**Faculty Caucus Minutes**

**Wednesday, November 8, 2017**

**Approved**

***Call to Order***

Senate Chairperson Susan Kalter called the meeting to order.

***Oral Communication***

Senator Kalter: I'm going to make an oral communication just to let everybody know that on the ASPT stuff that we were working on with the disciplinary articles, we heard back from two more DFSCs, Communication Sciences and Disorders, and Marketing, and basically they didn't have anything. Marketing said that they reviewed them, found that they do provide substantial faculty involvement in the process before a disciplinary decision is made by the Provost or the President, circulated them to all of their faculty, no concerns were expressed or a request for changes, and thanked for the opportunity for the feedback, and thanked the URC and the Senate for their tremendous effort in developing these proposals. And then CSD's was more concise. Ann Beck said the members of the CSD DFSC reviewed the proposed articles and have no remarks about them. We also got something from both the Department Faculty Status Committee and the College Faculty Status Committee in Milner, and Exec is going to be reviewing that before we bring those to the Caucus just because they were much more complex than the ones that I just read to you, so you'll see those, but just not tonight. So are all of the students back out of the room? We're going to go into executive session, and Senator Horst has gleefully asked to read the executive session memo, so I'm going to hand that over to her so that she can read that.

Senator Horst: The Illinois Open Meetings Act, section V, ILCS 120/2 section C1 allows for closed meetings to consider the appointment, employment, compensation, discipline, performance, or dismissal of specific employees of the public body or legal counsel for the public body.

Senator Kalter asked for a motion to go into executive session.

Motion by Senator Marx, seconded by Senator Dawson, to go into executive session for the purpose of Honorary Degree Selection. The motion was unanimously approved.

***Action item:***

***Executive Session***

***Honorary Degree Selection***

Motion by Senator Hoelscher, seconded by Senator Haugo to come out of executive session. The motion was unanimously approved.

***Information items:***

***Proposed policy changes for AFEGC:***

***08.15.17.01 Summary of proposed AFEGC changes 2017 2018***

***08.15.17.06 AFEGC policy 3.3.8D
AFEGC Flowchart Revised 8.10.2017***

Senator Kalter: So we're back out into normal session, and we've only got one section of the AFEGC policy to get through tonight. It is the longest section and in some ways the most important because it shows the procedures that the committee follows. Please remember that you've got this summary and that I'm going to refer to the summary mostly, and then if you have questions about the text, we can go to the text to look at the specifics. So I'm going to start with the changes to Roman numeral I. There are just a couple in this section.

Senator Pancrazio: Senator Kalter, which document are we referring to right…

Senator Kalter: I'm sorry. So we are in…

Senator Pancrazio: The summary or…

Senator Kalter: I'm sorry?

Senator Pancrazio: Okay. Go ahead.

Senator Kalter: So we're in the section on the agenda that is information items, proposed policy changes for AFEGC. I'm going to be reading from 08.15.17.01, but it's referring to the changes on 08.15.17.06. Does that make sense?

Senator Pancrazio: Yeah. I was wanting… Are we looking at the summary or the hearing of the 3.3.8,

Senator Kalter: Yes.

Senator Pancrazio: I think I can…

Senator Kalter: Yes. So they correlate, they correlate to one another, and I'm on actually the second page of the summary where it is the section 3.3.8D where it says panels, hearings, appeals, and reports section.

Senator Pancrazio: Got you.

Senator Kalter: Sorry. Thank you for…

Senator Pancrazio: No, no, no. That's okay.

Senator Kalter: Thank you for that. So the two changes to Roman numeral I are mainly that there's a change from the principal parties having the right to "call witnesses" to a right to submit to the AFEGC any number of proposed witnesses to be called at the discretion of the hearing panel. That's the first proposed change. The second proposed change is clarification that the preponderance of evidence is the standard of proof in all of the hearings. That was in the Appeals Hearing Panel, but it wasn't specified for the Faculty Hearing Panel, so we're just basically taking that standard and saying that's the standard for AFEGC. The first one that I mentioned in that section we might want to talk about a little bit. The difference between a party in a dispute having the right to call witnesses without any qualification as opposed to a right to submit any number of proposed witnesses, but then giving the Hearing Panel essentially the discretion about whether or not they hear those witnesses and, you know, how many and that kind of thing. Does anybody have any thoughts, concerns, questions, about that change in our policy, or that proposed change in our policy?

