

Drafting Notes **for Spring 2007 Proposal to Revise Policies on Faculty Appointments, RPT, College Councils**

(updated to April 5, 2007.)

(2009, added information about renumbering of U-Policies which took effect 2008)

Contents: 2007 Drafting Notes for:

U-Policy 6-302 (formerly PPM 9-5) (APPOINTMENTS OF FACULTY)

U-Policy 6-303 (formerly PPM 9-5.1) (RPT)

U-Policy 6-003 (formerly PPM 9-4) (COLLEGE COUNCILS)

These Drafting Notes do not constitute part of the official policies they refer to. They describe the views and actions of the drafting committee, but have not been approved by the Academic Senate or Board of Trustees. They may be consulted for information about decisions made within the drafting process. They should be read in conjunction with reading the ‘markup’ versions showing the actual changes proposed and finally adopted for each part of PPM, as well as the cover memorandum to the senior vice presidents, describing highlights of the proposed changes.

It is anticipated that all three documents will be made available as part of the Policy History maintained on the University website for the Policies and Procedures Manual. For further information about these drafting notes or the drafting process, contact Prof. Robert L. Flores, College of Law, Chair of the Drafting Committee, or Associate V.P. Susan Olson.

U-Policy 6-302 (formerly PPM 9-5) APPOINTMENTS OF FACULTY

PPM 9-5 “Scope” statement:

The title of the section is changed to include the phrase “of faculty”—so as to emphasize that this section governs only the faculty appointments process, not appointments of administrative officers.

The opening statement of “Scope” is added to clarify that this section governs only appointments to faculty positions.

A new footnote # 1 is added to clarify that this section is not applicable to appointment of various positions which do carry classroom teaching responsibilities but which are not considered part of the “faculty” of the University for this and various other purposes. Such positions include associate instructors, teaching fellows, and others. See PPM 9-5.6, describing appointments procedures for “Academic Staff” (nonfaculty instructional positions of associate instructor, associate instructor AOCE and research associate), and “Educational Trainees” (nonfaculty positions of teaching assistant, teaching fellow and research assistant).

The new, lengthy footnotes # 2 & # 3 are added to provide cross-references and some guidance on how this and other sections of the regulations apply jointly when an

appointment to a faculty position is being made in conjunction with an appointment as an administrative officer (such as department chair or college dean), and/or in conjunction with consideration for granting tenure. In some instances, all three types of decisions are involved, more or less simultaneously, such as when a candidate from outside the University is appointed as dean of a college, given a faculty appointment in a department within that college, and granted tenure in that department. When these related decisions are being made concurrently, there are multiple sets of regulations to be complied with. To some extent, the procedures followed for each decision do overlap, and the same persons are involved, yet there are some significant differences among the procedures. These footnotes provide some easily referenced guidance on coordinating those distinct procedures. The new cross-reference to PPM 9-5.1 will lead readers to a new part of that policy, which we are simultaneously proposing for adoption, to provide clear guidance on procedures for granting tenure at time of appointment.

PPM 9-5 Part A-(1)

The existing version mentioned the power to appoint “administrative officers,” and that is removed for the revised version because this policy focuses only on appointments of faculty.

The citation to the Utah Code section is updated in the revised version, because the numbering was changed by the Legislature many years ago.

A sentence is added mentioning delegation of authority from the president to departments for initiating the appointment process. With former language, particularly part H-1, there seemed to be an assumption that there was such a delegation of authority, but the delegation was not expressly stated anywhere. Adding the sentence here makes explicit what H-1 had done implicitly. The new sentence also reinforces the understanding of the advisory role of the faculty in providing recommendations to the president regarding each candidate presented to the president for a faculty appointment.

New footnote # 4. The existing version of policy gave no explicit guidance for how procedures designed to fit the model of separate academic departments grouped within a larger college should be adapted to the circumstances of a single-department college. This entirely new footnote is added primarily to provide that guidance, as well as to clarify the applicability of this regulation for appointments of faculty throughout the University despite variations in the structure of academic units or the names used by some academic units. This footnote is largely modeled after a similar footnote that in 2005 was inserted in PPM 9-5.1 (RPT procedures).

PPM 9-5 Part A-(2)

The former phrasing gave the power of formulating criteria to the department “faculties”—but didn’t explain precisely what constituted a faculty for that purpose. The revision is intended to make clear that this responsibility is undertaken by the same body that makes recommendations on actual appointments—which is the departmental appointments advisory committee.

PPM 9-5 Part A-(3)

The revised version removes the former reference to granting of tenure, because this section governs only “appointments,” and the rules about granting tenure appear elsewhere in PPM.

PPM 9-5 Part A-(4)

The revised version explains that the authority to choose search/recruitment methods is placed with the department chairperson, although some consultation with the appointments advisory committee is required. Previously, there was nothing in this part of PPM that even mentioned the ordinary practice of using search committees, or in any way provided guidance about search methods, and importantly there was no mention of the role that choice of search methods may play in increasing (or decreasing) the diversity of a recruitment pool. Language is added to make plain that for regular faculty appointments, there is a nearly universal practice of using search committees and to give some guidance about the makeup of such committees—that they be ‘representative.’ For auxiliary appointments, use of search committees is left optional, and there is no statement of expectations about the makeup of such committees.

Regarding diversity, the revised version adds a statement of the important principle that recruitment methods be “consistent with the University’s commitment to equal opportunity and diversity.” The drafters considered including specific references to the functions of the currently existing offices which assist departments in meeting that commitment. Those offices currently include offices of diversity within the academic affairs administration and within the health sciences administration, as well as the Office of Equal Opportunity/ Affirmative Action. It was decided not to specifically name those offices, so that PPM will not become outdated if there ever occurs a renaming or restructuring of the offices.

