**Faculty Caucus Meeting Minutes**

**Wednesday, March 26, 2025**

**Immediately Following the Academic Senate Meeting**

***Call to Order***

Chairperson Horst called the meeting to order.

***Roll call***

Senator Cline called roll and declared quorum.

***Public Comment: All speakers must sign in with the Senate Secretary prior to the start of the meeting.***

None.

***Information Item:***

***From Kevin Edwards: Faculty Affairs Committee***

***University Review Committee Chair Chad Buckley***

***ASPT Changes***

[***Link to Markup***](https://illinoisstateuniversity.sharepoint.com/:w:/r/sites/AcademicSenate/Academic%20Senate%20Sharepoint/SUB%20-%20Faculty%20Caucus%20Executive%20Committee/2025.03.17/12.20.2024.02%20-%20ASPT%20Changes/URC%20ASPT%20Revisions%202025_February_Negative%20Provost%20Recommendation%20Appeal%20-%20Markup.docx?d=w4386527d0fc94f8ea8c366efdda60b5e&csf=1&web=1&e=uOzwXk)

[***Revised Flowchart***](https://illinoisstateuniversity.sharepoint.com/:i:/r/sites/AcademicSenate/Academic%20Senate%20Sharepoint/SUB%20-%20Faculty%20Caucus/Faculty%20Caucus%20Packets%2024-25/2025.03.26/12.20.2024.02%20-%20ASPT%20Changes/ASPT%20Appendix%204%20v3.png?csf=1&web=1&e=IHvSOJ)

Chad Buckley: This was a suggestion brought to URC early in the fall semester. We discussed that this would be a rare opportunity if a candidate were to receive a positive recommendation from both their DFSC or SFSC and their CFSC that then went to the provost and there was a negative recommendation from the provost. They would be allowed the opportunity for an extra appeal to the FRC, the Faculty Review Committee after that just as a separate check-in process. We revised section 17 on appeals, policies, and procedures to reflect the possibility of that change. Section G, C we added a section that specifies positive promotion/tenure recommendations by the lower levels, negative recommendation by the provost, may request an additional review by FRC. When this went to the Faculty Review Committee originally, there was some memory that this came up in 2005, I believe, so Chair Horst, Craig Gatto and I and Nathan Kapoor from Faculty Affairs met with General Counsel to talk about that previous proposal. It was turned out at that time because there was a possibility of defamation, there was case law that indicated that inter-office communications could constitute “publication,” and so there could be the possibility of defamation. General Counsel tried to sway us from moving forward with that and to look at other alternatives. I took that back to URC and there was overwhelming support from members of URC that this still be pursued as an option. We added language that would state in H, 3, the provost shall not be required to include their individual rational for their decision. It would just be the reports from the various review committees and then the provost’s “yes” or “no” decision.

Associate Vice President for Academic Administration Craig Gatto: That is the same as if you are on a DFSC or CFSC and you have a negative vote, you don’t have to give your reasoning for your negative vote either. That was congruent with that same thing. Only chairs and deans, if they are in the minority, would have to write a separate letter.

Chairperson Horst: Just to clarify- in 2005 there was an appeal after the provost’s decision, and the shared governance bodies were frustrated because the provost was not engaging with the FRC. They felt it an unnecessary step and there was this comment that you said about defamation, so they deleted it in 2005 and now the proposal is to add something back.

Chad Buckley: There was support that this is still an important step to be made available to faculty in this case just to ask for an additional review. Rather than using the word, “appeal” an additional review by a peer committee. They felt it could be useful.

AVP Craig Gatto: Something that came after the meeting- if it is an opportunity for review, the way it is stated is positive in the department, positive in the college, negative in the provost. These aren’t yeses and no’s, there is a committee. It could be a 3-2 yes at the college, but maybe a chair or dean was opposed, so now there is, assuming an extra review is because we want to get it right. Can the provost then send that split to the FRC for another eye on it? Another case, I’ll say these are all hypothetical, someone comes in and the department says no, unanimous DFSC no, unanimous CFSC yes, can the department send it to the FRC? Can the department say the CFSC is wrong? If this is another opportunity for another set of review, should it be allowable from both directions to make sure decisions are made correctly?

Senator Blum: It goes to the FRC after the negative recommendation from the provost. After the FRC reviews it does it go to the president? Is that the path?

