

Response of the deans to the AAUP draft of the Faculty Grievance Policy and Procedure

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On the whole, the deans support a clarified process for faculty to resolve workplace and professional conflict. They strongly believed, however, that the draft document needs further refinement.

The document assumes that faculty members need a separate process for almost any kind workplace conflict or instance of faculty discontent. The deans acknowledged that there are indeed employment and workplace situations unique to the faculty role. But when complaints arise that are non-academic in nature and pit faculty against other faculty or faculty against staff or administrators, why would a faculty committee adjudicate an outcome? As this is currently written, almost any faculty concern at the University would move through this process. The deans argued that whenever a situation is *not* unique to the faculty role, complaints or grievances should follow the established process for all DU employees. Concerns about privacy are especially important here.

Many deans saw the document as almost inviting challenges to actions that they view as fundamental to their role as academic administrators. Any faculty member, at any time, who does not like his or her salary, teaching assignments, or other ordinary assignment, could launch a process. The deans thought that a grievance procedure should focus more exclusively on process. The University already has extensive policies about many aspects of faculty life, and the major issue, while not excluding matters of substance, is about appropriate process and fair enforcement of policies that already exist. As it stands, the proposal appears to encourage conflict over a new set of issues. There was universal consensus that a list of potential complaints has no place in such a policy.

Virtually any administrative act can be, and often is, perceived by at least one faculty member as “unfair” or “inconsistent with professional standards.” Does such a perception by a faculty member warrant the filing of a grievance? Would faculty be encouraged to launch complaints as a way simply to resist the authority of deans? Consistent with the idea of the exhaustion of remedies, an informal process of resolution should be mandatory. The formal grievance process should stress the ways in which disagreements can be resolved through normal dispute resolution before the formal grievance process is begun. The goal should be to

avoid the grievance process, whereas this document appears to encourage it. The grievance process should be seen as a last resort when all else has failed. This proposal has some potential for changing a rather good, though less than perfect, culture for resolving differences into an adversarial culture characterized by formalism and mistrust.

The document also assumes that any action taken by a faculty member because of perceived injustice has merit. There was strong support for some means of halting spurious complaints without further appeal. The metaphor of a funnel was suggested, with the widest end serving as a required attempt at informal resolution. The complaint would progress further down the funnel only if it was not informally resolvable *and* it passed a threshold of non-triviality. Because conflict resolution is a very important decanal function, deans should have broad discretion in deciding how to organize informal resolution – including the appointment of one or more faculty or staff members to serve as ad hoc mediators, or undertaking the task themselves, or some phased combination of the two. Within broad limits, deans should decide whether and when informal mediation has failed.

If informal mediation fails, a complaint should be received and reviewed by a unit-level committee. When the complaint is directed at another faculty member or at the dean, then faculty members should constitute said committee. When the complaint is directed at a staff member, then the committee should incorporate both faculty and staff members. Such a committee could be constituted in each unit at the beginning of the academic year and might include two members elected by the faculty, two faculty members chosen by the dean, and a chair appointed by the dean who is one of the four members. The dean might also designate two staff members for the committee, and they would replace one of the elected and one of the appointed faculty members when the complaint is filed against a staff member. This unit-level committee would consider all evidence and testimony it deems relevant and then decide whether the complainant has established a sufficiently substantial basis for the allegation of unfair or improper treatment to persuade reasonable people that remedial action should be taken. If it concludes that the complainant has not met that test, the matter ends there, i.e., an appeal to the draft-proposed Faculty Review Committee is barred. Finally, if this process is to include claims by a faculty member against a staff member, then staff should be able to bring claims against faculty.

There is strong agreement among the deans that the proposed University-level Faculty Review Committee cannot tenably be constituted only by faculty members. When complaints or grievances are filed against deans or other administrators, a

faculty-only review committee at the University level would fail to produce a review by one's peers. Any such review committee should be constituted by faculty and administrators at a level appropriate to both the complainant/grievant and the respondent. While a non-retaliation provision is important, clarification is needed to allow the continued ability of a supervisor to take action while a grievance process is under way.

Finally, the deans do not support the Chancellor as the final instance of appeal. The faculty report to the Provost, and this policy makes the Chancellor the institution's *de facto* chief academic officer.

These documents were shared with Richard Gartrell, the Director of Human Resources, and Susan Lee, the Director of the Office of Diversity and Equal Opportunity. This is their response to the draft faculty grievance policy:

1. First and foremost, all references to discrimination or harassment should either be removed from the policy or stated clearly that they are to be directed to the appropriate administrative office (DEO).
2. It is unclear what this draft policy has been developed to address. Are there specific issues that have not been resolved because of the lack of this type of policy? What will the policy accomplish?
3. We all recognize that there are deficiencies in the APT document. This appears to be an attempt to put a band-aid on a broken limb.
4. Why can't all non-academic issues continue to be handled under the Employee Dispute Resolution process? Our experience is that even though it is an administrative process, it is taken seriously and is successful in resolving such issues quickly and effectively.
5. Finally, there are several related policy issues that could be undertaken in a coordinated and comprehensive manner. We are rewriting the EEO policy for future review. The APT could certainly stand to be looked at, and all of these policies should be coordinated with one another.