

From: "University Senate" <senate>

Date: Fri, 17 Jan 97 15:57:26 CST

To: r-kell@tc.umn.edu, kohlsted, pkrosch, rkrueger@maroon.tc.umn.edu,
eqj6139@maroon.tc.umn.edu, phleo@aem.umn.edu,
lubet001@maroon.tc.umn.edu, lubyx001@maroon.tc.umn.edu,
lulic001@maroon.tc.umn.edu, ptm@biosci.cbs.umn.edu,
malan001@maroon.tc.umn.edu, cary@lenti.med.umn.edu, m-mccl@tc.umn.edu,
smcconne@maroon.tc.umn.edu, mary@vx.cis.umn.edu,
bartl002@maroon.tc.umn.edu, mcgehee@geom.umn.edu, mcmurry@me.umn.edu,
rdmoon@maroon.tc.umn.edu, murray@epivax.epi.umn.edu,
vrmurthy@maroon.tc.umn.edu, tnanstell@csom.umn.edu,
narvaez@turtle.psych.umn.edu, necka001@maroon.tc.umn.edu,
norli001@maroon.tc.umn.edu, nystr001@maroon.tc.umn.edu,
oegem001@maroon.tc.umn.edu, gary@stat.umn.edu,
peter004@maroon.tc.umn.edu, harry@lenti.med.umn.edu,
purpl001@maroon.tc.umn.edu

Subject: Agenda for January 23 Faculty Senate Meeting

MEETING OF THE FACULTY SENATE

THURSDAY, JANUARY 23, 1997

2:00 P.M.

25 Law Building--Twin Cities Campus
305 Selvig Hall--Crookston Campus
Kirby Garden Room--Duluth Campus
Moccasin Flower Room--Morris Campus

The Senate constitution provides that eligible academic professionals and all members of the faculty who hold regular appointments as defined in the Regulations Concerning Faculty Tenure may be present at Faculty Senate meetings and shall be entitled to speak and to offer motions for Faculty Senate action. Only elected faculty members and academic professionals (or their designated alternates) shall be entitled to vote. For a quorum, a majority of the voting membership (79) must be present. Actions require a simple majority of the members present and voting.

I. MINUTES OF OCTOBER 24, 1996
Action (2 minutes)

The Faculty Senate minutes are available on the World Wide Web at the following URL: usenate/faculty_senate/fac_senate.html.

II. TENURE SUBCOMMITTEE
FACULTY AFFAIRS COMMITTEE
JUDICIAL COMMITTEE

Regents' Policy on Faculty Tenure: Specified Units
Discussion and Action (90 minutes)

MOTION:

To approve the following proposed amendments to the Regents' Policy on Faculty Tenure: Specified Units:

The following contains (1) proposals for amending certain sections of the Regents' Policy on Faculty Tenure: Specified Units (formerly Sullivan II), (2) proposals for interpretations of certain sections of the Regents' Policy on Faculty Tenure, and (3) description of language in the Regents' Policy on Faculty Tenure that differs in significant ways from the language endorsed by the Faculty Senate on May 30 and June 4, but as to which no recommendation for change is made. Unless otherwise stated, all three committees support the proposed language.

ITEM 1: MOTION A -- Housekeeping Amendment to Footnotes

To amend the RegentsU Policy on Faculty Tenure: Specified Units by deleting footnote 1: (new language is in CAPS; language to be deleted is contained in brackets)

Footnote (1): [A Rsenior academic administratorS is an officer who has final review authority on academic personnel decisions, and who reports directly to the president and regents, such as a vice president, chancellor, or provost. The president will designate one or more senior academic administrators (vice presidents, chancellors, provosts, etc.) to have responsibility for academic matters for all or part of the University, and will define their respective jurisdictions.]

To delete the reference to footnote 1 in section 3.3.

To change references to footnotes 2 through 12 to reflect the removal of footnote 1. (References to footnotes 2 through 12 are contained in sections 3.4(4), 5.5, 7.11, 7.2, and 14.1.)

Comment:

The change proposed in Motion A will delete the duplicate definition of Rsenior academic administratorS in footnote 1, leaving the definition of that term already contained in the Definitions section.

ITEM 2: MOTION B -- Housekeeping Amendment to Section 12.4

To amend Section 12.4 as follows: (language to be deleted is contained in brackets)

12.4 Termination of Appointment

A faculty member who chooses not to [take or] accept a reasonable reassignment or retraining opportunity shall receive . . .

Comment:

The proposed amendment would remove a redundancy that appears in Section 12.4.

ITEM 3: MOTION C -- Amendment to Section 4.5 on financial stringency

ALTERNATIVE 1: As proposed by the Tenure Subcommittee and Faculty Affairs

Committee

To amend section 4.5 as follows: (new language is in CAPS; language to be deleted is contained in brackets)

Section 4.5 Reduction Or Postponement Of Compensation.

