

February 22, 2021

Dear Colleagues,

We would like to draw the faculty's attention to an important issue being taken up in the Senate: faculty grievance procedures.

The Faculty Senate has been working on revising the sections of the Faculty Code pertaining to grievances and disciplinary processes.  This is a phased project: one portion of the work, in the form of a Class A resolution regarding grievance proceedings, is up for consideration at the Senate meeting this coming Thursday, February 25, at 2:30 at 2:30 (on [zoom](https://washington.zoom.us/j/5608294138#success) or dial 1.408.638.0968, [agenda on line](https://www.washington.edu/faculty/senate/minutes-agendas/)). If approved by the Senate, it would come to a faculty vote in Spring.  Other portions of this work are still in progress, including faculty disciplinary processes.

We are grateful to [Senate Drafting Committee](https://www.washington.edu/faculty/senate/faculty-disciplinary-task-force/) members for their committed work; Code revision is a painstaking and demanding labor.  The current proposal for revising the Code around grievance proceedings makes some very valuable improvements, particularly with respect to codifying a structure of mediation that might, in many cases, forestall the need to proceed to a formal grievance.  But UW-AAUP believes *further changes are required* to ensure the grievance process, and all related processes, repair harm and restore justice, rather than erode community and exacerbate injustice.  What follows are some of the concerns and recommendations that we have shared with our colleagues on the Drafting Committee and with Senate leadership. At stake in these revisions to the Code are principles of equity and accountability that should concern all faculty.

1.      One principle that animates AAUP and the Faculty Senate alike is the belief in shared governance. The proposed revision preserves the President’s power to overturn the ruling of a faculty grievance panel.  We believe the President’s power of veto over the decisions of the grievance panel (and for that matter, their power to veto any Senate legislation), runs counter to the fundamental principle of shared governance. The grievance process is intended to function as a check on administrative abuses of power.  However, if an institutional administrator can overturn at will the decision of the faculty grievance panel, that is not shared governance, only the hope administrators might opt to check themselves.  If faculty are truly to share governance and act as check and balance to administrative power, then there can be no presidential veto without clear avenues and guidelines for faculty to also overrule that veto.

2.      Racial, gender, and class equity and justice lenses need to be everywhere operative in this institution and its Faculty Code, the framework through which we envision and enact our institutional mandate. These lenses should not be brought to bear as an add-on *after*crucial decisions have been made or the framing language drafted.  With evidence that women and BIPOC faculty are disproportionately targeted and harmed by disciplinary procedures at UW, we strongly recommend that faculty with expertise in racial and gender equity work be included on the Drafting Committee as it continues its work on Code revisions.

Significant overhauling of our decision-making bodies and practices to reflect the racial, gender and ability diversity of our society is needed if we are to forge a path towards a nation that embodies its own creed and an institution that lives up to its vision and mission.

We suggest, at minimum, FCMA and FCWA be invited to collaborate and comment early in every drafting and decision-making process (at the point where FCFA is consulted).

3.      Grievance proceedings should function as an avenue for faculty repair and redress where injury or injustice has occurred.  If the result of a successful grievance proceeding is *punishment,*rather than redress, the process is seriously flawed.  When the successful faculty grievant is left with a mountain of legal debt, then the process is de facto punitive, not restorative.  When faculty cannot grieve because they cannot afford to engage representation, there is no meaningful access to the grievance process, which again, amounts to de facto injustice and punishment.   The proposed revision to the Code cites potential legal limitations on the capacity of the institution to provide full restitution to the successful faculty grievant.  But it seems to us that how the university can legally discharge its obligations to faculty it has harmed is *not a problem for the Faculty Code to solve*.  Rather, the Faculty Code should guard assiduously the basic principle that an injured faculty member must be made whole.

4.      The proposed revision affirms that “if the [grievance] panel reaches a finding of a procedural violation or an injustice, the panel’s solution is limited to referring the decision to the final decision maker.” Thus, for example, if in injustice occurs in the administration of a tenure case, the panel cannot award tenure; the extent of its power is to order a repetition of the tenure review process, which corrects for the original violations.  However, *to return the case to the “final decision maker” is to entrust the very same people (whether senior faculty, chairs, or deans) who committed the violation or injustice with administering the remedy*.  In a case in which UW-AAUP was recently involved, the grievance panel determined that the process leading to the denial of tenure was flawed and mandated a do-over.  The administrators presently overseeing the do-over are the very same individuals whose conduct the faculty member had been forced to grieve.  It should be self-evident that the offender cannot and should not be placed in charge of repairing the offense.

We propose that in the event of a successful grievance pertaining to tenure and promotion, the case be turned over to the *unit’s elected faculty council*, who will manage (or designate specific members of their body to manage) the necessary next steps of the complainant’s case.  Any administrator or senior faculty member involved in the original flawed or unjust process should be specifically removed from any authority in determining the outcome of the do-over.

Further, redress and repair of offenses determined by the grievance panel to be unjust or injurious should not involve any *further*injustice or harm, including having to unnecessarily repeat any steps that have already been completed, for example seeking new letters of review when letters were already appropriately solicited and received.   This constitutes punishment to the grievant and is not an acceptable outcome or repair.

5.     Finally, given the importance of the grievance panel in this process, the process by which the members of this grievance panel pool are selected should be fully transparent and equitable.  As stated above, racial, gender, and class equity and justice lenses need to be everywhere operative in this process and represented in the membership of this body.  Currently, the members of the grievance panel are drawn from an appointed pool.  We propose that the members of this pool be *elected by the faculty for a specific term of service.*

As busy as we all are, we encourage you to take the time to read up on the proposed changes and contact your [Faculty Senator](https://s3-us-west-2.amazonaws.com/uw-s3-cdn/wp-content/uploads/sites/71/2014/05/17162324/senators_20-21.pdf) with your thoughts.

Respectfully,

The UW-AAUP Executive Board

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