AVP Craig Gatto: Right, yes.

Chad Buckley: I believe the revised flowchart was shared for appendix IV. There was an extra step that mentioned Board of Trustees at the end of that. That was an error, so we removed that and then reflected that yes, this would go directly to the president then, in the event of this kind of case.

Chairperson Horst: I have a question about the wording. You said it was a review and it some places it calls it a review. I would note that in F it says “a negative promotion and or tenure recommendation by the DFSC, SFSC, or CFSC or the provost may be appealed.” When you start calling it an appeal, for instance in 17, B, it says “a formal meeting with the DFSC, SFSC, or CFSC is a preliminary step in all appeals except disciplinary appeals.” If I am appealing, then a formal meeting with the DFSC, SFSC, or CFSC was a preliminary step because it is required for all appeals. How could a faculty have done a formal meeting if they had two yeses?

Chad Buckley: I would assume they would be, in those cases, appealing a negative recommendation from one of those level committees, which would necessitate the meeting. In this case, there wouldn’t be until it got to the provost’s level.

Chairperson Horst: When you call it an appeal, all of this language about appeals and the ASPT comes into play. There is an AFEGC possibility. There are these semantic problems when you call it an appeal as opposed to an additional review or something.

Chad Buckley: We tried to add in the additional review language, but the whole section is titled “appeals,” which is kind of sticky at times because even an appeal to FRC is technically not an appeal, it is an additional review at any level. FRC does not have decision-making power, so it goes to the provost and then the president who make the decisions. We were using language from this section, which was pre-existing, and then trying to add in the additional review language to try to clarify that. Maybe it would be better to be consistent throughout the entire section.

Chairperson Horst: In 3, C, it says, “formal meetings to discuss promotion and tenure recommendations with the CFSC must be scheduled to allow the CFSC sufficient time to finalize recommendations and communicate it to the candidate and the provost by the March 1 deadline” I guess that is ok. You define an appeal as a written statement by a faculty member that explains why a faculty member believes that there has been a misinterpretation, misjudgment, or procedural error. There is more language here in B that says, “for all appeals except for those to the provost.” Over here in G, 4, “if the FRC believes that the basis of the appeal is an academic freedom or ethics violation question, the FRC may suspend its proceeding until it receives a report from the AFEGC.” If that includes the provost, then the provost would be recommending to the provost about the provost’s appeal. If everything is looping through the AFEGC and you are not carving out the provost appeal, then it just doesn’t make sense. At the end of the article it says, “the provost and the president shall consider this recommendation in making a decision.” The FRC recommendation. I think you just want to have the president, because the provost can’t, again, consider the provost’s recommendation. In principle it makes sense that you would have this additional review for cases where there wasn’t a review process because of the way the vote worked. Just the way the language technically works, there is a lot of potential issues.

Chad Buckley: I can see the need for clarification on that.

Senator Nikolaou: A follow-up on the last portion that you mentioned for the provost and the president. The thing is that we cannot just immediately remove the provost, because for all the existing cases, the FRC recommendations should be forwarded to the provost and president. It would not be forwarded to the provost, only for the two positives that then it was appealed to the provost.

Chairperson Horst: Unless it was previously forwarded to the provost, in which case it would only go the president, or some qualifier like that.

Senator Nikolaou: Let’s say it was appealed to the FRC, the FRC makes a recommendation, and they send it to the provost and the provost decides to change the decision from a negative to a positive. Does the president get to see both? The idea is that the provost has made a decision. Based on the proposal it goes to the FRC and then the FRC recommendation is also served with the provost’s, then it might be for XYZ reason, the provost decides that they may change their recommendation. It is a possibility. What happens in that case? Will the president get to see the positive and the negative?

Chairperson Horst: I thought the flowchart had is going straight to the president.

Senator Nikolaou: But the language. I am not looking at the flowchart, we are looking at the policy.

Chairperson Horst: Yeah, the language at the end needs to be fixed.

Senator Nikolaou: Also in section H, 3, where it says, “the provost shall not be required to include their individual rational for their decision.” And then the next sentence says, “in order to effect a just and efficient appeal, the FRC shall be provided any documents used by the DFSC, CFSC, or the provost.” These seem to be contradicting one another because the provost made a decision and the provost might have access to other documentation that cannot be shared, but then item 4 says that we need to share that. It cancels out immediately. They are not including their rational, but they are including their recommendation?