If the PRESIDENT DETERMINES THAT THE University [or a collegiate unit] is faced with financial stringency that does not amount to a fiscal emergency, the president may propose a temporary reduction or postponement in compensation FOR A PREDETERMINED PERIOD NOT TO EXCEED TWO YEARS to be allocated to faculty (INCLUDING FACULTY WITH ADMINISTRATIVE APPOINTMENTS), in accordance with a mathematical formula or similar device. ANY SUCH PROPOSAL WILL BE PRESENTED TO THE FACULTY CONSULTATIVE COMMITTEE FOR ITS CONSULTATION AND ADVICE. THE PROPOSAL WILL (1) SPECIFY THE REDUCTION OR POSTPONEMENT OF COMPENSATION THAT WILL BE ALLOCATED TO NON-FACULTY ADMINISTRATORS DURING THE PERIOD FOR WHICH REDUCTIONS OR POSTPONEMENTS ARE REQUESTED FOR FACULTY AND (2) DESCRIBE OTHER MEASURES THAT WILL BE IMPLEMENTED TO RESPOND TO THE FINANCIAL STRINGENCY. THE PRESIDENT WILL RESPOND SPECIFICALLY TO ALTERNATIVE PROPOSALS TO RESPOND TO THE FINANCIAL STRINGENCY SUGGESTED BY THE FACULTY CONSULTATIVE COMMITTEE. THE FACULTY CONSULTATIVE COMMITTEE WILL REPORT TO THE FACULTY SENATE ITS RECOMMENDATION ON THE PRESIDENT'S PROPOSAL. IF THE FACULTY SENATE APPROVES THE PROPOSED ACTION (OR ANY MODIFICATION OF IT) BY A TWO-THIRDS VOTE OF THE MEMBERS PRESENT AND VOTING (A QUORUM BEING PRESENT), [If approved by the Faculty Senate and] the Board of Regents MAY IMPLEMENT THE REDUCTION AS APPROVED BY THE SENATE (OR ANY LESS STRINGENT ACTION) BY REDUCING TEMPORARILY THE REGULAR COMPENSATION [the base pay] of all faculty members in the University [or in the designated collegial units shall be reduced temporarily] in accordance with the formula or device. [The reduction may not continue for longer than two years, unless renewed by the same procedure.] THE PRESIDENT AND BOARD OF REGENTS MAY RESCIND THE TEMPORARY REDUCTION OR POSTPONEMENT OF FACULTY COMPENSATION AT ANY TIME WITHOUT SEEKING FACULTY SENATE APPROVAL.

Comment:

Section 4.5 is a new addition to the tenure code, but it draws heavily on provisions already contained in Section 11 on Fiscal Emergency. In presenting Section 4.5 to the Regents, Dean Sullivan indicated that the intent was to move to a more sensible location those portions of Section 11 that describe steps that may be taken before declaring a Fiscal Emergency. In moving and rearranging the language, however, certain minimal procedural steps in Section 11 outlining the manner of presentation of the President's proposal were omitted from new section 4.5. Section 4.5 also changed Section 11's preliminary steps towards fiscal emergency by making them applicable to collegiate units rather than only to the University as a whole. The proposed amendment would restore Section 4.5 to make it parallel to Section 11, as apparently Dean Sullivan originally intended, while simplifying some of the language and procedures.

The proposed amendment also clarifies that the reduction or postponement of compensation would apply to faculty who hold administrative appointments and would affect their entire compensation, including the administrative augmentation. In addition, because it is believed that all members of the University community should share in the burdens imposed by financial stringency, the proposal for reduction or postponement of faculty salaries must include information on the extent to which the compensation of non-faculty administrators will be similarly affected and on other measures the president is implementing to respond to the financial stringency.

ALTERNATIVE 2: As proposed by the Judicial Committee

Note: The Judicial Committee supports the amendments proposed in Motion C, but would also allow a collegiate unit to agree, by a 2/3 majority, to temporary reduction or postponement of compensation for that college. To implement this proposal, the amendment would read as follows:

To amend section 4.5 as follows: (new language is in CAPS; language to be deleted is contained in brackets; language differing from alternative 1 is in italics in printed (not email) version)

Section 4.5 Reduction Or Postponement Of Compensation.

