

**ACADEMIC SENATE FACULTY CAUCUS MINUTES****March 29, 2006****(Approved)****Call to Order**

Senator Crothers called the caucus to order immediately following the Senate meeting.

**Approval of Faculty Caucus Minutes of January 25, 2006**

**Motion:** By Senator Fazel, seconded by Senator Borg, to approve the Faculty Caucus Minutes of January 25, 2006. The minutes were unanimously approved.

**03.07.06.01 Academic Freedom, Ethics and Grievance Committee Policies and Procedures – Revised  
(Senator Crothers, Provost Presley)**

**Senator Crothers:** The Provost and I, in consultation with Brian Denhardt, the current Chairperson of the AFEGC, as well as Brian Clark, the former Chair, have made revisions to the Academic Freedom, Ethics and Grievance Committee Policies and Procedures in order to streamline the process and to continue to protect faculty rights. The “Malicious Charges” section has been moved to page 1. We have added “Definitions” to the section, “Jurisdiction and General Principles” and have more clearly defined grievance and simplified jurisdiction issues. We have included in the conciliation efforts section that the individual should consult the University or College Ombudsperson.

There is one additional change to the document. In the new number VIII on page 6, the word “Preliminary”, which precedes “Hearing” in the title of that section, should be struck because this is a continuation, in many ways, of the old process. Additionally, there are some problems with the lettering; hence, you have C, D, A instead of C, D, E on page 6.

So, what you have in Section VIII is the construction of the hearing committee and its responsibilities, timelines, deadlines and a clarification of the responsibility of the committee, the respondent and complainant, etc. Also, on page 7, it specifies a format for hearing results. Once that is concluded, if someone desires, it is possible to request an appeal hearing, which is now under Section IX on page 8. All of that strikethrough material above it was what was happening in the old process. The original hearing committee was also the appeals hearing committee. We are striking that and constituting a new appeals hearing committee so that a new body gets to hear your case.

Finally, on the last page, nothing particularly meaningful was changed, with the exception of the addition of some responsibilities in the last paragraph. What you have is a dramatically simplified process, one in which there is a more direct line for hearing, appeal, faculty caucus, provost, but still allowing multiple points of argument and access.

**Provost Presley:** The end product is a result of quite a bit of work and consultation. I don't think anything has changed here in terms of protection of rights, but certainly in terms of process because, as I counted in the former document, there were 11 possible decision points, including an appeal to the group that had just found against you. It was complicated to the point that it probably endangered the rights and freedoms of everyone involved in it.

**Professor Paul Denhardt, Chairperson of AFEGC:** The one point, in consultation with Brian Clark and Mark Temple, the vice chair of the committee, that we did want to make sure that we addressed was the idea

of having the option to seek informal arbitration through the chair of the committee or an appointee of the chair of the committee in lieu of going to the ombudsperson.

**Professor Brian Clark, Former Chairperson of AFEGC:** For the most part, I like the document. Simplifying the committee structure and the number of hearings and appeals is a good thing because with an 18 person committee, you could recuse about half the people who were eligible to serve just because they were friends of one of the parties. So, we needed to simplify the committee. Forcing people or making it look like they should go to the ombudsperson first, in lieu of the Chair of the AFEGC, is, I think, a big mistake. I think that they should both be there as equals. If someone wants to raise an issue, they can either go to the chairperson or the ombudsperson. In some cases, the chairperson will recommend going to the ombudsperson right away, but a number of the cases that came across my desk involved conflicts with administrators who directly answer to the ombudsperson, either at the University or college level. A number of people would have really not felt that they could have gone to an ombudsperson, but they would have come in and talked to the chairperson. Most of those cases never materialized because they were reconciled.

**Senator Crothers:** Ombudspersons are typically trained at mediation whereas Chairs of AFEGC are typically not. So, I am a little bit doubtful about the equality question, but I can understand some of your concerns about providing options.

**Provost Presley:** I want to clarify that the ombudsperson for the university reports to Vice President Bragg and in that sense there may not be as much conflict there as we are presupposing.

**Senator Crothers:** The University Ombudsperson does have a faculty appointment in my department.

**Senator Fowles:** All ombudspersons do not have be faculty even though the university one does have a faculty appointment.

**Senator Crothers:** We talked about that when we created the position. I think that there was a clear expectation that the ombudsperson for the university would need to have a faculty appointment.

**Senator Holland:** If we are just going to an ombudsperson, does it matter whether it is the University or the college ombudsperson?