Senator Nichols: Is there any guidance to the committee then about how to make those decisions about pertinent witnesses?

Dr. Shelden: So what we would intend to do is to provide some guidance to both respondent and complainant that they would submit this list of potential witnesses with a brief rationale indicating how they feel that witness would assist the hearing panel in understanding the matter and coming to a fair decision on the matter, so that would be in the procedures for those folks. For the actual hearing panel, the Faculty Hearing Panel or the Appeals Hearing Panel, the guidance would just be you call the people that you think you need to hear from if there's information that's not been clear to you or you need additional evidence that they might be able to offer based on those rationales.

Senator Haugo: Is there a context or history to understand about why this change is being made?

Dr. Shelden: I think of a couple of different historical issues that have happened in my involvement with AFEGC and one of them is the nature of the witnesses that have been called might be primarily, sometimes have been character witnesses as opposed to witnesses that can provide actual concrete evidence of the matter that is being heard, so that's a part of it. Part of it is also a cumulative, the redundancy of witnesses in some cases, and that the hearing panel doesn't need to necessarily hear the same evidence from multiple people, and then that all creates, not that this is the primary concern, but it then creates a logistical problem as well in terms of scheduling the hearings and doing them in a timely manner.

Dr. (Brent) Simonds: Also several of these witnesses submit statements in writing, okay, so you've, that’s entered in, and so do we actually need to have them there to corroborate that. So the point would be if they say something in these statements that we can't make sense of, then we might want to actually hear from them so we can clarify those things. Other things are very clear and cut and dried just from their statement.

Senator Horst: I guess I just want to hear, Senator Haugo, I just want to hear more. It seems like it's a big change and I'm just concerned about due process charging that somebody could go through this process and say I couldn't bring in my character witnesses and I didn't get a due process through the AFEGC, so could you give us a little bit more indication, is it like you would have to meet several more times in some instances. You know, what sort of burden was there through hearing all these witnesses?

Dr. Simonds: Well just the fact that you have to get perhaps 5, 6, 8, 10 people in one place at one time and the scheduling and the days that you have to do this in sometimes is just almost impossible to find the time where everyone can meet, especially within a very prescribed time limit.

Senator Horst: So are you feeling that you could eliminate one extra meeting or is like three extra meetings? What is your sense of how many extra meetings you had because of these not completely relevant testimonies?

Dr. Simonds: It’s not extra meetings, it's just trying to get everyone into a meeting.

Dr. Shelden: So the hearing happens at one point in time, so the hearing is scheduled for a particular day and all of the evidence and discussion and questioning happen within that time frame, and so trying to find that time has been very difficult…

Senator Horst: With the witnesses.

Dr. Shelden: …in some of the cases, yeah, with the… Particularly when we have sometimes numerous witnesses being named and, again, who are often primarily serving as character witnesses, rather than providing evidence related to the issue at hand. So it's not necessarily helpful for a hearing panel to hear Dr. Shelden is a good colleague or a bad colleague. It's helpful for them to hear I was here when this was said to this person, and those are the kinds of the pieces of evidence that they're trying to take into consideration, and having that rationale so they know who it is that can provide that type of evidence for us is more helpful than people being able to have long lists of people that…

Dr. Simonds: And these witnesses have the opportunity to write a statement, which we will then consider, but we might not necessarily need to see them in order to make sense of that statement. Now if we need clarification, okay, then we might want to, that would be someone we would want to be there to call. Others is just…

Senator Horst: So the character witnesses could still all be submitted.

Dr. Simonds: Sure, yeah. The witness statements they can provide that and we will consider that, just they don't have to physically be there.

Senator Kalter: And I think that you already said it, but we'll just reiterate that not only is it a single window to get everybody there, it's also within 20 days of an initiation of a process, which makes it even harder given all of our schedules. But what you're saying, what you're both saying, especially with the written witness statements, is that Senator Horst's concern about due process should not be a concern because that person will still have witness testimony, just not necessarily in the form of an oral presence at the hearing. Is that right?

Dr. Simonds: Exactly.

Senator Kalter: Okay.

Senator Hoelscher: I think it calmed my concerns down a little bit when we mentioned that the witnesses can still issue written statements. It's important to think about what we're trying to accomplish with the AFEGC. If we're trying to keep things out of court, then it's going to be very important that we consider the perceptions of the aggrieved parties, so I think… I understand completely, though, that this can get completely out of hand and it almost can be used in an obstructionist way. So I do agree limits have to be placed, but I was a little bit concerned that someone might feel even more aggrieved, so I think we have to worry about the procedure. I think written statements may be fine, though. Whenever you mentioned that I felt a little less concerned.