PPM 9-5 Part A-(5)

The revised version includes this new subsection, incorporating some points taken from existing PPM 9-4 regarding College Councils, and also providing a general statement about the important principle of faculty consultation. The overview of the steps for appointments previously appeared in PPM 9-4 (a part of PPM that explains the existence and operation of college councils). It was rather odd to have that detailed description of appointments procedures appear in 9-4, rather than here in 9-5, and so the revised version moves that overview here to this more appropriate context, and slightly modifies it. See the concurrent proposal for revision of 9-4 Section 2 Part B.

PPM 9-5 Part A-(6).

Notice to candidates. This is entirely new language. One of the major concerns that led to the 2005-2007 project of revising the appointments policy was a concern about candidates not being given sufficient information about the appointments procedures—and therefore being susceptible to inaccurate impressions about the status of an appointment. Nowhere else in PPM is there any mention of the important principle of providing reasonable notice to candidates about the procedures through which their

candidacies are being considered. This part is drafted in very general terms to establish a general principle of providing useful information to candidates, without attempting to impose within PPM specific obligations to provide particular types of notice according to any specified timetable. The drafting committee anticipates that administrators providing training to and oversight of department chairs and others engaged in faculty recruiting will include some training regarding appropriate means and ‘best practices’ of keeping candidates adequately informed about the procedures applicable for their candidacy.

PPM 9-5 Part A-(7).

This is an entirely new part. There is some redundancy among this part and the new footnote # 3, both addressing the overlap of policies that apply for processing any hiring-with-tenure. The drafting committee concluded that this message is sufficiently important to justify repetition. The cross-reference to PPM 9-5.1-K will lead readers to the newly revised policy on expedited procedures for granting tenure at time of appointment.

PPM 9-5 Part B-(1)

Extensive additions are made to subsection B-(1) to add clarity regarding membership of the departmental advisory committee, and the non-voting role of the department chairperson, and the non-voting role of deans and other administrators who hold faculty appointments in the department.

For committee membership, it is first clarified that the committee includes all regular faculty (i.e., it is not a subset representative committee, even in a very large department such as exist in Medicine). It is then clarified that “regular” faculty are always voting members (including untenured-tenure-track faculty).

It is clarified that although the department chairperson serves as chair of the appointments committee (as was formerly stated in subsection C(1)), the chairperson does not have voting rights within the committee. The drafting committee was informed that such a limit on voting rights is in accord with long-established University-wide practice, but that limitation was not made explicit in the existing version. That limitation is appropriate because the chairperson would otherwise have two opportunities to affect the appointment decision—first as a voting committee member (being a regular faculty member) shaping the recommendation of the committee, and second in the administrative capacity of department chairperson required to make a recommendation separate from that of the committee. Similarly, the revised version states a limitation on voting rights of deans and other higher administrators, who by regulation must make their separate recommendations as administrators, but who could be included as regular faculty members of the committee were this limitation not made explicit. This change appears to bring the policy in line with well-established practice, although the limitation was not well-stated in the existing version of the policy.

Note that a similar limitation is made quite clearly in the existing policies regarding RPT decisions. There is PPM 9-5.1-E-5 (dept. chair, deans, and other

administrators who will be casting an RPT “vote” in administrative capacity shall not vote at department level), and PPM 9-5.1 Part A-3-A-v. (RPT committee, “Single vote rule. No individual may cast vote in more than one capacity (e.g., as member of both department and administration).”)

Clarification is also made regarding the possible involvement of “auxiliary” faculty. The revised version reflects the view that it can be appropriate for auxiliary faculty to have voting privileges for decisions about other auxiliary positions (never for decisions on regular faculty appointments). So, the revision clarifies that current auxiliary faculty may be allowed as voting members only for purposes of considering appointments being made to auxiliary faculty positions, and only when such participation has been approved in advance as a general matter by the college council and by the regular faculty of the department. Note that this limited set of rights provided here is consistent with an existing description in PPM 9-2.4A, which generally describes the roles of auxiliary faculty, and states that “*Colleges and departments may permit such auxiliary faculty to vote on appointment and promotion decisions with respect to other auxiliary faculty in their respective categories, and to advise on other appointments.*” It is made clear here that a record of the participation of auxiliary faculty shall be included in the written report prepared by the chairperson and forwarded to the dean and then to central administration. In any instance in which the requirements have been met and auxiliary faculty are made members of the committee for purposes of a particular appointment—they should be treated as full members for all purposes related to that appointment—they would have voting rights in setting the criteria for the position, they would have the right to be given notice of meetings and have absentee balloting, and finally to vote on recommendations regarding a particular candidates.

The revised version also reflects the view that it can be appropriate to include other interested persons in discussions for some appointments, and so it is made clear here that such participation is permissible if specifically approved by the regular faculty—but those persons can never have voting rights. Such persons might include auxiliary faculty (especially for appointments of regular faculty), faculty from outside the department, staff members and student leaders, and even local community representatives.

PPM 9-5 Part B-(2)

Drafters’ note: The previous version, (which probably reflects thinking of an era before widespread use of email) seemed to assume that actual physical presence is required for most of the members—although it allowed for individual members to be physically absent yet have their vote reported in writing and counted. This new subsection is added to clearly allow for the increasingly common practice of holding “virtual” meetings, and recognizes that such methods are entirely appropriate for routine appointments of auxiliary faculty, but not to be used for appointments of regular faculty except in extraordinary circumstances—such as may occur when an appointment of a highly desired candidate must be considered during a summer or holiday period. This may occur for example when a faculty appointment is being made contemporaneously with an administrative appointment.

