LAWS / POLICIES OF THE REGENTS: ARTICLE 5

Feedback from the BFA Instructor-Track Faculty Affairs Committee
Jan 29, 2018

<table>
<thead>
<tr>
<th>CURRENT</th>
<th>PROPOSED LANGUAGE and/or COMMENTS</th>
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<tbody>
<tr>
<td><strong>LAW 5.A.1. Principle of Shared Governance</strong></td>
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<tr>
<td>(B) Lines 10-12</td>
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</table>
| The faculty has the principal responsibility for decisions concerning teaching, curriculum, research, academic ethics, selection of faculty, and related policies. Tenured and tenure track faculty shall take the lead role in such decisions. | **Omit** second sentence altogether, OR **revise** as follows:  
With the broad participation of instructional track teaching faculty, tenured and tenure track faculty shall take the lead role in such discussions.  

**COMMENT:** Regents should not insert themselves into or intrude on the discussions of faculty, or determine who should take the lead in such discussions. The faculty themselves should determine the nature of those discussions.  

**NOTE** that section 5.A.2.(D) states that, with respect to shared governance bodies, “The structure and operating rules shall be determined by the school/college faculty.” |
| (C) Lines 13-15 |  |
| The administration has the principal responsibility for the internal operations and external relations of the university. Internal operations includes course scheduling and course modality. | **Omit** second sentence, OR **revise** second sentence as follows:  
Internal operations include scheduling and modality of specific courses; broader questions about the academic calendar and general policies regarding teaching modality are a shared responsibility with faculty.  

**COMMENT:** Given the primary faculty responsibility for teaching and curriculum, we are concerned that faculty rights are weakened when administration takes control of broader issues of the academic calendar/terms and the manner/modality of delivering/teaching the curriculum. |
**LAW 5.A.2. Faculty Government**

(C) Lines 30-32

The Faculty Senate shall elect a chair to be its spokesperson when addressing the Board of Regents on matters of importance to shared governance. The chair shall be a tenured member of the faculty.  

**Omit second sentence, OR revise as follows:**

The chair shall typically be a tenured member of the faculty.  

**COMMENT:** Again, we find it inappropriate for the Regents to intrude upon the structure and operating rules of a faculty governance body. See statement in 5.A.2 (D). There may be good reasons to select a tenured faculty member as chair (tenure does offer protections in a sensitive position such as this), but in principle this is something that should be determined by the faculty governance body itself, and not imposed by the Regents.

**LAW Part C: Faculty Appointments and Tenure**

**LAW 5.C.2 A Tenure**

Lines 61-62

Tenure track faculty are awarded tenure in the university based upon the recommendation of the president and the approval of the Board of Regents.  

**Revise:** are awarded tenure on their respective university campus.

**COMMENT:** Problems abound with tenure residing with the university (not the respective campus). Each campus has a distinctive role, mission, target student population, and teaching and research culture. Tenure decisions must reflect the expectations of the home campus. Tenure at the level of the university all too easily permits the inappropriate transfer of faculty and program discontinuance.
**LAW 5.C.3. Dismissal for Cause**

(A). Lines 70-79

The administration may terminate a tenured or tenure track faculty appointment for cause.

1. The grounds for dismissal shall be demonstrable professional incompetence, neglect of duty, insubordination, conviction of a felony or any offense involving moral turpitude upon a plea or verdict of guilty or following a plea of nolo contendere, discrimination or sexual misconduct, fiscal misconduct, violation of the weapons control policy, or other conduct that falls below minimum standards of professional integrity.

   *Omit reference to “insubordination.”*

**COMMENT:** “Insubordination” is an ill-defined and overly broad term. Examples abound regarding the misuse of this term. It can be invoked in instances of vigorous disagreement and the exercise of free speech (faculty do have a responsibility to make their views known and to pursue what they see as the best interests of faculty, students, and the university). The existing reference to “neglect of duty” is sufficient to cover instances of gross insubordination not related to the exercise of speech.

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**Policy 5.A Faculty Governance**

**5.A.1. Principle of Shared Governance**

Lines 98-100

(B) The faculty has the principal responsibility for decisions concerning teaching, curriculum, research, academic ethics, selection of faculty, and related policies. Tenured and tenure track faculty shall take the lead role in such discussions.

*Omit second sentence altogether, OR revise as follows:*

With the broad participation of instructional track teaching faculty, tenured and tenure track faculty shall take the lead role in such discussions.

**COMMENT:** Regents should not insert themselves into or intrude on the discussions of faculty, or determine who should take the lead in such discussions. The faculty themselves should determine the nature of those discussions.

*NOTE that section 5.A.2.(D) states that, with respect to shared governance bodies, “The structure and operating rules shall be determined by the school/college faculty.”*
**Policy 5.C Faculty Appointments**

**5.C.2 (D) Tenured Faculty Appointments**

Lines 199-204

Tenure resides with the university. No faculty member shall lose tenure as the result of an institutionally mandated intercampus or intracampus transfer. Voluntary transfer is subject to the approval of the receiving academic unit, but does not require reconsideration of tenure by the Board of Regents. Procedures for transferring a tenured appointment are provided in the corresponding administrative policy statement. [APS to be developed.]