Chairperson Horst: What if the documents are sensitive in nature? There was some sort of legal situation that is not resolved.

Chad Buckley: I did consult with Wolfgang Stein, the head of FRC, and he did raise a similar point that additional information not available at the lower levels could become available to the person appealing.

Senator Bonnell: My question is more about language. This is under H, 3, I think this might be an easier one. It is the language of decision vs recommendation. To me, I thought it was only the president who could really make a decision. When we see in H, 3, where it talks about “the provost shall not be required to include their individual rational for their decision” should that really just be “recommendation” there? There is one earlier that was not part of the change, “this information shall include any official documentation used to support our recommendation regarding a faculty member.” Under G, 3, “in order for this to be triggered, there has to be two positives from CFSC and DFSC. To me, under that G, 3, it says “if a faculty member wishes to request an additional review of a negative recommendation by the provost with respect to promotion or tenure and they have not previously appealed to the FRC.” That is that little bit of language that seems like a funny thing to me, like some funny rule that I have to figure out how would that be? Would you talk a little bit about that language and when that might happen?

Chad Buckley: We did discuss that in URC and we were trying to come up with language that would emphasize that an appeal to FRC can only occur one. If there is a negative recommendation from the department, school, or college, they can be appealed once at that point. If those are both positive and there is a negative recommendation from the provost, there is an opportunity for an appeal there. That could maybe be cleaned up.

Chairperson Horst: It is language that you see in the AFEGC for instance. If it hasn’t been forwarded already by the FRC, the faculty may choose to forward it. It is sort of like that, but it is a little confusing. The faculty would be in charge of forwarding it. It would be the faculty’s decision, there would be no automatic forwarding.

AVP Craig Gatto: Yeah, it is not automatic. It is the question. Would a department have the ability to forward something to the FRC? If a DFSC opinion was overturned by the CFSC could a department not want the college to impose its will on them and get another recommendation? That won’t be in there, but it is a question. If this extra appeal is because there is a quandary and we want to get it right, is it both sides could have this other opinion if things are mixed?

Chairperson Horst: Is there an attitude or is a philosophy of the ASPT that the CFSC overrules the DFSC in a lot of situations?

AVP Gatto: I don’ t know, I think the provost would get both of those recommendations and then come up with an autonomous thing. If the provost sided with the CFSC in that case, could the DFSC say, “wait, we all said no”?

Senator Nikolaou: I am going to go to G, 1, C. That goes back to Senator Horst at the beginning, when you mentioned that the changes appear to have focused only on article 17, but there are other articles throughout the whole ASPT that need to be adjusted. For example, the ASPT says that FRC resolves differences from DFSC and CFSC. That is stated in article 3, D. Based on that, whatever we are discussing right now cannot happen, because it is not under the jurisdiction of the FRC. They cannot review cases like recommendations from the provost. It is only CFSC and DFSC. That might be more of an interpretation thing, but the way that article 1 of the ASPT is stated where it says, “the Board of Trustees has granted to the president final responsibility to formulate decisions based upon the advice of the provost and the Faculty Review Committee regarding appointments, promotion, salary and tenure presented to the Board of Trustees.” Based on how this is written, at least the way I am reading it, is that it says the provost and the FRC. There are two different recommendations. It is not that the provost recommendation is appealable to the FRC. This is article 1, A of the ASPT.

Senator Edwards: I have a question not about the new language, but right above it. This would be G, B. I want to clarify, without the new language, that this person who got a positive, positive, then a negative from the provost. They would not be able to, whether they logically would or not, appeal the FRC. G, B says they request the FRC formulate its additional recommendation if a negative recommendation has been forwarded by the two lower bodies. Do you read that as being only if a negative recommendation, or if it was that there was a minority letter going forward and they could say, “I will send it to the FRC anyway” or they couldn’t do that because it was not an overall recommendation? In other words, how badly is this language needed if it is already in their discretion to send it to the FRC?

Chad Buckley: There was somewhere I was looking earlier, there was something about a dean’s minority letter could be appealed to FRC, but I am not sure I can find it right at the moment. I think that is baked into the language currently.