The drafters discussed but rejected the idea of authorizing such virtual voting only if the department (or possibly the college), has previously formally adopted a policy permitting such voting methods, so that a chair would not be able to decide on the use of such a method ad hoc in the midst of conducting a particular recruitment. It was decided that the admonition against using virtual meeting methods for regular faculty appointments except in exigent circumstances is sufficient safeguard against excessive use and abuse of the virtual meeting procedure.

PPM 9-5 Part B-(3)

The changes in subsection B(3) are meant to clarify that for purposes of a establishing a quorum, the membership of the committee is as described in Part B-(1)—always including the regular faculty and possibly including auxiliary faculty.

The changes are also meant to make clear that the contents of Part C-(2) should be considered in determining a quorum. That subsection specifies two different groups of voters for two distinct recommendations—appointment at entry level rank and appointment at higher rank. Thus the criteria for a quorum may differ for those two separate phases of voting.

In the final phrase of the sentence, the term “participate in” is replacing the term “attend,” to be more consistent with the newly added provision of B-(2) which allows for ‘virtual’ meetings rather than requiring in-person meetings. Similar minor rephrasing is used in Part B-(4) for that purpose.

PPM 9-5 Part B-(4)

A change is made to reduce the risk of a candidate learning about an individual absentee voter having voted unfavorably. Under the previous phrasing, an absent member’s vote was to be singled out for recording separately from votes of those who were present, and that seemed to present a risk that a candidate would be easily able to learn about the individual absentee’s (unfavorable) vote. So the proposal is to have the absentee’s vote blended in with votes of those present. This new language is partly copied from PPM 9-5.1-A3.ii which describes the absentee voting process used in RPT proceedings. The revised version also emphasizes that the absentee voting process is only applicable for those faculty actually eligible to vote on a particular question under the definitions provided in Part C-2.

PPM 9-5 Part C-(1)

In the former version, this phrase appeared at the end: “including annual appointments after retirement.” It is proposed to remove that language here, and place it instead in the new statement of “Scope” appearing at the beginning of this policy where it seems to fit best.

New parts a, b ,c, added to C-(1). The proposed changes regarding confidentiality and use of secret vs open ballots were not initially proposed by the

drafting committee, but were added after the March 5, 2007 Senate meeting, in response to concerns raised by senators and some department chairs.

The statement of confidentiality of proceedings, and description of process for converting an open meeting into executive session, added in sub-paragraph (a), are modeled upon similar language used in PPM 9-5.1 in relation to RPT committee meetings.

For the question of secret vs open balloting, in sub-paragraph (b), existing policy has no explicit treatment of this issue, and so under PPM 9-1 the applicable rule comes from Robert's Rules of Order, which provides that presumptively open balloting will be used but that secret balloting will be used upon request of any one voting member. Feedback received from various commentators showed strong concerns that use of open balloting in consideration of faculty appointments may subject less 'powerful' faculty to real or perceived intimidation from more powerful faculty (junior/ untenured vs senior/ tenured), and that in some cases the principle of confidentiality may not be scrupulously adhered to and specific facts about an open vote might later be communicated to a candidate. A very informal survey revealed that the majority of departments have previously been predominantly using secret balloting, while a minority of departments have predominantly used open balloting—both of which were allowed under existing policy. The proposal was then revised to offer to the Senate a choice of alternative versions of subparagraph (b), each stating a presumptive approach but allowing departments to choose a different approach based on local culture and individual circumstances. Alternative version #1, shown below, would continue the essence of existing policy treating open balloting as the presumption but giving any voter the power to switch to secret ballots for any particular decision. It would expand on existing policy in one sense--by allowing a department chair to decide that secret balloting is best under the circumstances (even though the chair is not a voting member). It would also make clear that a committee member feeling vulnerable about disagreeing with more powerful members even on the issue of what type of ballots to use could contact the chair in advance of the meeting, privately, to request the switch to secret balloting. Alternative version #2 would change to a presumption of secret balloting, but allow a switch to open balloting for any particular decision to be made only by unanimous agreement of the committee, a decision which itself would have to be made by secret ballot. In the end, alternative # 2 was adopted.

{Here is alternative #1—which the Senate rejected: “(b) Committee votes on specific candidates shall presumptively be conducted by open ballot. However, any such vote shall instead be conducted by secret ballot either i) upon request from any voting member of the committee made to the department chairperson at or before a meeting at which voting will be conducted, or ii) upon a determination made by the department chairperson that secret balloting is appropriate under the circumstances. “}

Sub-paragraph (c), applicable whenever secret balloting is being used, is added to provide that any individual member's ballot submitted in writing, by an absentee voter, or when a committee meeting is conducted through email or other alternative means, shall be treated as a secret ballot.

Note carefully that the newly adopted rule presumptively requiring use of secret ballots is only applicable to departmental faculty *appointments* committee voting. No change was proposed or made to the existing policy regarding the manner of voting for *tenure and other RPT* decisions. Thus, under PPM 9-1, and Roberts Rules of Order, for departmental *RPT* committee voting, the rule continues to be that voting is presumptively conducted by open ballot, but that any voting member of the committee can cause a shift to use of secret ballots for any particular case (and of course any department may as a matter of ongoing practice choose to use such secret balloting).

