senator Kalter: It deserves mention, also, that many years ago we combined our Ethics and Grievance Committee with our Academic Freedom Committee, so I think that's part of why we're all seeing that the scope of that committee might go wider. But I think also in these situations that might come up that even if it were only an Academic Freedom Committee, they still might give the president an opinion that, no, there's no academic freedom problem here but we are also still against what you have proposed or what you have done. We don't think that it's legitimate to have suspended this faculty member and these are the reasons for our opinion.

Personally, if I were in that situation as a faculty member about to get suspended, and even if there wasn't an academic freedom issue, I sure would want to have a committee reviewing, you know, the legitimacy of that suspension and giving the president their recommendation. Now, the president can also take the recommendation of the University Counsel and say, I'm sorry, that recommendation trumps this one. But at least it's been through review by some faculty who are looking at it from that point of view.

Senator Winger: I was just going to say what you just said, that the word "ethics" seems to just encompass it all and problem solved.

Senator Hoelscher: As I hear the conversation, I think without a doubt we need to clarify it. If that question is coming up from the committee, then we need to be very clear about what we're asking and expecting that committee to do. I do think, as Senator Winger said, if ethics is in there then they can deal with all matters. But I think that everyone needs to understand that. So something needs clarification here, and it might very well be not the language that we're looking at, but the definition of that committee so that it's made very, very clear that they function as academic freedom and ethics, and this is the definition of what that means. In that way, it's clear. I think that's very, very important.

Senator McHale: I just think that your historical perspective that you offered where these committees were combined helps clarify.

Senator Kalter: Sorry I kept that to the end. It's not a well-known fact, actually. But, yes, they used to be separate and for reasons that I do not know, but I can guess, they were combined.

Senator Horst: [inaudible] tonight.

Senator Kalter: Yeah. I know. Enough said.

Senator Blum: Can I just ask a question?

Senator Kalter: Yes. Senator Blum?

Senator Blum: Who does this now? Or does anybody?

Senator Kalter: There is no policy.

Senator Blum: There is no policy. So the policy is what… and so that's…

Senator Kalter: Yeah. Now, just because there's not a policy doesn't mean that if something happened we wouldn't potentially put together an ad hoc committee and have them review, but right now it's nowhere, and that's why this is in front of us so that we have a clear process. It's in a gray zone and basically it could go by without having any review.

Senator Gizzi: I have this sneaking suspicion we're going to end up re-debating this eventually anyways, and since we're just sending it to a committee, I don't know that we need to beat this horse until it's dead right now. We could do it later. I think it'll happen again.

Senator Kalter: I think the horse might be half dead already.

Senator Gizzi: Yeah, I know. But I'm just wondering since we're just… I don't know. I'm not going to bring it up again, but my point is it seems like we're not trying to take any action right now anyways, so.

Senator Kalter: All right. Anything else about Article XIII before we move on to Article XIV? All right. So are we agreed that provisionally, Articles XI, XII, and XIII - as in they are provisionally numbered XI, XII, and XIII - that those are all going to URC? Those are ready? Okay. So, XIV. You'll notice that you got two different files because it was very, very difficult to take the original submission from the URC and do the proposed changes here. So, a couple of things to point out.

First of all, right now because what I did was to take the current Article XI and revise it from that article, currently this is Article XI even though it's going to potentially become Article XIV. So that's kind of confusing. But Article XI.A, now Termination XI.A, that is, "Clarify that A is about non-reappointment of probationary faculty" and re-added a sentence that was about making sure that when non-reappointment occurs, it occurs according to the regulations of the board and the ISU Constitution. And then there are little corrections in there. Some of them have to do with just clarifying, like in number A.2, just clarifying what that clock is. When you have to notify somebody that they have been non-reappointed. It depends on whether they're in their first year, second year, or third plus year. So that's basically A.

For B, the first thing there is that – and this was embedded in the original that we got; it's just changed a little bit – that dismissal is different from non-reappointment, and you can dismiss a probationary member as well as a tenured member, so making sure that that was clear. That a dismissal is not the same as a non-reappointment. Usually, non-reappointments are for academic reasons. Dismissals can be for other reasons. They have to be for cause as listed.

So then C is the major change, and what is here is essentially a cut and paste from the recommended dismissal policy that the AAUP puts out. But the major difference being that in their policy, the Board of Trustees at universities would be the final appeal. At our university, that doesn't happen because the president is the final hiring authority. The Board of Trustees does not hear things, and so in every case where it said a board that was demoted down to president, every place where that template said president, it was demoted down to provost. And then, this is very long so I'm not sure how much you want me to go into the details, but essentially the same kinds of preliminary proceedings where you attempt to find a mutually agreeable solution, there is the commencement of the formal proceedings. There is… Interestingly, right now in our current ASPT policy, dismissal is based in the D/SFSC, and it would be appealed to the FRC. The national guideline here says that sometimes your DFSC can be questioned by your provost.