If the PRESIDENT DETERMINES THAT THE University or a collegiate unit is faced with financial stringency that does not amount to a fiscal emergency, the president may propose a temporary reduction or postponement in compensation FOR A PREDETERMINED PERIOD NOT TO EXCEED TWO YEARS to be allocated to faculty (INCLUDING FACULTY WITH ADMINISTRATIVE APPOINTMENTS), in accordance with a mathematical formula or similar device. ANY SUCH PROPOSAL WILL BE PRESENTED TO THE FACULTY CONSULTATIVE COMMITTEE FOR ITS CONSULTATION AND ADVICE. IF THE PROPOSED ACTION INVOLVES ONLY A COLLEGIATE UNIT, THE PRESIDENT WILL ALSO PRESENT THE PROPOSAL TO THE FACULTY ASSEMBLY OF THE AFFECTED UNIT FOR ITS APPROVAL. THE PROPOSAL WILL (1) SPECIFY THE REDUCTION OR POSTPONEMENT OF COMPENSATION THAT WILL BE ALLOCATED TO NON-FACULTY ADMINISTRATORS DURING THE PERIOD FOR WHICH REDUCTIONS OR POSTPONEMENTS ARE REQUESTED FOR FACULTY AND (2) DESCRIBE OTHER MEASURES THAT WILL BE IMPLEMENTED TO RESPOND TO THE FINANCIAL STRINGENCY. THE PRESIDENT WILL RESPOND SPECIFICALLY TO ALTERNATIVE PROPOSALS TO RESPOND TO THE FINANCIAL STRINGENCY SUGGESTED BY THE FACULTY CONSULTATIVE COMMITTEE AND, IF APPLICABLE, BY THE FACULTY ASSEMBLY OF THE AFFECTED UNIT. THE FACULTY CONSULTATIVE COMMITTEE WILL REPORT TO THE FACULTY SENATE ITS RECOMMENDATION ON THE PRESIDENT'S PROPOSAL. IF THE FACULTY SENATE (AND, IF THE PROPOSAL INVOLVES ONLY A COLLEGIATE UNIT, THE FACULTY ASSEMBLY OF THE AFFECTED UNIT) APPROVES THE PROPOSED ACTION (OR ANY MODIFICATION OF IT) BY A TWO-THIRDS VOTE OF THE MEMBERS PRESENT AND VOTING (A QUORUM BEING PRESENT), [If approved by the Faculty Senate and] the Board of Regents MAY IMPLEMENT THE REDUCTION AS APPROVED BY THE SENATE (OR ANY LESS STRINGENT ACTION) BY REDUCING TEMPORARILY THE REGULAR COMPENSATION [the base pay] of all faculty members in the University or in the designated collegial units [shall be reduced temporarily] in accordance with the formula or device. [The reduction may not continue for longer than two years, unless renewed by the same procedure.] THE PRESIDENT AND BOARD OF REGENTS MAY RESCIND THE TEMPORARY REDUCTION OR POSTPONEMENT OF FACULTY COMPENSATION AT ANY TIME WITHOUT SEEKING FACULTY SENATE APPROVAL.

ITEM 4: INTERPRETATION 1 -- Relating to section 4.5 on financial stringency

The Tenure Subcommittee proposes to add the following interpretation of Section 4.5:

Financial stringency in Section 4.5 is understood to mean financial difficulties that are unusual in extent and require extraordinary rather than ordinary responses. Section 11 may be invoked if the Regents are faced with the necessity of drastic reduction in the University budget, reductions so severe that they may threaten [the] survival of the University. It is understood that the financial difficulty that would permit the president to propose temporary reductions or postponements in compensation under Section 4.5 is less severe than the fiscal emergency outlined in Section 11, but it is also understood that financial stringency should not be invoked to respond to foreseeable fluctuations in the University's budget and finances.

Comment:

This interpretation helps to clarify what is meant by financial stringency, which is otherwise undefined in the document. Interpretations proposed by the Tenure Subcommittee and the Senior Vice President for Academic Affairs are reported to the Faculty Senate and take effect if adopted by the Board of Regents. This interpretation is offered to the Faculty Senate for comment before final approval by the Tenure Subcommittee.

Note:

If the Senate adopts Motion C Alternative 2, the Tenure Subcommittee would add

to the end of the last sentence of proposed Interpretation 1 the phrase Ror to implement reallocation decisions and priority-setting by the administration.S This language is relevant only if reductions or postponements in compensation can be applied to collegiate units.

ITEM 5: MOTION D -- Amendment to Section 7a.5 on alternative methods of peer review

To amend section 7a.5 as follows: (new language is in CAPS; language to be deleted is contained in brackets)

7a.5. Peer Review Option.

Upon application to it by the dean AND ELECTED FACULTY ASSEMBLY [of an academic unit] OF A COLLEGIATE UNIT, the Faculty Senate may adopt a system of peer review of performance of faculty of that unit different from the system set forth in Sections 7a.1 through 7a.4 if in the Faculty SenateUs judgment so proceeding is in the UniversityUs interest.