Chairperson Horst: That is in E, 2. To repeat your question, you are saying in G, 1, B, maybe next time we should have line numbers, it says a faculty member may request that the FRC formulate its additional recommendation if a negative recommendation has been forwarded.

Senator Edwards: Is that meant to be restrictive?

Chairperson Horst: I will say there is this flowchart that also has some validity as to how the review process works. The paths to the FRC, there are only a couple.

Senator Edwards: It is a pretty narrow language question. If you say, “If a negative” are you meaning only if a negative? That is how I would read it.

AVP Craig Gatto: That is how the flowchart would work.

Senator Edwards: My impression from all the other comments, I think there could be some wording changes, but from our committee I think our sense was that this was a very rare special case that this language would simply add an option to bring the person who got a negative, negative, then they had a chance and likely appealed. The person that got a positive/positive, they are down one review, one set of eyes on it, and this was simply meant to equalize that. It seemed like a fairly simple idea for a rare edge case of this positive, positive, negative. Just to simply level the playing field for that person. I don’t think it was meant to then cycle back to a lot of things that were coming up. That is not how we read it.

AVP Craig Gatto: That would be a case of the DFSC judged yay or nay on a case and the opposite happened at the CFSC and the provost. Would the department have the ability to have someone else look at it? Us 5 said yay or nay and the next group was the opposite, and the provost was the opposite. Do they have any recourse or no? If we say no and everyone else says, too bad?

Chairperson Horst: When the future Craig Gatto comes in here and that person says, “I would like to appeal this to the provost” and they say, “according to this a formal meeting is preliminary meeting in all appeals, did you have your formal meeting? “No, because I didn’t think I needed it.” “Too bad, you can’t appeal through the provost.” That has to be changed. Otherwise immediately you can say, “you don’t get the chance because you didn’t have your formal meeting.

Senator Edwards: Just like in the existing language there is lack of clarity about a negative review that we just discussed that I think the interpretation would be that this is simply added on in that case. That clearly doesn’t refer to going back to earlier steps. I understand that the language should be clear there, but there are other cases where it is not crystal clear in that way.

Senator Nikolaou: What is being proposed and what Dr. Gatto mentioned, can the DFSC appeal, these seem to be bigger issues. Are these items that we usually do during the regular 5-year review of the ASPT? It is not that we are talking about a small change. How relevant is this discussion if we don’t know what might come with the union contract and if any of this might change? That is what we have been told- that we should freeze any discussion to ASPT revisions until the process has been finalized.

Chairperson Horst: Senator Edwards, you followed up on that question today regarding the intersection of the union contract negotiations and this ASPT change?

Senator Edwards: To my best understanding the Senate should proceed as it has been. Come up with policies, send them to the liaison to the union, it will go to the union, and since there is no contract, there is no leadership in place. It is simply the group at this point. That group then looks at it and sees if it is changing working conditions or conflicting with the direction that the contract is going. It would then advise back if that is an issue. It is all just advisement. Until we get a contract, there is nothing to conflict with at this point.

AVP Craig Gatto: Until there is a CBA there wouldn’t be a body to say. It would just be another group looking at it. Once there is a CBA, I think the union has made it clear that they would tell the senate whether or not you could do what you want to do.

Senator McHale: I have something very practical. We usually turn our reports in right near the new year, rather than the December 15th that is laid out here. Are we going to shift that date?

Chairperson Horst: For tenure decisions, you’re saying?

Senator McHale: Yeah, or review. I think it says it has to be turned in by the 15th, is that right? This is 3, A of section 1, “Formal meetings to discuss promotion and tenure recommendations with the DFSC/SFSC must be scheduled to allow the DFSC/SFSC sufficient time to finalize its recommendation and communicate it to the candidate and CFSC by the December 15 deadline.” It seems like we have been operating since I have been here with after the 26th and before the 3rd of January. Is this a change? Or is that just arbitrary?

Senator Cline: Are you talking about tenure decisions or are you talking about annual evaluations?

Senator McHale: I am talking about annual reviews I guess, but we turn them in at the same time. Well, no we don’t.

Senator Cline: Tenure decisions come in way earlier, annual reviews happen in January.

Senator McHale: Thank you for clarifying.

Senator Nikolaou: When we say that if the provost has a negative recommendation and it goes to the FRC, did the URC talk about how they are expecting the FRC to make the recommendation if they don’t get any information from the provost?

