

Report from Faculty Senate Committee on Academic Freedom and Tenure
Re: HOP 2.6 and Regents Rule 31008
Feb 2, 2012

Procedure for Selection of Members of the Standing Committee for Hearing Tribunals
(Regents Rule 31008 and HOP 2.36)

In accordance with Regents Rule 31008, a standing committee of faculty members shall be formed for the purposes of providing representatives for Hearing Tribunals in the event that such Tribunals are formed in cases of nonreappointment of non-tenured faculty. It appears that the standing committee will also serve to provide members of Hearing Tribunals in the cases of termination of tenured faculty members. Regents Rule 31008 stipulates that at least 50% of the members of the committee are to be selected through a procedure approved by the senate, with the remaining members of the standing committee appointed by the President. The Committee on Academic Freedom and Tenure proposes the following resolution for establishing such a procedure.

Be it resolved that in the first meeting of each academic year the faculty Senate shall elect two tenured faculty members from each college to serve on the Standing Committee for Hearing Tribunals as stipulated in Regents Rule 31008, without requirement for or prohibition against simultaneous membership in the faculty senate. Individuals holding administrative positions, including Associate or Assistant Deans and Department or Division Chairs, shall not be eligible for selection by the Senate to serve on the Standing Committee.

HoP 2.36 – stakeholder review

Section I. C. While policy does say that at least 50% of the standing committee shall be selected by a procedure endorsed by the senate, the exact procedure is not specified in the policy itself. Although the procedure will be documented in the minutes of the faculty senate, greater transparency would be achieved by including a description of that procedure in the policy itself. **Recommendation: Pending approval by the senate of a procedure for the selection of members for the standing committee, add a description of the procedure to the policy.**

Section I. C. This version of the policy specifies that “A minimum of one member of the Hearing Tribunal appointed by the President is to be from among standing panel members selected by a procedure approved by the Faculty Senate.” This minimum is established in Regents Rule 31008, but this does not preclude the HOP version from requiring more than one. Furthermore, Regents Rule 31008 specifies that at *least 50%* of the standing committee shall be faculty members selected by the procedure approved by Senate, which indicates an intention of sufficient representation of such faculty on the tribunal. Increasing this minimum number to two would provide for a tribunal that reflects the make-up of the standing committee from which the tribunal members are drawn. **Recommendation: Change the policy to specify that “At least two members of the Hearing Tribunal appointed by the President are to be from among standing panel members selected by a procedure approved by the Faculty Senate.”**

Section I.E. This section describes procedure for recommending changes to date of hearing. The last sentence in this section reads “The administrator against whom the complaint has been made or the administrator’s representative also has the right to request the date for the hearing

be changed as described in the process above.” It is possible that the complaint could be filed against an individual who is not an administrator. In Section I. G., the policy refers to “The individual against whom the complaint has been filed”, which is less specific. Changing this sentence will allow for the possibility that the individual against whom the complaint has been made is not an administrator and will provide greater consistency across the different sections of the policy. Alternatively, if “administrator” has been used in this section for a specific reason, this section should be revised with added clarification. **Recommendation: Change final sentence of section I.E to read “The individual against whom the complaint has been made or the individual’s representative also has the right to request the date for the hearing be changed as described in the process above.”**

(2/2/2012) Faculty Senate Committee on Academic Freedom and Tenure recommendation for HOP 2.36: Accept current version of the policy pending recommended revisions noted above.

Recommendation for revision of Regents Rule 31008

Regents rule 31008 primarily addresses cases in which a tenured faculty member is terminated for cause, however, section 6 addresses cases of nonrenewal of nontenured tenure track faculty. In such cases the faculty member may present a grievance and a written report of the relevant fact. “If the president determines that the alleged facts, if proven by credible evidence, support a conclusion that the decision was made for unlawful reasons, such allegations shall be heard by a hearing tribunal” composed of members of the faculty. Because the issues to be addressed concern legal matters, the committee suggests that the senate recommend a change to Regents Rule 31008 that would allow the faculty member be given the option of arbitration as an alternative to the hearing, as would be done in cases of termination of tenured faculty members (Regents Rule 31008 Section 2 and Texas Education Code 51.942).

Suggested Resolutions:

Be it resolved that the Faculty Senate recommends that Section 6.2 of Regents Rule 31008 be amended to allow, in cases of nonrenewal of nontenured faculty, faculty members who are granted the option of a hearing should also be given the opportunity for nonbinding alternative dispute resolution.