Comment:

The amendment would clarify that the adoption of different systems of peer review would occur at the level of a college rather than an academic unit, as reflected in the sectionUs specification of the RdeanS as the person proposing the change. It ensures the appropriateness and success of the alternative method by requiring approval by both the dean and the faculty assembly of the collegiate unit before the proposal is submitted to the Faculty Senate.

ITEM 6: MOTION E -- Amendment to Section 12.1 on Programmatic Change

To amend section 12.1 as follows: (new language is in CAPS; language to be deleted is contained in brackets)

12.1 Programmatic Change

The University and faculty recognize that changes in academic programs are an essential part of the development and growth of the institution. These changes should reflect long-term policy and planning, BE BASED ON EDUCATIONAL CONSIDERATIONS, AND BE UNDERTAKEN ONLY AFTER CONSULTATION WITH THE FACULTY.

Comment:

The proposed amendment would memorialize the kind of consultation and consideration that is undertaken with respect to changes in academic programs at the University.

ITEM 7: MOTION F -- Amendment to Section 12.3 on Reassignments

To amend section 12.3 as follows: (new language is in CAPS; language to be deleted is contained in brackets)

12.3 Reassignments.

In cases of programmatic change THAT LEADS TO THE DISCONTINUATION OF A PROGRAM, an officer designated by the president will make the reassignment or offer of training. The officer will consult with the faculty member and the receiving unit and will seek a mutually satisfactory assignment. If agreement cannot be reached, the University officer will assign new responsibilities after consultation with the individual. THE ASSIGNMENT WILL BE AS CLOSELY RELATED TO THE ORIGINAL APPOINTMENT AS PRACTICABLE. THE FORMAL ASSIGNMENT WILL BE IN WRITING AND WILL INDICATE THE CONTINUING NATURE OF THE FACULTY MEMBER'S TENURE.

The University may give the faculty member other assignments only if assignments to teaching in the faculty member's discipline are not feasible. For example, faculty might be assigned

- * to teach in another field in which the individual is qualified
- * to perform professional or administrative duties, including professional practice in a field in which the individual is qualified.
- * to transfer effort, by assignment in a suitable professional capacity, at another educational institution or similar entity, while retaining University tenure, compensation, and benefits.

IF THE ASSIGNED RESPONSIBILITIES ARE LOCATED A SUBSTANTIAL DISTANCE AWAY FROM THE PREVIOUS WORK LOCATION, THE UNIVERSITY WILL PROVIDE FOR TRAVEL OR MOVING EXPENSES, AS APPROPRIATE TO THE CIRCUMSTANCES OF THE FACULTY MEMBER. IF SUCH ASSIGNMENTS ARE MADE, THE UNIVERSITY WILL ENDEAVOR TO PROVIDE AN OPPORTUNITY FOR THE FACULTY MEMBER TO CONTINUE RESEARCH IN THE ORIGINAL FIELD.

A faculty member must accept any reasonable reassignment or offer of retraining. [Following the faculty member's acceptance of the assignment, any] ANY dispute about the reasonableness of reassignment may be taken to the Judicial Committee, as provided in Section 15. IN ANY SUCH PROCEEDING, THE UNIVERSITY MUST SHOW THAT THE REASSIGNMENT OR OFFER OF RETRAINING IS REASONABLE. IN DETERMINING REASONABLENESS, THE JUDICIAL COMMITTEE SHALL CONSIDER ALL RELEVANT CIRCUMSTANCES, INCLUDING THE FINANCIAL BURDEN ON THE FACULTY MEMBER FROM REASSIGNMENT, THE DISRUPTIVE PERSONAL AND FINANCIAL EFFECTS OF GEOGRAPHIC RELOCATION, AND THE AVAILABILITY OF OTHER REASONABLE ALTERNATIVE ASSIGNMENTS. THE FACULTY MEMBER SHOULD CARRY OUT THE REASSIGNED RESPONSIBILITIES PENDING RESOLUTION OF THE DISPUTE, UNLESS THE JUDICIAL COMMITTEE DETERMINES THAT PROVISIONAL MEASURES ARE APPROPRIATE.

Comment:

Section 12.3 as adopted by the Regents is based on and enacts into the Code language from a formal Interpretation of Section 12 adopted by the Tenure Subcommittee and forwarded to the Senior Vice President for Academic Affairs on June 7, 1996 after presentation to the Faculty Senate. The proposed amendments restore to Section 12.3 some additional language from the same Interpretation that further clarifies and facilitates the procedures for reassignment.