Senator Kalter: Any other thoughts about this particular section? Okay. Let's go on. There's not much of substance that has changed in Roman numeral II, so we'll go to Roman numeral III, which is somewhat long and some pretty serious substantive changes there. I'm going to probably read about half of them and then the other half. First is you might have remembered the last time we talked about AFEGC in an earlier section we were removing the need to get agreement of all of the parties to reasonably extend deadlines. There is more of that going on in this section so that really it's a decision made by AFEGC rather than being held up by one party or the other.

Also, one of the main things here is that we found a pretty big legal problem that we had missed last year, and what I would call, and have called, a moral imbalance. What essentially is currently going on is that the timeline is accidentally rigged so that the complainant gets a lot more time than the respondent, and I can't believe that we actually didn't catch that last year, but somehow we didn't, so we're making sure to correct that so that when that document exchange occurs the respondent has sufficient time prior to the hearing to respond to the complainant and any of the documents filed by the complainant. Right now that's kind of happening by the committee doing it hopefully, but not always, and so we're trying to shore that up.

The next thing is, as Dr. Simonds just said, empowering the Faculty Hearing Panel to request written statements from the respondent's witnesses, specifically the respondent's witnesses, because that's, I believe, taken care of for the complainant earlier in the policy changes, signaling to the respondents that they can gather those themselves if they wish to, and then I have in parentheses here that the Faculty Hearing Panel will have the power to call witnesses who do not agree to a request by a complainant or respondent to testify. In other words, some people don't want to take sides in a matter, so they'd rather not say okay, I'm your witness or I'm your witness, but the Faculty Hearing Panel can call that person as a witness and they can come in as a neutral party essentially and say this is what I saw, this is what I heard, this is what I know. Also, one of the things that that helps with for the panel to have the ability to call the witnesses is that if a witness is not physically at ISU, they might have gotten another job somewhere or for some reason be off campus for a while.

Another addition here is requiring additional information regarding who the advisor is so that the panel doesn't get a big surprise when people come in as advisors and they realize that they might be somehow involved in a case or might have a conflict of interest because of who they know on the panel.

Another thing is prohibiting ping-pong submissions of documentation without the consent of the panel. In other words, right now the complainant gives their paperwork, then the respondent responds, and in past cases there has been, okay once the complainant gets the respondent's stuff, the complainant then wants to talk back to it, and you get this, again, an uneven ability for the complainant to have too much input and also way close to the time of the hearing so that they're batting documents back and forth.

I'm going to stop there. Those are about half of the changes. Does anybody have any comments or observations about any of those? By the way, I think I forgot to reintroduce Dr. Shelden who is from, are you from EAF, no Special Ed, and Deb Shelden from Special Ed and Brent Simonds from School of Communication, so just make sure that that is on the record that we reintroduced you. So no questions about any of that stuff? All right.

I will read the next several for that section. We're still in section 3 called the Hearing. This also allows more explicitly for postponing the hearings. If a document exchange does not proceed smoothly, but it also keeps that postponement within the discretion of the panel so that parties can't drag their feet either. So sometimes there are really good reasons why the document exchange doesn't go well, maybe somebody is at a conference and didn't realize they were about to get called as a respondent in some case and, you know, they lost some days. Other times it's somebody who just doesn't want to face up to the fact that they're in a dispute with somebody.

A second thing is enabling the panel to call its own witnesses. We already said that, but requiring them to do so to verify any hearsay testimony since we have policies against listening to hearsay, or not listening to hearsay testimony, but following hearsay testimony.

Adding some of the language from the Appeals Hearing Panel section to the Faculty Hearing Panel section, like reasonable aid in getting witnesses to show up, or examination of witnesses, that there are no formal rules like as from state and federal courts, we're clarifying that the complainant has the burden of proof.

And then the final thing, major thing, in this section is eliminating the need for the panel to write a formal report if they have to extend a hearing to another date. So if they have like an hour set out and they realize by the end of that hour that the testimony did not really clear up the issue completely, they want to meet with the parties again, they don't have to write a formal report in order to do that. Any questions, comments, concerns about any of that? All right.