PPM 9-5 Part C-(2)

An important change is proposed regarding rights of faculty to vote on appointments in cases in which it is proposed that an appointment be made at a rank higher than the typical minimum entry level rank. Current policy provides for only one question to be voted on, combining the decision to recommend an appointment and the decision to recommend the rank at which the appointment would be made. It gives voting rights for that combined question only to those committee members who hold a rank equal to or higher than that proposed for the candidate. Thus, when a candidate is proposed for appointment at any rank higher than the minimum entry rank, the committee members who hold a lower rank are prohibited from voting on any aspect of the appointment. There are troubling ramifications to such exclusion of the junior faculty from the appointments process. The drafting committee was informed by anecdote that various departments have developed practices that somewhat blunt the negative effects of this exclusionary policy. Some departments may have even overlooked the exclusionary restriction and allowed junior faculty to vote. Others (perhaps a majority) have found ways of giving the junior faculty a voice if not an actual vote. One described practice used a two step process, beginning with a ‘straw vote’ in which the junior faculty were allowed to participate, and then, informed with the results of that straw vote, the senior faculty would proceed to comply with the current policy’s requirement that they alone participate in the ‘real vote.’ Another practice described was to have a vote in which all regular faculty participated, but it was understood that the votes of the junior faculty “did not count.”

Those practices seem to reflect a view, shared by the drafting committee, that strict adherence to the exclusionary approach of the current policy is likely to be detrimental in various ways. Excluding junior faculty from decisions about senior-level appointments is likely to discourage the building of collegial relationships among the junior and senior faculty. It is likely to discourage junior faculty from participating fully in the responsibilities of conducting searches and recruitment that are crucial for keeping a department vital. Remembering that the function of departmental voting is to provide recommendations that will then be considered by administrators, including most significantly the senior vice president and president, the effect of the current policy, strictly applied, is to deny those decision-makers the benefit of obtaining the views of the junior faculty.

The drafting committee's view is that the principles which have led many departments to find ways to work around the restrictive existing policy should be given full recognition, leading to a new policy that is inclusive of the junior faculty. The proposed revision gives junior faculty a significant role in developing departmental recommendations for appointments of higher-rank candidates. It clarifies that an appointment actually involves two distinguishable but intertwined decisions-- first whether a candidate should be appointed at all (which inherently would carry at least the lowest rank ordinarily associated with such a position -- i.e., the typical entry level rank), and second whether the appointment should be made at some higher rank. It gives the junior faculty members an equal role in making recommendations as to that first decision. They would participate fully in answering the threshold question of whether a candidate has the appropriate qualities to become a member of the department's faculty—to teach that department's students, and to work collegially with both the junior and senior faculty in research and service activities. It then preserves for the senior faculty their exclusive role in voting on the second question, of whether the candidate is qualified to be appointed at a higher-than-minimum rank.

A suggestion was received that the policy should allow for localized choice as to voting rights—that each college or even each department could come up with its own rule about excluding or including junior faculty from such appointments decisions. The drafting committee carefully considered and then declined to further entertain that concept. Among other serious faults, such an approach would impose major administrative burdens, keeping track of a tangled mess of different rules operating in the multitude of departments across campus. The central administrators charged with receiving and taking into account the recommendations coming from those departments, and verifying that departmental as well as university-wide procedures had been properly followed at each step of each appointment process, would be overtaxed. There would also be the very difficult matter of determining how a department or college would go about the process of choosing its local rule--- would it be done by college councils (which typically include junior and senior regular faculty, auxiliary faculty, and students), or by a plenary group of all of the regular faculty (junior and senior), or would that decision itself be reserved only for the most senior-level regular faculty? A uniform university-wide policy was the strong recommendation of the drafting committee.

The drafting committee received input about one particular concern-- that junior faculty if given voting rights may perceive (perhaps accurately) that they are not entirely free to exercise their votes. If they oppose senior faculty in making recommendations about a senior-level candidate they may later be retaliated against. Perceiving such a risk, they may be intimidated into casting their votes in line with senior faculty. It was suggested that such risks could be minimized by the use of secret ballots. The newly added policy section in paragraph (1) explicitly stating that committee actions are confidential, and providing explicitly for use of secret versus open ballots, was developed in response to this feedback.

PPM 9-5 Part E-(1)

The existing version of this policy left it up to a dean to decide whether to call together and seek input from a college-level advisory committee, on an ad hoc basis. In

PPM 9-4 (which describes functions of college councils), the existing version seemed to assume that all colleges maintained standing appointments advisory committees. The proposal is to cut that language out of 9-4, where it was oddly placed and therefore effectively hidden, and have this part of PPM 9-5 become the sole source of regulation of the role of college-level committees in the appointments process.

This proposal reflects the desirability of allowing variation of practices among colleges, and not being overly restrictive of a dean's authority to handle matters on an ad hoc basis. The drafters considered but rejected an alternative of leaving to deans the power to decide whether to impanel a standing committee. This proposal places that power with the college council, acting through formal adoption of a 'permanent' policy, rather than having such decisions made piece-meal and ad hoc. The proposal also includes amending 9-4 so as to clarify the structure of college councils, and that clarification would ensure that the majority power within a college council is always held by regular faculty. With that clarification in 9-4, it would be assured that the college policy referred to here in 9-5-E-(1) will have been adopted by a council with sufficient regular faculty involvement. Once a college council adopts a formal policy, that college-level policy will govern the role of any college-level committee in considering appointments. If no such policy has yet been formally adopted, the dean is free to proceed without consultation of faculty, or to arrange some sort of consultation with any existing or ad hoc committee.