From: "University Senate" <senate>

Date: Fri, 17 Jan 97 16:01:59 CST

To: r-kell@tc.umn.edu, kohlsted, pkrosch, rkrueger@maroon.tc.umn.edu,
eqj6139@maroon.tc.umn.edu, phleo@aem.umn.edu,
lubet001@maroon.tc.umn.edu, lubyx001@maroon.tc.umn.edu,
lulic001@maroon.tc.umn.edu, ptm@biosci.cbs.umn.edu,
malan001@maroon.tc.umn.edu, cary@lenti.med.umn.edu, m-mccl@tc.umn.edu,
smcconne@maroon.tc.umn.edu, mary@vx.cis.umn.edu,
bartl002@maroon.tc.umn.edu, mcgehee@geom.umn.edu, mcmurry@me.umn.edu,
rdmoon@maroon.tc.umn.edu, murray@epivax.epi.umn.edu,
vrmurthy@maroon.tc.umn.edu, tnantell@csom.umn.edu,
narvaez@turtle.psych.umn.edu, necka001@maroon.tc.umn.edu,
norli001@maroon.tc.umn.edu, nystr001@maroon.tc.umn.edu,
oegem001@maroon.tc.umn.edu, gary@stat.umn.edu,
peter004@maroon.tc.umn.edu, harry@lenti.med.umn.edu,
purpl001@maroon.tc.umn.edu

Subject: Agenda for January 23 Faculty Senate Meeting - part 2 of 2

ITEM 8: MOTION G -- Amendment to Section 14.6

To amend section 14.6 as follows: (new language is in CAPS; language to be deleted is contained in brackets)

14.6 Temporary Suspension During Proceedings.

The dean may temporarily suspend a faculty member during the proceedings, but only if there is clear evidence that the faculty member is likely to cause serious harm or injury or is not available for work. The suspension will be with full pay, unless the faculty member is not available for work. Before ordering such suspension, the dean must present the evidence to a special panel of the Faculty Consultative Committee and receive their written report. The faculty member must be given the opportunity to contest the suspension before the panel.

If no final decision has been rendered one year after the commencement of formal proceedings, the faculty member shall be temporarily suspended without pay, unless the parties agree otherwise, or unless the HEARING panel OF THE JUDICIAL COMMITTEE extends the time period because of undue delays in the procedure attributable to the action of the University. This provision applies only in a case in which the majority of the tenured faculty of the academic unit concurred in the recommendation to terminate the appointment. If the FACULTY MEMBER PREVAILS OR THE president determines that the temporary suspension without pay was not warranted, then the president shall order the repayment of back pay to the faculty member with interest thereon from the date it would originally have been paid.

In case of any suspension under this section, the faculty member shall continue to receive full medical insurance and disability benefits without regard to the suspension.

Comment:

The proposed amendment clarifies the procedure involved in a temporary suspension without pay for undue delay in the appeal proceedings.

ITEM 9: MOTION H: Amendment to Section 10.22 on Minor Disciplinary Actions

To amend section 10.22 as follows: (new language is in CAPS; language to be deleted is contained in brackets)

10.22 Procedure For Minor Disciplinary Actions.

Minor sanctions, such as a letter of reprimand in the faculty member's file [or a suspension for up to three days, or the like,] OR SANCTIONS (OTHER THAN SUSPENSION OR TERMINATION) SPECIFICALLY ARTICULATED IN POLICIES ESTABLISHED BY COLLEGIATE UNITS OR BY THE UNIVERSITY may be imposed for significant acts of [unprofessional conduct] PROFESSIONAL MISCONDUCT THAT VIOLATE A UNIVERSITY OR COLLEGIATE POLICY APPROVED BY THE RELEVANT FACULTY GOVERNANCE BODY AND, WHERE APPROPRIATE, THE REGENTS. [For minor sanctions, t] The dean may PROPOSE [impose the] SUCH A sanction [after] BY providing the faculty member WRITTEN notice of the proposed action and of the reason that it has been proposed and giving the faculty member an opportunity to respond. If WITHIN 30 DAYS the faculty member files a [grievance under the University grievance policy to challenge a minor disciplinary matter] PETITION FOR REVIEW OF THE PROPOSED SANCTION WITH THE JUDICIAL COMMITTEE, the sanction shall be held in abeyance until the conclusion of the proceeding. IN THE JUDICIAL COMMITTEE PROCEEDING, THE DEAN MUST SHOW THE VIOLATION OF AN ESTABLISHED POLICY AND THE APPROPRIATENESS OF THE PROPOSED SANCTION. THE MATTER WILL BE HEARD EXPEDITIOUSLY. IF THE JUDICIAL COMMITTEE DISAPPROVES THE PROPOSED SANCTION, IT MAY ONLY BE IMPOSED BY THE PRESIDENT IN ACCORDANCE WITH THE PROCEDURES OF SECTION 15.5. [The grievance panel shall have jurisdiction to consider all claims raised by the faculty member, and if the case goes to arbitration, the arbitrator shall be an individual with experience in academic matters.]