AVP Craig Gatto: They just get the provost’s decision, but they would get all the same information that went to the DFSC and the CFSC. They would have everything, presumably, that the two bodies reviewed and the provost’s decision and that is it.

Senator Nikolaou: If, let’s say, I had a negative recommendation from the CFSC and I appealed it to the FRC, wouldn’t my letter say that these are based on what the CFSC said? They said, for example, you don’t have continued productivity, and there are specific items that you can appeal. What is the idea for the provost? What are they appealing because they do not have any information about the provost’s decision?

AVP Craig Gatto: Presumably, the information the provost would be judging the information from the other bodies, and in this case, there was probably some negative votes at the DFSC and CFSC, but the majorities were positive. If a dean was negative, there would be a minority letter that the FRC would see. Presumably there would be something in there that the provost went negative on unless it was a case like Martha said where it was something that was up in the provost’s office that no one had seen.

Chairperson Horst: To pick up on that, it says for the definition of appeals, it explains why a faculty member believes that there has been misinterpretation, misjudgment, or a procedural error. In 2005, back to then when my husband was chair, you had these cases that were going forward and the FRC had no additional information. The provost refused to go to the FRC, so the FRC was wasting our time. If all you have is the decision and the provost is saying, “I legally cannot say anything” then you have a body trying to make an assessment of what has been misinterpretation or misjudgment and all you have is the previous material that was positive. You are putting a whole group of people in a bind. You can’t look at an appeal and say what is wrong with the decision when they have no idea.

AVP Craig Gatto; That would be an issue. If there was a compelling reason why the provost would have to articulate the reasons, I think the process should be anyone on the DFSC or CFSC that votes negative should also articulate those decisions. Right now, that is not mandated. That might just mean unanimous decisions on everything all the time.

Senator Blum: The kind of example you gave is a split decision. It is this close, maybe it went positive, but it was close at both levels, couldn’t there also be a decision where that wasn’t the case? It was positive at both levels but something else arose at the provost level?

AVP Craig Gatto: I think all these things are possible.

Senator Blum: If you don’t know what you don’t know, it feels like you are spinning your wheels. It does seem problematic, that if the provost has a rational for a decision that maybe the DFSC’s and the CFSC’s didn’t have that information, and something externally arose in the middle of the process.

AVP Craig Gatto: It is complicated at every step. There are members of DFSC’s and CFSC’s that sit through discussions of promotion and partake and then abstain from a vote at the end. Now that skews the number of votes. You can have a 2-2-abstention. With all these things, I think if another body is to be invoked it should be available to both sides.

Senator Edwards: I was just going to say. In both of those last two cases, I am not seeing how it is a problem. The CFSC, for example, is issuing their recommendation without the provost’s recommendation, FRC can do the same, it is simply a third look at the same information. If it was something that only the provost knows and some private thing came up, the provost can still retain that negative. It is just having that third look there available to both situations. I understand what you are saying, but I don’t think those argue for less information going forward to the president.

Senator McHale: What does tenure get us?

Chairperson Horst: It is 9:15.

Chad Buckley: Hypothetically, an appeal to FRC when both the lower levels are positive would be an opportunity for FRC to tell the candidate that they met the criteria at the department or school level and then at the college level and to reiterate that they see support for a positive recommendation at those levels.

Chairperson Horst: I don’t have necessarily a problem with the proposal, I think with this set of language we need to be very careful. It is parsed endlessly. With some codifying language and maybe different terms it could work.

Senator Nikolaou: I don’t know if it is going to be easier to just be a separate section for only that case. You see that when we are talking about the provost and the president, it is going to be different if, let’s say, we move forward with this appeal to the FRC. It is going to be a different situation for this is case. It is going to be a different process throughout if we have the positive, positive, negative.

Chairperson Horst: The other thing I am going to point out is that you have to look at the whole book, so make sure that it is all working. I go down to the third floor of Legal and they are all technical writers. You can’t have different meanings and different definitions of what the FRC does in different parts of the book. There might be other parts that need to be revised, if we are still working this next year.

***~~Potential elections for external committees.~~***

***Adjournment***

Motion by Senator McHale.

Second by Senator Schmeiser.

Unanimous approval.