Elaborating further, the following language appeared in the existing version PPM 9-4, which described various functions of college councils. The proposal includes a specific recommendation of revising that language within 9-4, so that it will become merely a cross-reference, leading readers here to PPM 9-5.

PPM 9-4. "Appointments. Recommendation for appointments shall be initiated at the department level and submitted successively, for evaluation and recommendation, to the dean of the college, the appointments committee of the college council, and the vice president for academic affairs; provided, however, that a college council may permit appointments at the rank of assistant professor and lower ranks to be processed by the department and appropriate college dean without reference to the appointments committee. Recommendations for appointments with tenure must include a statement of the views of the department student advisory committee. No offer of a faculty appointment with tenure shall be made until the proposal has been presented to the University Promotions and Tenure Advisory Committee, and the committee, or a subcommittee thereof, has had an opportunity to make a recommendation concerning the award of tenure at the time of appointment.

Other Personnel Matters. Action regarding retention, tenure, promotion, and sabbatical leaves shall be initiated at the department level and processed successively through an appropriate committee of the college council, the dean of the college, and the vice president for academic affairs. Where disparity occurs in the recommended actions, or other cause exists, the vice president for academic affairs may refer the matter to an appropriate university committee."

{Note that the drafting committee’s recommendations of revising another part of PPM 9-4, clarifying the structure of college councils, was not adopted in spring 2007. Rather, the Senate voted to table that part of the proposals, and refer the matter to a specially appointed committee for further study and drafting, with the expectation that a revised proposal would be brought back to the Senate during the 2007-2008 year.}

PPM 9-5 Part E-(2)

The former version referred to the “VP for academic affairs.” Changing that to “cognizant vice president” will bring the policy into conformity with the organizational structure established during the presidency of Bernie Machen, in which there is a senior VP of academic affairs and a senior VP of health sciences.

PPM 9-5 Part F-(3)

In the former version the language about the role of the Senate and its Executive Committee appeared in Part F-(5). The revised version moves it from there to this Part F-(3) because this placement better fits with the chronology of an appointment process. This function of the Senate is also described in current PPM 8-5—which is not proposed for change. A cross reference to that policy is added here.

PPM 9-5 Part G.

The revised version retains the principle from the existing version that for short-term visitor appointments it may often be too cumbersome to seek advance recommendations from the departmental advisory committee and a college-level committee. A problem with the existing language was that it was open to an interpretation in which the recommendations of the committees would nevertheless have to be obtained, albeit retroactively. If interpreted in that way, the language would invite the troublesome possibility of a visitor’s appointment being retroactively opposed by the advisory committees, and possibly leading to the appointment being pulled out from under the candidate who had already begun preparations in reliance on having been led to believe the appointment was completed. The revised version eliminates the possibility of that troublesome interpretation, making clear that a visiting appointment can be completed, expeditiously, without recommendations formally received from either a departmental or college-level committee. In such cases, the steps involved will include all of the others set forth in Parts A-F, which include (i) recommendation by dept chair, (ii) recommendation by dean, (iii) recommendation by cognizant VP, (iv) review by Senate (with possibility of objection triggering report from Exec Committee), (v) recommendation from president to Trustees, and (vi), final approval by Trustees.

The revised version retains a requirement that the departmental committee (but not the college committee), always be notified after-the-fact of an appointment. The timing for such notice is stated only generally (“as soon as practicable”) because any more specific timing requirement would likely not fit with the wide variety of situations for which such short-term provisional visiting appointments may be made. The purpose

of the notification requirement is to ensure that departmental faculty are aware of who will be joining the department, even on a temporary basis. Although not stated explicitly, it seems evident that a member of the departmental committee who received such notice, and who could offer strong reasons for objecting to a particular appointment, would be able to voice such objections to influence the various participants in the appointments process—including the Senate.

The revised version makes clear that use of these expedited procedures should only occur when circumstances make it impractical to seek the recommendations of the departmental and college-level committees. The drafting committee was not informed of any past abuses of the authority for expedited procedures given under the existing version, but nevertheless concluded it would be wise to include language to minimize the likelihood of excessive use of the expedited procedures.

The cross-reference to the definition of “visiting faculty” leads the reader to PPM 9-2, part 4, D. 5, which includes the following: *“5) Visiting Faculty participate in the university's academic program on an interim basis and make a substantial contribution to the appointing department or college during that period in either the instructional and/or research realm. Individuals in such positions may be reappointed up to a cumulative total of three years in residence, but should not hold long-term appointments and are not entitled to notice of non-reappointment. Appointments to "visiting" positions are without significance for the achieving or holding of tenure, unless the individual is appointed to a regular faculty rank immediately upon completion of service in the visiting rank. Then the period served in the visiting rank may be counted as part of the pretenure probationary period. Whether the period in the visiting rank will be so counted must be agreed upon in writing at the time of the appointment to the regular faculty rank.”*

PPM 9-5 Part H.

Minor clarifications are proposed for this part, explaining the process to be followed when someone in the central administration initiates a faculty appointment. In the existing version, this part was the only part of PPM which there was any explicit reference to the concept of delegation of the president’s power to initiate appointments. In the revised version, in Part A-1, that delegation will be made explicit, for most appointments. Part H will continue to make clear that despite that typical delegation, initiation can be done by the president and other administrators. It clarifies that once such an administrator initiates the appointment process, then the typical consultation with faculty must be included. If the administrator-initiated appointment involves only a provisional non-tenured appointment, the expedited procedures of Part G could be used, and if it is a longer term appointment, then the full-scale consultation with faculty and others described in Parts B-F would apply.