Comment:

The proposed amendments clarify the acts for which minor sanctions are appropriate and the nature of the sanctions that may be imposed. The amendments also establish an expeditious hearing procedure if the faculty member contests the existence of a violation or the appropriateness of the sanction.

ITEM 10: MOTION I -- Definition of Regular Compensation

To amend Section 4.4, as follows: (new language is in CAPS; language to be deleted is contained in brackets)

Section 4.4 Faculty Compensation

Each faculty member shall receive a [base] RECURRING salary, which will not be decreased except by action expressly authorized in this section or in Sections 7a, 10, 11, or 14 of these regulations or with the agreement of the faculty member. If a faculty member's [base] RECURRING salary is decreased, the amount of the decrease and the reason therefor shall be set forth in a written notice and provided to the faculty member. No decrease in [base] RECURRING salary shall occur in violation of the academic freedom of the faculty member.

The University may also from time to time provide a faculty member with additional compensation that is not part of [base] RECURRING salary. The additional compensation may be for special awards or for activities in addition to regular faculty responsibilities such as clinical practice, administrative service, overload duties, summer school teaching and summer research support and similar activities. THE TOTAL OF RECURRING SALARY AND ADDITIONAL COMPENSATION, AS DEFINED IN THIS SECTION, WILL TOGETHER CONSTITUTE THE REGULAR COMPENSATION OF THE FACULTY MEMBER.

At the time an appointment is made, the offer and written notice of appointment shall separately state the [base] RECURRING salary and any additional compensation, as described above, that the faculty member will receive. In each subsequent year, the faculty member shall be provided with a written notice separately stating any changes in [base] RECURRING salary and

any changes in additional compensation for the following academic year. A faculty memberUs [base] RECURRING salary shall consist of the initial [base] RECURRING salary adjusted by any subsequent increase or decrease in [base] RECURRING salary provided for in a subsequent written notice. Increases will be presumed to be in [base] RECURRING salary unless otherwise identified. For a faculty member employed when this section takes effect, the initial [base] RECURRING salary will be the faculty memberUs [base] RECURRING salary at the time this section takes effect, exclusive of any ADDITIONAL compensation designated as special awards or designated as being for activities in addition to regular faculty responsibilities such as clinical practice, administrative service, overload duties, summer school teaching, summer research support and similar activities.

To amend Section 3.5 as follows:

Section 3.5 AdministratorsU Appointments

Academic administrators may hold regular or term faculty appointments. Administrative titles and duties are distinct and severable from such individualsU faculty appointments. Removal from an administrative position does not impair any rights the individual holds as a faculty member. Upon leaving an administrative position, the individual returns to faculty status, with [salary] REGULAR COMPENSATION and term of appointment reduced by the amount of the administrative augmentation, if any.

To amend Section 4.1 as follows:

Section 4.1 Written Notice of Appointment

Each faculty appointment or change of status is specified in a written notice of appointment issued by or on behalf of the Board of Regents. The notice must include the following:

1. Whether the appointment is regular or term;
2. Whether it is full or part-time and the percentage of time involved;
3. If for a fixed term, its expiration date;
4. If regular, whether it is probationary or with indefinite tenure;
5. Whether it is on a twelve-month, academic year or other specified annual basis;
6. The rank of appointment;
7. The academic unit or units to which the individual is being appointed;
8. The [base] RECURRING salary; and
9. Additional compensation as described in Section 4.4.

The notice is only evidence of the appointment

To amend Section 7a.4 as follows:

Section 7a.4 Salary Reductions

If the special review panel recommends that the faculty memberUs performance is so inadequate as to justify limited reductions of [base] RECURRING salary, the head of the academic unit, with the approval of the dean, may reduce the faculty memberUs [base] RECURRING pay, subject to the following limitations:

(a) the amount of the decrease will not exceed 10% of the faculty memberUs [base] RECURRING salary on the basis of any one special review;

(b) [base] RECURRING salary may not be reduced by more than 25% from the highest level of [base] RECURRING pay ever held by the faculty member;

(c) at least six monthUs notice of the decrease must be given;

(d) any decrease in RECURRING salary may be restored by the annual review process provided in Section 7a.2.

Within 30 work days of notice of the decrease, the faculty member may appeal this action to the Judicial Committee, which shall review the action and the recommendation leading to it in a manner analogous to the review of tenure decisions (see Section 7.7). This review may not reconsider matters already decided by the Judicial Committee under Section 7a.3. Any decrease in [base] RECURRING pay beyond the limits specified in this subsection can only be imposed pursuant to Sections 4.5, 10, 11, and 14.