**COMMENT:** Apparently, mandatory transfers do not require the approval of the receiving unit. This presents a considerable problem, and virtually eliminates the faculty/unit role in matters of tenure.

What role do campus deans, provosts, and chancellors have in checking the unbridled powers of the Regents in mandating faculty transfers?

**5.C.4 Teaching Faculty Appointments**

Lines 250-252. Subsection (A)

The primary responsibility of teaching faculty is instruction, however, some faculty members in this category may engage in limited service and/or leadership activities as assigned by the unit. Teaching faculty are usually supported by general funds.

**COMMENT:** This entire section (5.C.4) suffers from confusing references to categories. We strongly recommend having the category of “Teaching Faculty” be solely reserved for “instructional track faculty.” Contingent Faculty should be an entirely separate category.

The role of ongoing service and leadership is THE defining difference between full-time, multi-year instructional track faculty (e.g. instructors) and contingent faculty (e.g. lecturers). The current wording (“may engage in limited service”) discounts this vitally important role. **Revise** this by adding a sentence: “Instructional track teaching faculty offer valuable service and leadership as part of what are typically full-time, multi-year appointments.” OR, move this additional statement about service into the discussion of instructional track faculty, which currently has no reference to service—the key distinction between instructional track faculty and contingent faculty.

**Line 257. Subsection A.1.b**

There shall be three faculty ranks in the instructional faculty track.

**COMMENT:** This statement is factually **incorrect**.

There are currently only two official instructional faculty ranks (e.g. instructor and senior instructor). The reference to three ranks would imply
that lecturers are instructional faculty; they should instead be designated as contingent faculty. (Unless, of course, the intent here is to create three such ranks, such as Instructor, Senior Instructor, and Teaching Professor.) This is a prime example of the confusion in categories noted above.

<table>
<thead>
<tr>
<th><strong>Policy 5.D. Reappointment (to a tenure-track position), Tenure, Promotion</strong></th>
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<tr>
<td><strong>Lines 422-427  5D.4. A Mentoring</strong></td>
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<td><strong>COMMENT:</strong> There is no parallel reference to mentoring for instructional track teaching faculty. These full-time, multi-year positions that should require mentoring. <strong>More generally,</strong> there is a lack of law/policy on reappointment, grievance, etc. for instructional track teaching faculty</td>
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<th><strong>Policy 5.D Dismissal for Cause</strong></th>
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<tr>
<td><strong>Lines 515-532  5.E.1: General provisions</strong></td>
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<td><strong>Line 519:</strong> “insubordination”</td>
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<td><strong>COMMENT:</strong> It is unclear whether the discussion applies to “faculty members” or only to tenured-tenure-stream faculty members. If the latter, there needs to be a section on instructional track teaching faculty. <strong>COMMENT:</strong> Note earlier discussion of this term, which is overly broad, ill-defined, and subject to misuse.</td>
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<th><strong>Lines 533-541  5.E.2 Dismissal for Cause Procedures</strong></th>
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<td><strong>Note line 539:</strong> “the right to file a grievance”</td>
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<td><strong>COMMENT:</strong> There needs to be a section (or at least a reference to an APS statement) pertaining to the grievance rights of instructional track Teaching Faculty. <strong>On the Boulder campus in A&amp;S,</strong> instructors and senior instructors are forced to waive grievance rights when signing reappointment documents.</td>
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Policy 5.F  Termination of Faculty Appointments Following Program Discontinuance

Line 633  **5.F.1 Academic Unit or Degree Program Discontinuance**

Line 648-649 **“Formal Notice”**

One year’s formal notice will be provided to tenured and tenure track faculty members whose appointments are to be terminated.

**COMMENT:** It is unclear how academic unit is defined. Would the discussed obligations and rights pertain to a unit like the Program for Writing and Rhetoric, or one of the Residential Academic Programs?

**COMMENT:** Given the full-time status and multi-year commitments made to instructional track teaching faculty, revise to include instructional track teaching faculty in this provision (or, at a minimum, senior instructional rank teaching faculty, who have been with the university for seven or more years).

Given the nature of the academic hiring calendar, one year’s notice is appropriate, because in a limited-term contract, notice of program discontinuance can result in no notice at all (e.g. spring semester of the final year of the contract).

Policy 5.G.  Faculty Grievance

Lines 681-694 **Grievance Rights**

**COMMENT:** As worded, this policy provides no grievance rights for instructional track teaching faculty facing dismissal for cause (e.g. “insubordination”), or non-reappointment.

Instruction track teaching faculty seem to be able to grieve for perceived violations of academic freedom or academic rights (section C, lines 691-694), but it is unclear what are entailed in “academic rights.”

**More generally,** it is imperative that instructional track teaching faculty (nearly all of whom are on full-time, multi-year appointments) be given grievance rights. Current contracts on the Boulder campus (e.g. A&S) force instructors and senior instructors to explicitly waive grievance rights.

**COMMENT:** As worded, this policy provides no grievance rights for instructional track teaching faculty facing dismissal for cause (e.g. “insubordination”), or non-reappointment.