If not, going to section IV, the Appeals Hearing. There are only a couple of major ones here, but this is a pretty major one, the first one. There is a proposal to change the number of people on the Appeals Hearing Panel for complaints and grievances only, not for referrals out of ASPT committees. Currently that number is five on an Appeals Hearing Panel. The proposal is to change that to three. One of the reasons for that is to help ease the problem of finding sufficient eligible members to serve on cases.

A second thing there is just adding required training for the Appeals Hearing Panel. It's already standard in the description of the Faculty Hearing Panel, but wasn't in the appeals section.

And then the final thing there is indicating the normal timeline for an appeal. So in the faculty section we have 20 days, but in the appeals section it was broad, you know, it was just totally wide open, so clarifying yes, you should go basically on the same kind of a timeline as you went on for the faculty panel. Right? In other words, no more than 20 days. Usually for an appeal it's probably a little less. Let's talk a little bit about especially that first one in reducing the number of people on the Appeals Hearing Panel. Do people think that's a good idea? Do you have concerns about that? What do you think about that?

Senator Haugo: I haven't served on this committee, so it might be useful for me to hear if there is any kind of sense for a need for critical mass, what changes if we go from five people to three people considering a case, and does it increase the workload for the three people if there are three people on the committee versus five. Does it increase workload for the three people who are serving on the committee?

Dr. Shelden: So I'll start with that one, because I think that's maybe the easiest one. It should not increase the workload. Each member of the Appeals Hearing Panel would be expected to review all of the documentation individually and then come to that meeting together, and so it should not change the workload of the people who are on the committee. In terms of critical masses, so you know I'm the chair of the AFEGC, but I've never been on an appeals panel, and so this is for me also… My presumption is that three people who are thoughtful and thorough with the process can come to a reasonable conclusion about what happened in the original Faculty Hearing Panel and what should happen as much as five could, and then that there is also another level of appeal after that Appeals Hearing Panel, so it's not the stopping point necessarily if there was an issue. It is difficult when we look at the size of the AFEGC and even if we're able to increase it. If there are multiple cases going on in a given semester and any one of those goes to appeals, then we are very stretched with our membership, and that then might, you know, might increase workload for people if I'm on a Faculty Hearing Panel for case A and then I have to turn around and be on an Appeals Panel for case B because we've had to eliminate names for same department or other aspects of conflict of interest, we just begin to have a small pool to draw from for those.

Senator Horst: But you said it was a rare occurrence.

Dr. Shelden: No, it's not necessarily a rare occurrence. It's an occurrence that I have not… So I have not served on an Appeals Hearing Panel myself, but it's not necessarily a rare occurrence for a case to go to the appeals process.

Senator Horst: Yeah. I understand your reasoning, but my one thought is that the number five mirrors the makeup of the CFSC and the DFSC, for instance, and it does… I mean, the other thought with three is that, you know, if somebody gets sick or something and there are really low numbers versus four could potentially still be able to be a legitimate size for panels. But my real thought is that five mirrors the makeup of other bodies.

Senator Kalter: And can you say a little bit more, Senator Horst, about why that might be important for it to mirror.

Senator Horst: My experience on the DFSC is that five people can make a logical decision and it's not a large, but it's not a small committee. Three, you know, a committee of three, a panel of three is not an experience I've had at ISU in that kind of decision-making process, but five mirrors my experience, just what I said, it mirrors my experience on the DFSC.

Dr. Shelden: So it's interesting, because, you know, the number on the Faculty Hearing Panel, that first phase of hearing, is three, and my experience both serving on Faculty Hearing Panels and, you know, as vice chair beginning last year shepherding hearing panels is that three people have been able to, you know, make their schedules work to sit and have the conversations that they have to have and to do the work and have been very thoughtful in their considerations of the evidence and very thoughtful in their discussions amongst each other of that evidence, so it doesn't… The AHP at three would not mirror DFSC, CFSC, it would mirror the Faculty Hearing Panel within the AFEGC process.

Senator Horst: Then that makes a lot of sense.

Senator Ferrence: My only thought was captured by Senator Horst, which was we only have three if something happens, which frequently does, one person ends up sick or is removed, then you lose your critical mass quickly but that was already addressed.

Dr. Shelden: And I think that, I'm not sure that this is even explicit in the procedures, but, you know, one thing to keep in mind is the AHP timeframe is a shorter timeframe than the FHP timeframe, so a little bit less opportunity to lose a member, but my take as AFEGC chair would be we could certainly put this in procedures is that someone has to remove themselves from an AHP because of unforeseen circumstances, then we would replace them and we'd go back to having a three-person panel for the AHP.