Comment:

Faculty members in the Academic Health Center have raised concerns about the impact of Section 4.4's definition of base salary on the computation of charges that may be recovered under NIH grants. The governing federal document, OMB Circular A-21, says that Rcharges for work performed on sponsored agreements by faculty members during the academic year will be based on the individual faculty memberUs regular compensation for the continuous period which, under the policy of the institution concerned, constitutes the basis of his salary. Charges for work performed on sponsored agreements during all or any portion of such period are allowable at the base salary rate. In no event will charges to sponsored agreements, irrespective of the basis of computation, exceed the proportionate share of the base salary for that period.S Thus both the Regents' Policy on Faculty Tenure and the OMB Circular use the term Rbase salary,S although with different meanings. If the Regents' Policy-defined Rbase salaryS were to be used in NIH grant proposals as the equivalent of the OMB-defined Rbase salary,S the AHC would face the loss of very substantial amounts of cost recovery.

The proposed language will help to clarify that the University considers the faculty memberUs total or RregularS compensation to include what is expressly called Radditional compensationS in the RegentsU Policy, including clinical income.

ITEM 11: INTERPRETATION 2 -- Regarding Section 4.4 definition of recurring salaries

The Tenure Subcommittee proposes to add the following interpretation of Section 4.4:

It is expected that any salary increases normally will be added to recurring salary if recurring funds are available for that purpose. Section 4.4 does not give any specific faculty member a legal entitlement or right to an increase in recurring salary.

Comment:

This interpretation was approved both by the Senior Vice President for Academic Affairs and by the Tenure Subcommittee (on July 3, 1996), after final Faculty Senate action regarding the tenure regulation proposals. (The wording has been changed slightly for reasons of clarity, but the substance is identical.) Although all other interpretations approved by the Tenure Subcommittee were incorporated into the Sullivan II proposal, and hence into the RegentsU policy on Faculty Tenure: Selected Units, this interpretation was omitted. It is a clarification both of the expectation that salary increases will be allocated to recurring salary when recurring funds are available and a recognition that faculty members do not have a legal right to have salary increases be included in recurring salary.

ITEM 12: DISCUSSION -- New Ground for Dismissal or Suspension

The Senate committees wish to note for the Faculty Senate one additional significant change to the prior regulations respecting tenure, although the committees do not propose to modify the provisions as adopted by the Regents or as proposed for further adoption. In Section 10.21, which specifies the causes that may be cited for termination or suspension of a faculty member, the Regents added a new Section 10.21(e), which permits such action for Rother grave misconduct manifestly inconsistent with continued faculty appointment. The aim of subsection (e) apparently is to provide some additional flexibility to seek these serious sanctions against faculty members whose misconduct, though severe, does not fall within the parameters of the more narrowly defined provisions in subsections (a) through (d). The Subcommittee believes new subsection (e) is acceptable, but believes the Faculty Senate should be aware of the change as it deliberates on its response to Sullivan II.

III. OLD BUSINESS

IV. NEW BUSINESS

V. ADJOURNMENT

AMENDMENTS TO SULLIVAN II
to be proposed by Wade Savage
at the Senate meeting of January 23, 1997

MOTION A. To amend the first sentence of section 4.5 as follows: (new language is in CAPS; language to be deleted is contained in brackets; language differing from alternative 1 of the Tenure Committee report is in italics)

If the PRESIDENT DETERMINES THAT THE University [or a collegiate unit] is faced with financial stringency that does not amount to a fiscal emergency, the president may propose a temporary reduction or postponement in compensation FOR A PREDETERMINED PERIOD NOT TO EXCEED TWO YEARS to be allocated to faculty (INCLUDING FACULTY WITH ADMINISTRATIVE APPOINTMENTS), *[in accordance with a mathematical formula or similar device]* **BY A SINGLE, FIXED PERCENTAGE OF SALARY OR A SINGLE, FIXED DOLLAR AMOUNT TO BE DEDUCTED FROM THE SALARY OF EACH FACULTY MEMBER.**

MOTION B. To delete section 7a.5.

MOTION C1. To add the following material at the end of section 7a.2.

If the head of the unit and the peer merit review committee both find a faculty member's performance in meeting the goals and expectations of the unit to be significantly above the average of the unit, they may jointly request the senior academic administrator to conduct a special peer review of the faculty member's qualifications for either an extraordinary merit raise or an equity merit raise.

MOTION C2. To add after section 7a.3 the following new section and to renumber the succeeding units accordingly.

7a.4. Special Peer Review in Cases of Extraordinary Performance. To initiate a special peer review to reward extraordinary performance, the head of the unit shall forward a letter of recommendation to the senior academic administrator together with materials documenting the candidate's performance for the past five years (including the current year). The senior academic administrator will refer the recommendation to a special faculty committee charged to evaluate all such recommendations made during the current year. The committee will include one representative from each collegiate unit within the jurisdiction of the senior academic administrator. The committee will evaluate the qualifications of each candidate for an extraordinary merit raise or equity merit raise of up to 10% of the candidate's base [recurring?] salary based on the performance of the candidate for the past five years (including the current year). Extraordinary merit raises are granted to reward outstanding and unusually high performance by a faculty member. Equity merit raises are granted to raise a faculty member's salary to a level commensurate with comparable appointments at equivalent rank in the same field. The committee will forward its recommendations to the senior academic administrator in the form of a whole number of percentages between zero and ten of the member's base [recurring?] salary. All such raises approved by the senior academic administrator shall be paid from a separate fund established for the purpose and not from monies allocated to departments for ordinary merit raises.

