

ATTACHMENT 3 - BACKGROUND INFORMATION

Proposed revisions to the 1) Composition and 2) Termination and Complaint Procedures of the University Faculty Senate Committee on Faculty Welfare & Privileges Recommended by the Executive Committee of the University Faculty Senate

Proposed revisions to Composition of the Committee on Faculty Welfare & Privileges (FWP):

1. The Committee on Committees and Nominations (COCAN) will appoint the chair of the FWP Committee.
2. Only tenured faculty members are eligible to serve on the Committee.

Proposed revisions to the Termination and Complaint Procedures of the Committee on Faculty Welfare & Privileges. These proposed revisions involve only Complaint Procedures; they do not change Termination Procedures :

1. No member of the Committee may serve as a mediator in a Complaint.
2. Any employee of the University of Delaware, except those employed in the Office of the General Counsel, may serve as an advisor or observer in a hearing involving a Complaint

Background: The University Faculty Senate Executive Committee (EC) reviewed the composition of and the procedures to be followed by the Committee on Faculty Welfare & Privileges (FWP) in the mediation and hearing of faculty complaints. Based upon that review the EC has the following recommendations:

- 1) In past practice, the chair of the Committee on Faculty Welfare & Privileges has been decided internally by the Committee. In a review of procedures on the selection of committee membership, it is COCAN that should appoint a chair of the Committee on FWP.
- 2) Only tenured faculty should be eligible to serve on the Committee. In past practice, an assistant professor has served as a member on the FWP. However, in most cases they have not participated during hearings and have not voted on opinions. This non-participation is in recognition of the potentially sensitive nature of a non-tenured faculty member taking a position that could be contrary to that of the administration, or to that of tenured faculty that could in the future serve on Promotion and Tenure Committees. To maximize the number of committee faculty that are available to participate in complaint hearings, the EC proposes that only tenured faculty serve on the FWP.
- 3) No member of the Committee may serve as a mediator in a complaint. In past practice, the chair of the FWP has served as the mediator in complaints. In following procedures, if the mediation fails, the chair of the FWP serves as the chair of the hearing in which she/he will be responsible for determining all procedural questions and objections raised at the hearing and determining the admissibility of evidence. The chair then has input into the advisory opinion(s) generated by the committee. To avoid any perceived

conflict of interest, the EC believes that the chair of the FWP, as well as other members of the committee, should not be intimately involved in the mediation process. All members of the FWP, including the chair, should participate in the hearing without having access to the details of negotiations involved in the mediation process.

- 4) Any employee of the University of Delaware, except those employed in the Office of the General Counsel, may serve as an advisor or observer in a complaint hearing. The EC is concerned of the unequal access that faculty and administration have to the legal expertise provided by the General Counsel's office. To help ensure a fair process, neither the initiator(s), nor the respondent(s) should employ representatives of the General Counsel's office as advisors or observers in a complaint hearing. Note that this does not apply in cases involving non-renewal or termination. In other cases that the Committee deems appropriate, advisors or observers may be employed in the Office of the General Counsel or any non-employee of the University of Delaware.