Senator Kalter: We might want to check that timeline since I had just said that we're maybe changing it to a 20-day. I think you're right that right now it's like a 10-day timeline or something like that for appeals and so we might want to check to make sure that if we put something in about 20 days that those two things are not conflicting with one another inside of the policy, so thank you for reminding me about that part.

Senator Pancrazio: Yeah. I wanted to make a case for leaving the five. I think at times having a diversity of thought, diversity of perspective, diversity of approach I'm thinking can be helpful, and I see that on a DFSC and a College Faculty Status Committee. Three people I think you're going to get one of three positions very quickly and there are some things in which we do need the critical mass of thoughts and I think the Senate is one of those. It is time consuming and things like that, but I think five would probably be a better, might be a fine, a better problem than having three.

Senator Kalter: Can I maybe put some words in your mouth to extend that point a little bit?

Senator Pancrazio: No, but you can go ahead and tell us what you think.

Senator Kalter: So it sounds to me, well, what you're saying, I think that part of what you're saying is that three people may be more likely to agree with one another than five, because it's a little bit easier to be courageous in a group of five about your differences of opinion.

Senator Pancrazio: Or just be different. Yeah. Just be different, because I think in the versions I've seen, how I've seen it played out, I think people, you can have one person to take a midrange position, abstain, or refrain from some thought on some things or not completely arrive at a clear decision, deliberate a little bit more. Other people go back and forth a little bit on the issues. Some will be very empathetic with one side or the other side. I think in that case maybe five would be better. Is that what you're… Or you could have something different.

Senator Kalter: No. I just wanted to… I'm not trying to say what I think. I'm trying to pull out more of what you're trying to advocate for.

Senator Hoelscher: I think we also, if we agree that five would be better and we may be moving in that direction, we also have to be respectful of the problem presented to us by the committee, and we need to try to determine how serious that problem is and if indeed it needs to be fixed in another way. So perhaps we look at the difficulty that they're expressing and we say okay, one way to solve that is to go to a panel of three, but if we choose not to do that, then we need to look at the root cause for that and I don't know what the solutions might be for that, but maybe we have other solutions. I mean we know that five is going to be better than three in the long run, but can we afford to be there.

Senator Kalter: One solution that we encountered earlier in the semester and earlier in the policy is adding more people to the AFEGC pool. Whether that is going to work remains to be seen, because of the number of volunteers we get. It might. It might not. So one possibility would be to try that first before reducing from five to three. We could do them at the same time. It doesn't necessarily address all of the concerns in terms of like the logistics of scheduling, but in some ways when you're talking about, you know, having a judgment from a committee and if you're getting to an appeals level of that, the logistics may not be as important as the diversity of thought, but that is the other place that I can think of in the policy where the proposed changes are attempting to address this problem of having to find bodies to fill the seats, but then having lots of conflicts of interest that make that very difficult depending on what college the dispute might be coming out of. Any other thoughts about that?

Senator Ferrence: Well, pushing this up against our discussions over the last several Caucuses regarding the suspension, sanctions, and dismissals proceedings, because at every level of that new thing that is being put together there's the possibility of it going into AFEGC at some point. That to me is another reason for the five, because when you have situations where other bodies have been doing a lot of vetting of things, I would feel a lot more comfortable if I was a panel of five people trying to work out the conflict than just three when it's coming out of a body that has already had potentially a dozen or a couple of dozen different individuals involved at different stages, and so to me the five, at least then five comes to a consensus, the body that that's reported back to if it was say in the suspensions and sanctions and dismissals thing would be more likely to be oh sure, you know, five people agree. If it's only three, you're like it's only three, there were a lot more than us that came to some other conclusion to begin with. So I think there are many cases where five, because it's gotten to that level of conflict, it's better to have more people present than less in terms of the jury, if you will.