In other words, we talked a little bit last year about how some DFSCs may not be doing the right thing when they say, "No, we don't think a dismissal is in order." Right? That they may be friends with the person. They may be ignoring evidence. On the other hand, they may be against that person, prejudiced against that person, and it needs to have an independent eye. Right now, the Faculty Review Committee is the appeal, and in general, this goes back to what Senator Horst was saying about AFEGC but with respect to FRC, one of the things that's changed in this policy now from what we saw last year is that I took FRC back out of the position of being the first level review, and they become the Appeals Committee because that's what they usually do. In a tenure and promotion case, etc., they would be essentially the… It's sort of like a third eye on the process. It seemed unwise to turn them into the group that is the first level after the DFSC in figuring out whether somebody should be dismissed or not. That they should be there as an appeal level.

So, in other words, the DFSC says to the provost, we do or do not think that the dismissal proceedings should occur. If they say yes, then an Independent Review Committee ad hoc would be formed by the Faculty Caucus and then if that resulted in a recommendation of dismissal, the faculty member could appeal that to the FRC. If the DFSC says, no, we don't recommend dismissal, the provost could say, okay, thanks very much for your work, and everybody moves on. Or that person could say, you know, I think this really needs an independent eye, and so that process of an Independent Review Committee would occur and they would go through that process and then again the FRC would be the appeal to that. I'm trying to remember what else is in here. Essentially that the president, if he were to get a final recommendation against dismissal, for example, and disagrees with it, one of the things that they recommend is that the president would communicate his disagreement back to the final body (whether that's the FRC or the IRC) and ask them to re-examine. So rather than simply veto, the president says, "Could you please look again at this? Are you sure?" And then it would come back to the president and that person would make the final decision.

So that's actually again built into the template from the AAUP. That's sort of the basic rundown of this article, I think. It's very, very long. It goes in favor of the bureaucratic rule that we lengthen policies.

Senator McHale: I think I have the exact same concern about this that I did this time last year, which is B.1, the final line of B.1, suggests that "demonstrable university financial exigency is justification for termination." That is correct, right? So, all these other standards in terms of behavior or whatever are irrelevant. Is that correct? I mean, that line stands out by itself. As long as the university financial exigency is demonstrated, as we might be able to do it, every state-funded university here in Illinois, then… No?

Senator Kalter: There's a difference between being in a budget crisis and being in a state of financial exigency.

Senator McHale: Okay.

Senator Kalter: So, while we are in a state of straitened finances, we are not in a state of financial exigency. In other words, we have good cash flow. We have good enrollment. So I would not say… There are some in the state who have, in fact, declared. But that's not us and it's not U of I and it's not a lot of the others. It could happen, though. It could certainly happen.

Senator McHale: Yeah. In that case where, I mean, it seems to me that financial exigency is a slippery term, right? I mean, exactly what… Exigency… Really isn't that circumstances, situations?

Senator Kalter: No. There is a very definite definition of financial exigency in Board documents, in the Board of Trustees governing documents.

Senator McHale: Okay. That helps me. That helps me much. That clarifies.

Senator Kalter: Yeah. I think. I'm trying to remember if there are some references to that in our ISU Constitution, so it's not slippery. It's a defined term.

Senator McHale: Okay. That helps me much. And to further clarify, are you suggesting that there are some state schools that are in a condition of, according to Hoyle, financial exigency?

Senator Horst: The president declares it, but I would just add, a friend of mine who works at Chicago State, they declared financial exigency and he was let go. So it is one of the ways that a tenured faculty member can lose their position.

Senator Kalter: And here, we have a process that's a shared governance process that before the president declares financial exigency it goes to a standing committee that we never populate unless that were to occur. So we have, if you look at the Senate Blue Book, there's actually a committee that is devoted to dealing with this. It has certain people in offices, so to speak, on that committee. We never activate that committee because we haven't been ever in a state of financial exigency, but in other words, there is that protection also. The job of that committee is to receive the financial information from the university, I think it's over the last five years, and to look at things like cash flow, etc. and to look at whether there's really nothing else you could possibly do besides letting go of tenured and tenure track faculty. And actually, because of the changes in universities they've suggested adding status non-tenure-tracks to that. People who are beyond sort of the ordinary tenure time. Right? Somebody who's been here for six or seven years, but that's obviously controversial. But, in any case, that committee then recommends to the president whether or not they think that we actually are in a state of financial exigency and also whether we've really honed down on the departments where faculty would need to be released.

Senator McHale: I guess I'm not seeing that here, but you're telling me that the priority of who is let go, based on whether they are tenured or their rank, that that's not arbitrary.

Senator Kalter: Right. I would say it's not arbitrary. It is done by committee so it's not set, either. It's not as though we say, okay we start with, you know…

Senator McHale: … The people that make the most money.

Senator Kalter: Right. We don't have any set policies on that. It has to be done in context, so to speak.

Senator Winger: Is this new language or is this long, old language? So, I'm already a party to this as a contract that I signed at some point.