--end—

U-Policy 6-303 (formerly PPM 9-5.1) Retention, Promotion, Tenure.

For PPM 9-5.1, the most important changes proposed would establish rules for expedited procedures to be used in granting tenure at the time of a faculty appointment (commonly known as hiring with tenure). That comes in new part K. A few other changes are proposed because the committee concluded that some cleaning-up of minor problems ought to be done while this part of PPM is opened for review, and that some other moderately significant problem areas should be attended to as well.

PPM 9-5.1 Part A-2-a & B-1-a.

Purely clarifying changes—no substantial change anticipated to RPT practices. The existing policy left some doubt about whether the statement of substantive criteria and the description of various RPT-related procedures a department may adopt should be treated as separate documents or included in a single document. The revisions state clearly that both should be included in a single document. The procedures to be described are those for which existing policy leaves some alternatives to be chosen by departments. In particular, in part A-3, it is stated that a department may adopt guidelines allowing for non-voting persons to participate in meetings of the departmental RPT committee. In part B, it is required that a department specify certain aspects of the procedures to be followed in conducting informal reviews. Those are the types of procedural guidelines a department might adopt and descriptions of those should be included in the RPT criteria and guidelines document.

PPM 9-5.1 Part A-3-a - i & -iii (and Part K-1).

The current policy allows voting on tenure to be done by non-tenured faculty of a higher rank than the proposed rank of a candidate, and precludes voting by tenured faculty who hold a lower rank than the proposed candidate's rank. The drafting committee viewed that as troubling, first because we think it inappropriate for non-tenured persons to vote on the granting of tenure, second because it conflates the two distinct issues of promotion in rank and granting of tenure, and third because it makes for an unduly complicated procedure for identifying the eligible voters. The revised version is much more simple—tenure voting is done by (and only by) committee members who themselves hold tenure, regardless of rank. Similarly, for retention, the current version of A-3-i allows voting by non-tenured faculty of a higher rank than the rank of the candidate for retention, and precludes voting by tenured faculty who hold a lower rank than the rank of the candidate for retention. Because a vote with regard to retention is primarily a decision that the candidate is progressing satisfactorily toward tenure, it is appropriate that voting on retention be done by the same persons who vote on tenure decisions. The proposed revised version of A-3-i would use the same simple rule for retention as for

tenure, with voting done by (and only by) committee members who themselves hold tenure, regardless of rank.

PPM 9-5.1 Part G:

Currently, nowhere in PPM is there any guidance as to the makeup of college RPT advisory committees, nor clear rules as to who decides what the structure of the committees shall be. The revision provides some basic guidance, but leaves each college great leeway to determine how its committee will be structured. The specific question of participation of a college advisory committee member who is from the same department as a candidate is in part governed by PPM 9-5.1 part A-3-a-v, single vote rule-- “No individual may cast a vote in more than one capacity (e.g., as member of both...department and college advisory committee....) There is also the limitation in G-1-c, that “Neither the dean nor the chairperson of the department concerned shall attend or participate in the deliberations of the college committee except by invitation of the committee.” Conflicts have sometimes arisen over whether department representatives may advocate, offer neutral comments, or only answer questions, so the nature of participation, if permitted at all, should be carefully articulated.

Regarding the document in which the definition of membership of the college committee is to be given, the drafting committee’s initial proposal was that the definition be contained in the charter of the college council. During senate discussion, arguments were made that colleges should have the option of putting such a definition into a college-wide statement of RPT criteria and guidelines (a statement adopted to satisfy the requirements of PPM 9-5.1 part A-2), or that PPM should simply leave open the question of what type of document should be used to provide the required definition of membership of the committee. Responding to that argument, after March 5 the proposal was revised to provide the senate with four different alternative versions. Each alternative is described here—and those which the Senate rejected are shown below.

Alternative #(a) would require the definition to be made part of the charter of the college council. A survey of existing college council charters shows that it is already the practice in most colleges that the council charter is the document through which college-level RPT committees are described. It is anticipated that some charters may need to be revised to state more detailed specifications of the committee membership.

Alternative # (b) would require the definition to be included in either the council charter or a college-wide statement of RPT criteria and guidelines but would treat the charter as primary, with the RPT criteria statement as secondary, such that the RPT criteria statement could not be “inconsistent” with the terms of the charter. This would prevent the difficulties that would obviously arise if inconsistent rules were placed in the two different documents.

Alternative # (c) would differ from # b only in that it would not explicitly prevent the RPT criteria statement from contradicting clear terms of the council charter. This version presents some risks of problems arising if inconsistent rules were placed in the two different documents.

Alternative # (d) would eliminate any explicit rule as to what type of document must be used to accomplish the required defining of the college RPT committee membership. This would have the effect of allowing a college to put the definition in its council charter, or in a college-wide RPT criteria and guidelines statement, or possibly in some other kind of document. In a sense, this would lead to the same practical result as the existing policy---giving no guidance about the process of defining committee membership.

In the end, alternative # c was adopted.

{Here are alternatives a, b, and d, which the Senate rejected:

Alternative #a: “The definition of membership shall be included in the charter of the college council.”

Alternative # b: “The definition of membership shall be included in the charter of the college council, or may be included in the college’s statement of RPT criteria and guidelines (described in part A-2 of this policy), so long as not inconsistent with that charter.”

Alternative # c: “The definition of membership shall be included in the charter of the college council, or may be included in the college’s statement of RPT criteria and guidelines (described in part A-2 of this policy).”