Senator Kalter: It's interesting that you bring up those, because as you were talking I'm trying to think those through and with those disciplinary policies, if we pass them essentially as they are with some of our edits, there are two ways that those would come out of a disciplinary issue, like a sanction or a suspension or what have you. One would be through a referral process where you would get a panel of five, but you would go straight to the appeals panel and skip the faculty panel and then it would get referred back, because, of course, it's already been in these other places like the CFSC, but the faculty member also can take it there themselves, and then it would go to the faculty panel, and then to the appeals panel potentially, and that could end up being something of a potential problem if you reduce that to three, I suppose, because it's not quite even justice, so to speak. Right? You don't have quite the same process. I mean, you already don't have the same process there anyway, but it changes… And if it's a very serious case, like a suspension or a reassignment, you're indicating you'd prefer to have the five for those to have more people thinking seriously about what is about to happen to that person.

Senator Ferrence: Yeah. I mean, part of it is I'm trying to weigh the plus and minuses of five versus three and, you know, from a self-preservationistic point of view, if I'm one of five, I'm much more comfortable than if I'm one of three, so if you would like me to serve, I'm more inclined to volunteer my services if I'm one of five than if I'm one of three. So it's not just from the perspective of the complainant and the person who's defending themselves, it's also from the perspective of the colleagues that are volunteering their time on the committee and keeping them protected in things that could be complicated, and I'm not taking a strong opinion one way or another. I just thought it was worth consideration.

Senator Haugo: I want to go back to something you said about the size of the AFEGC and drawing volunteers. Have we had issues in say the last five years or as long as you have been the chair in getting enough volunteers for the AFEGC? Is there a lack of interest in serving on the committee?

Senator Kalter: I wouldn't say there's a lack. My recollection is that we usually have a few more volunteers than we have seats, but sometimes we're right at the edge where we basically are just filling the seats with everybody who volunteered. I don't think that we've had years where there were not enough volunteers. I can't quite remember, but I don't think so. And the process is an interesting process, because essentially the way it is written and the way it works right now is that the Senate chair calls on all of the department chairs and school directors to have an election in their faculty, and I think that's one of the reasons why it's a little bit close, because not all of those, not everybody follows that process once asked, and even if they do, sometimes there aren't any volunteers. It happens in the Spring, so that's a time when people don't volunteer as much. So it's usually neck and neck. Maybe we'll have eight volunteers for six slots or what have you, maybe six for six.

Senator Mainieri: Senator Ferrence might have gotten at this, but do we know the history of why, because I find it interesting that FHP has a three-member panel and the AHP has a five-member panel. Do we know the history of why that's the case? I mean, what was the justification for doing that in the first place.

Dr. Shelden: I do not know that.

Senator Kalter: It might be in the archives somewhere, but we haven't found it yet.

Senator Mainieri: It just, it seems odd to me that the two panels have different numbers, and to me it makes more sense to keep it parallel within the system of AFEGC, and I think with training people can come to a diverse, well-considered solution.

Senator Horst: I mean along those lines it makes sense to me to have the same numbers, and maybe that's five and five or three and three, but it does make sense that you have the same sort of process on both sides. And then my other thought is that we are going to work in the Rules Committee to loosen up the restrictions on people serving on the AFEGC and some other external committee, so that might help. In the Fine Arts, if you don't respond to the email, you automatically volunteer, so we always have a very competitive election.

Senator Kalter: I usually despise straw polls, but I'm going to take one right now. How many people are leaning towards five?

Senator Hoelscher: I'd like to ask quickly before we vote, the understanding would be, I'm guessing that it would be a general understanding that if we vote that we're leaning towards five, we also along with that vote comes an understanding that we have to solve this problem.

Senator Kalter: Yes. And this is not, like I said, it's a straw poll, not a formal vote, so we can keep talking about it. In other words, I don't want to go just on the voices that I've heard. I want to hear from everybody through a show of hands where are you leaning right now and when we bring it back for action we can have further debate about it, but in terms of the practicalities of should we keep this in the proposal or leave it out, you know, where are we headed.

Senator Marx: Yeah. It seems to me this argument applies to the Faculty Hearing Panel in the first place. If you're arguing that three people is not a comfortable situation for the people on the panel, five is, then why don't we do the same thing for the Faculty Hearing Panel?

Senator Kalter: And would you argue that we should or are you arguing that we don't need to?

Senator Marx: It seems to me five is a better number than three, but then the argument applies to the Faculty Hearing Panel as well as the appeals panel.

Senator Pancrazio: Yeah, I had a question. I'm not sure I'm following up on Senator Hoelscher's comment. I'm not sure exactly what the problem is. What are we fixing? Is it an efficiency issue? I mean, it's kind of an irony bringing that to a group that copy edits, you know, 100 people copy editing. I mean, I mean, we do put the time in things, so am I hitting the nail on the head? Okay. Okay. So what exactly is the problem?