Senator Kalter: Yes, and pretty much anywhere you work… I mean, this is actually more protection than most people get in their employ, right? You can always be let go by almost any…

Senator Winger: I just want to make sure we're not changing it because if we change it, then I never signed it.

Senator Kalter: I think the biggest question about that language, Senator McHale, is what I said in the beginning. That being dismissed for financial exigency is not a disciplinary action. So we really shouldn't be putting it under the title of disciplinary articles. It should be that there is dismissal and sometimes it could be disciplinary; sometimes it's not. And I think that the URC then has to decide in the table of contents of our ASPT and in the numbering system, where do we put this dismissal article so that it's clear that there is more than just disciplinary reasons for potential dismissal? And hopefully we will never have to invoke any of them.

Senator Horst: Listed in the tenure policy? Is it the tenure policy, or the policy on tenure, that lists the ways that a faculty can be let go? So they can just refer to that policy. I can look it up, but we did some sort of policy that listed how tenured faculty could be let go.

Senator Kalter: I'm not sure why there are duplicate policies. In my opinion, there's no reason to have a list there when the list is here.

Senator Horst: I think you wrote the policy. I can look it up right now.

Senator Kalter: Probably. I think I helped revise the policy.

Provost Krejci: I think it's 3.3.10 or 3.2.6. I'm trying to find it myself.

Dr. Catanzaro: Yes, 3.2.6.

Senator Horst: I'm just saying.

Senator Kalter: And what does it say?

Dr. Catanzaro: I'll read the major headers. There's a policy that defines tenure. General provision. Tenure appointments shall be for an indefinite term and may be terminated only by: (1) retirement, (2) acceptance of resignation, (3) demonstrable financial exigencies, (4) discharge for cause as outlined in ASPT Policy XI.B.1 (which we'll have to cross-reference), and then it in parentheses says lack of fitness, failure to perform assigned duties, and/or malfeasance; or (5) the reduction or elimination of a department or similar academic unit. And then there are some other things about APs who might also be eligible for tenure, how it's acquired, looks tenure, probationary service expectations, evaluative criteria and procedures. And this is all very general, much more general than the ASPT document.

Senator Kalter: I'm trying to remember if there was a question there.

Senator Horst: I'm just saying they could say… They could reference that policy. Faculty could be dismissed according to various ways. See policy this. And so it's not even mentioned.

Senator Kalter: I would feel more comfortable referencing a higher document like the ISU Constitution.

Senator Horst: Okay.

Senator Kalter: Yeah. Rather than going lateral, sort of saying that this comes from the governing documents. Anybody see anything else on the potential XIV? Is that one ready to go to URC? It sounds like yes. Professor Dean, would you like to come to the microphone to say… We need that so Cynthia can do the minutes.

Professor Dean: I just have a question to ask as we are going to be taking this back to URC. I want to make sure I understand. So, I noticed that in the one article that you've already discussed, the discussion about the AFEGC, going to the AFEGC for appeals, can you clarify for me why that was changed to AFEGC since in the last versions I had it was DFSC? So, in case that comes up as the committee is trying to refresh its memory where we are.

Senator Kalter: There's a very good article about suspensions and I believe it's called the Use and Abuse of Faculty Suspensions on the AAUP.org website. That was taken directly from there. And what I was saying before about how they are recommending that that go to an Academic Freedom Committee. And again, we already sort of talked about this in this Caucus last year that some of the problems are that sometimes the department is too close to the issue.

So, theoretically, the department appoints and so it should de-appoint either by non-reappointment or by dismissal. Theoretically that's logical and it's what we have right now in our policies. But when it comes to these things, especially because suspension is something that has not generally been a practice throughout the history of universities, this is a new-ish kind of thing and it's something that's become open to abuse, so they're saying find your Academic Freedom Committee on campus and use them in these instances.

Professor Dean: But it's still appropriate leaving the higher stakes penalties with DFSC, the ones we're talking about right now.

Senator Kalter: I think given that there's an intermediate step there, in other words, DFSC would make the initial recommendation to dismiss or not, but it could be reviewed by an ad hoc body so that there is sort of a check on… Was the department acting in haste? Were they acting in undue friendship, etc.

Professor Dean: So then in that case it's a fair use of AFEGC because it is, in essence, an ethical issue? Is this an ethical type of suspension and is it following all the appropriate protocols?

Senator Kalter: For suspension, yes.

Professor Dean: Okay. Thank you.

Senator Kalter: Suspension and dismissal would be a little bit different, but yes.

Professor Dean: I just wanted to make sure I knew that when we head back. Thank you.

Senator Kalter: You're welcome. All right. Our work may be done for the night. Anybody have anything else to say about any of these? Are we ready to send them off to URC? Aren't you glad that we canceled Senate? By the way, we're going to try to do that during this process so that we're not doing these incredibly late meetings like we did last year, try to give everybody a break. Senator Winger, did you have something you wanted to say?

Senator Winger: I move we dismiss.

Senator Kalter: All right. Anybody second that? Senator Dawson. All right. Thanks a lot, everybody, and we'll see these back when the URC is done with them.