**Senator Crothers:** I tried to write that in a way to leave the choice up to the person.

**Senator Holland:** Then it seems like we should include the Chair of the AFEGC as an option in the conciliation process.

**Senator Fazel:** On page 8, under Appeal Hearing, you have included College Coordinating Teams. I appreciate that, but that is not needed there because the College of Business does have a CFSC.

**Senator Borg:** I have never been a part of this particular process, so I would like to hear why a person would not want to deal with an ombudsperson in general.

**Professor Clark:** I can think of an example in which a junior faculty member has come into my office and after having a conflict with a dean, they certainly wouldn't want to go to the college ombudsperson, and they were really a little leery about talking to anyone associated with the administration. I have asked those people if they trusted me to talk to some administrators and I have talked to administrators and the cases were

reconciled.

**Senator Borg:** But there was no ombudsperson to go to when you were chair, is that correct?

**Professor Clark:** There was not, but I think that they would have been uncomfortable going to anyone who was in any way shape or form part of the administration. I have suggested that the person go to their boss and speak with them directly to try to settle things. It would have only come to the AFEGC as a last resort. I think that the ombudsperson is a good idea, but I don't think that we should force people to go that route.

**Senator Alferink:** One of the reasons that I like the ombudsperson is that it keeps the Chair of the AFEGC out of the process so that they are not involved in the initial portions of the dispute. Some of this obviously depends on the skill and wisdom of the AFEGC Chair, but it means that when the hearing begins that it is important that the chair not be de novo in terms of the hearing process. I would like some feedback on whether you think that that is an issue.

**Professor Clark:** I don't believe that it is, because the chair is trying to settle things and help both sides come to some sort of sensible agreement. Mostly, we are successful with that when you have a case that does not end up getting filed, but only discussed. There is no way that you are not going to be involved with both sides when chairing the committee. You have to read all of the reports anyway to make sure that everybody is doing their job. Under the new document, the Chair of the AFEGC will generally never sit on an appeals committee, so it really does not hurt the chair to know a lot of the details.

**Senator Fowles:** I support having the Chair of the AFEGC as an option because even though the University Ombudsperson has a faculty appointment, he is an administrator and is sometimes not accessible. So, this gives the option of another person that they can go to and not have to wait.

**Senator Fazel:** Does the university have an ombudsperson?

**Senator Crothers:** Yes, we passed that while you were on sabbatical.

**Senator Fazel:** Is he a faculty member?

**Senator Crothers:** He is the Director of HR, but he has a faculty appointment.

**Provost Presley:** We, as the Senate, are awaiting the report from the ombudsperson about the first cycle. I think that we are doing a lot of presupposing here. I have not seen the report, but the last time that I talked to him, he had spoken with approximately 22 people. It has been suggested that he has helped to resolve those complaints informally. While I think that we ought to do everything we can possibly do to resolve a complaint informally first, I think that you really have to pay attention to the fact that if the Chair of the AFEGC hears the complaint, the Chair of the AFEGC is then somehow tainted, if you will, in the same sense that a Supreme Court judge needs to recuse himself or herself after hearing something about the complaint. At the bottom of page 5, you see that under this revision in order to simplify things, the Chairperson shall appoint a three member hearing committee for a case that necessitates a hearing. That is not uninvolved and I think that we might run the risk of having either side making some presuppositions of their own. We really don't have any evidence that people are not going to the current ombudsperson. In fact, the evidence is quite the opposite and I do have informal evidence from him that he is helping resolve some of these complaints. Frankly, that he is an administrator means that he is going to be trained. That is he is an administrator means that he pretty much available 9 to 5 and that he is a faculty member means that he knows these rules and

regulations. I hate to see us re-complicating this and I hate to see us denigrating that work that this body put into place before we have heard the report.

**Senator Crothers:** I think that we have a pretty good range of opinions about this. I need to think about the question and see if there is a way to not complicate this and on the other hand balance it. I will talk to the Executive Committee about that point on Monday.

**Provost Presley:** In this version, we certainly don't require anybody to see the ombudsman. It says that we encourage, as a matter of general policy, informal conciliation, but do not require it.

**Senator Holland:** On page 1, it reads, "Bringing unfounded charges...constitutes a violation of the Code of Ethics." It doesn't specifically state that in the new Code of Ethics, however, I think that you could consider it under item 8, which refers to treating colleagues and students fairly.

The document will come before the Faculty Caucus at its meeting on April 12, 2006.

*Adjournment*