Dr. Shelden: It is just not efficiency, it is the availability of people to seat panels. So if, you know, potential cases where, you know, you can have a case that involves two different departments. Right? And so then anyone on AFEGC from either of those departments is out of the mix. Someone else is out of the mix because they're chairing an FHP for another case, and someone else is out of the mix for whatever other reason, so we're getting smaller and smaller numbers of those 18 tenure-track positions, tenured positions, on AFEGC. So having to find potentially eight people for each case, it's not efficiency, it's just are there names, are there people I can get into that room.

Senator Pancrazio: Okay. So if I understand right, you have a large pool and from those you take a smaller pool to serve on one particular case. I'm showing my ignorance.

Dr. Shelden: Yeah. No, that's okay. So cases that… AFEGC is currently 33 members, but it's 18 tenured members, and cases involving tenured faculty are heard by tenured faculty. So we have 18 people to hear all potential cases in an academic year both at the Faculty Hearing Panel level and the Appeals Hearing Panel. So, you know, when we begin to look at the numbers, potentially eight people required for each case the way the policy is now and, you know, there are typically multiple cases in a year; some of them complex, some of them involving a significant amount of time, and it's difficult to consider asking someone who spent one semester with a complicated FHP, then moving into a complicated AHP for another case next year, but we'd have to do that in terms of the numbers. So particularly if the decision is to go with five at AHP or five at AHP and FHP, you know, I hope that you would very strongly consider supporting the proposal to increase the number of people on the committee.

Senator Pancrazio: You're referring to the pool, the large pool?

Dr. Shelden: The pool.

Senator Pancrazio: Okay. Thank you. I really appreciate your explanation. That's very helpful.

Dr. Shelden: That proposal is to go from 18 tenured faculty members to 24.

Senator Pancrazio: Okay.

Senator Kalter: Senator Hoelscher, you look…

Senator Hoelscher: I'm ready for the straw poll now. I think we framed it up nicely.

Senator Kalter: And this is why I hate, because I think, I always like to think about things even overnight sometimes, but are people leaning in one direction or another? How many people might be leaning towards keeping it at five just to see where people are leaning? Okay. Ten. Okay, so that's, we're sort of half and half. How many people are leaning towards the other way, towards rolling it back?

Senator Hoelscher: How many people are sitting on their hands?

Senator Kalter: That's what I thought. I just wanted to make sure because of how many people are in the room. I think it's about even, so we're…

Senator Lonbom: This isn't a vote. This is a question.

Senator Kalter: No. This is just a question. In other words, I was trying to get… Not everybody talks, right, just like when we are in class. Not everybody talks, but everybody has an opinion, and I'd like to have us leading towards what the majority thinks, rather than just what the more vocal people are talking about and contributing. Right? So that's all that that was, to see where people are, and the fact that it's almost even, we're going to have some debate about it when we come to it in action. So I just wanted to see whether, in other words, to keep it at five and just let it go and not have that be in the ultimate action item or to have it changed to three and have us debate it or what have you. All right. Does that make sense?

Senator Lonbom: Yeah. It makes sense. I just, from what I've heard from the committee, it doesn't make sense without increasing the numbers of members. That's what it, so I can't vote on it because I don't see how they do their work without increasing membership.

Senator Kalter: And that's earlier in the proposal to increase the number, and I think the question there is whether that's going to work, whether we're going to be able to or not.

Senator Pancrazio: I agree with that statement, I think stick with five, it includes… you want to broaden that pool.

Senator Kalter: Yeah. I think that's the operating assumption. The question is whether we can.

Senator Ohler: I had one other question for the committee. Is there anything changing in the nature of the appeals, either in the number of appeals or complexity of the appeals that would warrant needing to have more people available or that they're happening more frequently so we would need to keep it at three?

Dr. Shelden: So I don't actually… I unfortunately cannot, I do not know even what percentage of cases go to appeals in years when I was not a chair or when I was vice chair I only would know the cases that I would have handled, so there's a little bit of, I think, something that we're working on, but a little bit of problem with transitioning, understanding of the history of, the nature of cases, not the specifics of cases, but the nature of cases. I think in terms of planning then it makes sense to plan for a large number of cases to go to an appeals, because in many of these cases they're significant events and charged events and people will want to be heard a second time if they don't feel they've been heard the first time. I think also in terms of the potential increased work load depending on new disciplinary policy as well, then when you get to look at even more demand on the committee that it's going to stretch it.