Alternative # d} [blank---having the effect that PPM would not specify what document must be used to provide the newly required definition of membership of the college RPT committee]. }

PPM 9-5.1 Part I.

A minor technical change is proposed. A reference to the former Academic Freedom and Tenure Committee would be changed to refer to that committee’s new name, resulting from changes made in 2006, now named the Academic Freedom and Faculty Rights Committee.

PPM 9-5.1 Part K.

Summary: This new part is the main provision through which the proposal would more clearly allow for, and newly regulate, the use of expedited procedures for granting of tenure at the time a candidate is initially appointed (‘hiring with tenure). The streamlined procedures allow moving quickly to extend an offer of a faculty appointment with tenure to a highly sought-after senior level candidate (while ensuring adequate consultation within department and with UPTAC). This is meant to codify existing practices with such expedited procedures, which have been widely used, although existing policy only very vaguely referred to their possible use and gave almost no guidance on when they would be applicable or what steps should be followed, and the few relevant passages were hidden in obscure parts of PPM. One relevant existing passage is oddly located in a part of PPM otherwise devoted to the activities of college councils—where no one would

expect to find regulations about hiring with tenure. As proposed, that obscure passage (from PPM 9-4) would be eliminated, and replaced by this new part K, which would allow for streamlined tenure procedures in such situations.

The practical differences between ordinary tenure decisions and the extraordinary ‘hiring-with-tenure’ situations make it appropriate to shorten or entirely eliminate some steps that apply in the ordinary context (in which tenure is earned after a several-year probationary period). These expedited procedures would allow for flexibility in obtaining input from student representatives; not require providing candidates with copies of documentation at every stage; not provide for a candidate’s right to appeal negative recommendations; and allow UPTAC to perform its reviews in an expedited manner. As a result, the University would be able to move quickly to extend an offer of a faculty appointment with tenure to a highly sought-after senior level candidate, without significantly compromising the important roles of members of the department, college representatives, and UPTAC in the decision to grant tenure.

Rather oddly, in existing regulations, the most explicit description of procedures applicable for hiring with tenure appear not in PPM 9-5.1 (RPT), or PPM 9-5 Sec.1 (Faculty Appointments), but in PPM 9-4 (Areas of Responsibility of College Councils). In the context of describing, as the title suggests, the various responsibilities of college councils, that section includes this statement:

“Recommendations for appointments with tenure must include a statement of the views of the department student advisory committee. No offer of a faculty appointment with tenure shall be made until the proposal has been presented to the University Promotions and Tenure Advisory Committee, and the committee, or a subcommittee thereof, has had an opportunity to make a recommendation concerning the award of tenure at the time of appointment.”

The proposal is to eliminate that passage from PPM 9-4, and replace it with the more fully developed guidance proposed for PPM 9-5.1—in new Part K.

More detail:

The opening paragraph would serve as a reminder that for any ‘hiring-with-tenure’ there are actually two distinct decisions being made, with differing standards and procedures for each decision.

*** K-1:** This would make clear that the membership of a departmental RPT committee for purposes of an expedited tenure decision is the same as is proposed to apply for all tenure decisions—consisting of all tenured members of the department, regardless of rank. There is also a cross-reference to A-3-a-5, and E-5, as a reminder that the single-vote rule of those subsections precludes administrators from voting within their departmental RPT committee if they will subsequently be making separate recommendations in their administrative capacities.

*** K-2:** This would govern the notice required to be given to various persons regarding a pending departmental RPT committee meeting and decision—and would make clear that for notice may be given orally and within a time frame that is “practicable under the circumstances.” Perhaps most significantly, it would allow flexibility in selecting student representatives to

participate in the process. While ordinary tenure decisions require that formal Student Advisory Committees serve as the representatives of students, for expedited proceedings (which often may occur between academic sessions when the SAC members are not easily available), departments would have flexibility to select others who can adequately represent student interests.

* **K-3:** This would describe the contents of the candidate's file at the time a departmental decision on tenure is made. It would be mandatory that some sort of report from student representatives be included, but that need not be the same formalized report expect in ordinary tenure decisions. It would be made clear that there must be letters from outside evaluators. It would be presumed that the candidate waives the right to see the letters from outside evaluators, although a candidate could overcome that presumption by submitting a written statement to the contrary (whereas in ordinary tenure decisions candidates must always submit a written statement as to whether or not they waive access to such letters). Given this presumption of waiver, there is no cumbersome requirement of informing outside evaluators about the status of waiver.

* **K-4, K-5, K-6:** Regarding a candidate's opportunities to obtain copies of documents from the departmental committee decision, and later stages, candidates won't ordinarily be given copies, and at least implicitly don't have a right to request them.

* **K-6:** This would authorize established practices, allowing UPTAC to use special expedited procedures to perform its function in reviewing a tenure-at-hire decision. UPTAC would be able to use a specially formed subcommittee rather than requiring participation of the entire committee, and it could present its views through an abbreviated form of report rather than the lengthy reports that might accompany an ordinary in-house tenure case. Student representatives of the department would have to be informed of the results of the UPTAC review, and the Vice President's recommendation, but it would not be necessary to provide the student representatives with complete copies of the UPTAC proceedings or the Vice President's recommendation.

* **K-7:** This would regulate rights of appeal from the V.P.'s recommendation.