Senator Kalter: All right. Are there any other comments on that section IV? We're nearing our hard stop time, so I'd like to get through this tonight if we can.

Senator Horst: Yeah, could Cera put together numbers of how many cases…

Senator Kalter: No.

Senator Horst: We don't have…

Senator Kalter: Just like with the annual reports for the external committees, this external committee does not have a good history of… So we have extremely little evidence of what the history is. It's all anecdotal.

Dr. Shelden: But in five years you'll have great evidence.

Senator Kalter: Yes.

Dr. Shelden: Because we've got new systems.

Senator Kalter: Yeah, but unfortunately we just don't know. What I think we can say is that it's the same procedure. It's not like there are three appeals panels sometimes, you know, it's always FHP, AHP, and then it would come to the Exec, and then it would come to the full Caucus. So that's the procedure, but we don't know exactly how many appeals panels there have been in the last 10 years, unfortunately. Okay. If there are no other comments about section IV, let's quickly do section VII, which is just all this does is to clarify exactly who the Provost communicates with and also clarifying that as with almost every other Senate issue, the Provost can receive a report from AFEGC with recommendations….right now the wording is accept or reject, or something like that. We've got it proposed to change that to [accept,] modify or reject, because just like if the Senate passed a policy and the President had to come back and say sorry we can't implement this, but we can do it in a modified way, all we ask for is that the administration gives us a rationale, an explanation, for why they modified it, so there's no reason to have it be a black and white, accept or reject. It can be accept, modify, or reject. So those are the two changes, the two major changes to section VII. Any comments or observations about those?

Senator Pancrazio: Yeah. Could you explain why at this point a report would be, and if it's advisory, is that correct? I mean, it is the decision of the AFEGC, and it's their decision. How could that be rejected? I mean, unless it's a revised, I mean, I'm not really following why the word rejection is there?

Senator Kalter: I think, you know, again, this is very old language, but I think it's because like you started to suggest, almost everything that we do is advisory ultimately to the President. Right? So this is very rare. Right? It would be an unusual Provost who didn't simply accept, you know, the recommendations of the AFEGC, but there, you know, there may be some reasons, like if for some reason, you know, you got only a f

Faculty Hearing Panel and they made some sort of recommendation, you know, they make the recommendation, it doesn't go to appeal, but the Provost sees that there is some sort of problem with the way the procedure went or happened.

Senator Pancrazio: That would make sense. That would make sense. That accept would make sense.

Senator Kalter: Provost Murphy, do you have anything else that you would add to that?

Provost Murphy: I would just agree. I think it would be a rare occasion that a recommendation would be rejected. The modified maybe not quite so rare if part of the whole process they're recommending something that either just can't be implemented or is not legal or runs afoul of some other policy, but then I see a conversation also happening.

Senator Kalter: Right. Anything else? Okay. The only other thing here, we're adding the Shared Governance policy to the links. Does anybody see anything at issue with the flow charts at all? We decided earlier on in the semester that we're going to get rid of the AFEGC facilitator, so we'll remove that from that one flow chart, but did anybody notice anything wrong with the flow charts at all? And you can tell us afterwards or at the action item stage if you didn't. One thing that I want Dr. Shelden and Dr. Simonds to know: we talked about this at the end, I think, two weeks ago's meeting when you weren't here and we had a fairly vigorous debate about the email opt-in/opt-out, and I'm sorry to say that we are leaning towards keeping it as is. I have some note somewhere about giving guidance about that, but we'll get the minutes to you so you can read through what that discussion was.

***Advisory items:
11.01.17.01 Interim Recommendation on AIF ad hoc charge #4 with Executive Committee clarification (Academic Impact Fund ad hoc Committee)
Charge for Ad Hoc Committee on AIF matters***

The only other thing on our agenda tonight is the interim recommendation about AIF. I think since we are at 9:27, let's read that over, and the next time we meet we'll just go over that, and if you have any questions we'll talk about them then, because there's no rush on this at all, and maybe by that time we'll have another interim recommendation. Anything else before we adjourn? All right. Thank you very much for all of that work. We're going to bring all of this back in Spring semester with edits from the conversation and we'll move forward.

***Adjournment***

Motion by Senator Dawson, seconded by Senator Ferrence, to adjourn. The motion was unanimously approved.