For ordinary tenure decisions involving in-house candidates, under parts H, I, and J, the candidate has a right to appeal to the Consolidated Hearing Committee if the vice president makes a recommendation against granting tenure. Other persons, such as department faculty and student representatives have a right to appeal either a favorable or unfavorable recommendation of the vice president. The appeal process is lengthy and can impose substantial delay on a final resolution of the tenure decision. The proposal for expedited proceedings for granting tenure at time of appointment does not include any such right of appeal for either the candidate or any other person. The drafting committee thought it clearly inappropriate to provide for a candidate's right of appeal from an unfavorable recommendation. Given that the candidate ordinarily has no long term commitment to the University, and typically will have no prior relationship at all, there is insufficient justification to provide a burdensome appeal

opportunity for such a candidate. As a practical matter, a candidate disfavored by the VP would likely withdraw from consideration even for hiring, much less for hiring with tenure, or would accept being hired without tenure but perhaps with an agreement to be subsequently considered for early tenure.

For a time, the drafting committee considered offering an alternative draft in which there would be a right of appeal for persons other than the candidate. Such an appeal route would mostly likely be used by someone within a department, perhaps student representatives, who were opposed to a candidate, and would seek to appeal to the CHC after the VP made a recommendation favoring tenure for the candidate.

After consultation with various constituents, and finding minimal indication of any support for including such a right of appeal, the drafting committee eliminated that alternative version from the proposal. The proposal presented to the Senate precludes appeal by anyone.

Elaboration: Bear in mind that the full-scale appeal process in ordinary (i.e., in-house) tenure granting decisions is cumbersome. The cost of a cumbersome appeal system is justified in part because the in-house candidate for tenure has invested many years of service at the University. It is unfair to a candidate, after several years of service, to be denied tenure without some opportunity for appeal. It is a very different balance when the candidate is coming from outside the University, hasn't actually made any kind of contributions to the University, and hasn't built up expectations about a 'permanent' career here, etc. There is also the practical reality that the tenure decision can easily be made a moot point—if the administration doesn't want to make an appointment with tenure, they can simply exercise their relatively simple prerogative and process of refusing to make an appointment at all (a process for which there is no lengthy appeal system), and that will render the tenure issue effectively a moot point.

--end—

U-Policy 6-003 (formerly PPM 9-4) (College Councils).

The main objective of the proposed changes is to remove from this part of PPM certain language that relates to the procedures for making faculty appointments---which we do because regulation of those procedures is better done within the two other parts of PPM we are simultaneously proposing to revise, PPM 9-5 and PPM 9-5.1. Additionally, there are a few other items within PPM 9-4 that we think might as well be improved as long as it has been opened up for scrutiny.

PPM 9-4-2 (B)(1)

Our proposal for revision of PPM 9-4 comes as corollary to our primary objectives—the revising of PPM 9-5 regarding the procedures for making appointments of faculty, and the revising of PPM 9-5.1 regarding procedures for granting of tenure at the time of initial appointment (i.e., hiring with tenure). In the course of preparing the primary proposal, we learned that somehow in previous revisions of PPM there had been inserted here in PPM 9-4(B)(1) certain language which on its face seems to regulate the process of making faculty appointments and the process of granting tenure at time of initial appointment. That is rather odd, given that 9-4 addresses the operations of college councils. Our research led us to believe that most persons around campus involved in faculty appointments decisions were not well aware of this language of 9-4, and in fact many colleges had likely not been following at least one aspect of the procedures purportedly required by this language. In particular, the language refers to the existence of and responsibilities of an “appointments committee of the college council”—and we found that in at least some colleges no such committee has existed for many years. It is easy enough to understand why this language has been overlooked—it was effectively hidden in a part of PPM where no one would expect to look for guidance about procedures for making faculty appointments or granting of tenure.

Accordingly, our solution is to remove that language from PPM 9-4-2 (B)(1), and replace it with a brief explanation that the appropriate place to search for regulations pertinent to faculty appointments is in PPM 9-5. The revised version would also include a summary of those key portions of 9-5 which are relevant to the responsibilities of college councils.

Similarly the existing language seemed to prescribe policy as to college council roles in both RPT decisions, and decisions on sabbaticals. Our proposed solution is to remove that language, and instead provide a reference to the appropriate provision of PPM 9-5.1 regarding RPT procedures. As for sabbaticals, we propose eliminating any mention of that topic here, so that policy regarding sabbaticals will be found only in PPM 8-8s —because to our knowledge typical practice is that college councils do not play any role in setting of policy regarding sabbaticals or reviewing individual grants of sabbatical leaves. Eliminating this language would not preclude a college council from adopting college policy on such matters if the council deems it of sufficient importance.

PPM 9-4-2 (B)-(2)

A minor revision is proposed, to make clear that academic program changes which are so important that they must be approved by the State Board of Regents should first be submitted not only to the Senate Executive Committee but to the full Senate. The revised version would coincide with what we believe to be firmly established practices.

PPM 9-4 -2 (C)(1)

{Note: The drafting committee initially proposed changes to clarify the rules about the structure of college councils, particularly the allocation of voting power as between regular

faculty, and auxiliary faculty and others. After the initial proposal was presented, concerns were raised that the changes various colleges would need to make to comply with the proposed revised version had not yet been given sufficient careful consideration. At its April 2, 2007 meeting, the Senate approved a motion to table this part of the proposals, and to assign a committee to conduct further research and develop a more carefully considered proposal. It was anticipated that the committee would complete that research and drafting of an improved proposal during the 2007-2008 year. Accordingly, the original set of drafting notes relevant to possible changes to PPM 9-4 part 2-(C)-1 has been removed from this document. For further information about that project, contact Associate V.P. Susan Olson, or drafting committee chair Prof. Robert Flores.}

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