RATIONALE FOR AMENDMENTS TO SULLIVAN II
to be proposed by Wade Savage
at the Senate meeting of January 23, 1997

Rationale for Motion A. The motion would make it explicitly impossible to assign different postponements and reductions of salary to different units. It would thus prevent a potentially destructive competition among units to achieve the smallest retrenchments. Furthermore, it would avoid the creation of a method that might be used purchase the support of some units in retrenching others. If units are to be differentially retrenched, then it should be under the provisions of fiscal emergency in section 11, with its strong safeguards: well-defined stages in which the least harmful remedies are attempted first and thorough justifications for all postponements and reductions.

Rationale for Motion B. Section 7a.5 makes it possible for units to adopt systems of peer review different from that described in sections 7a.1-7a.4. However, no justification for the provision is given and none seems available. Section 7a.1 provides that units will establish their own goals and expectations for members on some weighted combination of the standard parameters of research, teaching, and service, a provision that adequately allows for differences among disciplines. Section 7a.2 requires annual merit reviews and sections 7a.3 and 7a.4 provide for dean's special peer review. There is no good reason for exempting some units and not others from these requirements. And if all can be exempted, section 7a is empty. Furthermore, a powerful reason against such exemptions is that they are inequitable and unfair and may lead to special treatment of some units.

Rationale for Motion C. The additions suggested in this motion will convert sections 7a.2-7a.4 from a primarily punitive method of review into one that provides for reward as well as punishment. It will remove or at least reduce the generally demoralizing effect of the original method, and will provide a method of obtaining substantial salary raises alternative to that of acquiring an offer of employment elsewhere, and will thus help retain valuable faculty. The maximum raise of 10% is chosen because (a) it is numerically equal to the maximum penalty provided in section 7a.4, and (b) a raise of 10% may be required to retain a valuable faculty member.

Professor Morrison will move the following:

ALTERNATIVE LANGUAGE FOR SECTION 10.22

Penalties less severe than termination or suspension of appointment may be imposed only as provided in this section. Such penalties may be imposed for violations of section 10.21 not warranting termination or suspension or for significant acts of professional misconduct in violation of other specific written University or collegiate policies approved by the Senate or the appropriate collegiate assembly. They may involve a written reprimand or any other sanction specifically authorized by the policy. Before imposing such a penalty, the dean or senior academic administrator must inform the faculty member in writing of the alleged violation and the potential penalty and must give the faculty member an opportunity for a hearing before an impartial body. If the faculty member requests such a hearing, the dean or senior academic administrator must show the violation of policy and the appropriateness of the penalty. The penalty will not exceed that recommended by the hearing body. The faculty member may appeal the decision to the Judicial committee only for failure to follow the provisions of this section, for violation of academic freedom, or for denial of due process.

DIFFERENCES IN DRAFTS

Faculty Senate	Reagan/Spence	Sullivan
----------------	---------------	----------

Application of the Code (sec. 2)

All campuses and colleges (except Duluth)	Text: All campuses Title: Law School only	Law School only
---	--	-----------------

Base Pay Issues (sec. 4)

Distinguishes base pay and additional compensation	Distinguishes base pay and additional compensation (different language)	Distinguishes base pay and additional compensation (different language)
	Disputes about pay decreases to labor arbitration (no review of academic freedom claims)	Disputes about pay decreases to Judicial Committee (peer review)
		Possible across-the-board cuts, if Board of Regents and Faculty Senate agree

Programmatic Change Issues (sec. 12)

Interpretation provides for reassignment or retraining; broad flexibility emphasized		Text provides for reassignment and retraining, broad flexibility emphasized
	Text permits termination in case of programmatic change; narrower possibility of reassignment	Termination if faculty member refuses reasonable reassignment

Faculty Senate	Reagan/Spence	Sullivan
-----------------------	----------------------	-----------------

Faculty Discipline (sec. 10)

The Faculty Senate originally proposed no amendments to this section. Present provisions are indicated in italics.

	General introductory statement about discipline	
<i>Dismissal only for 4 specified grounds</i>	Dismissal for "adequate cause" including 5 grounds	Dismissal only for 5 specified grounds
	Each specific cause for termination is broadened	Existing causes for termination remain unchanged
	Dismissal for "gross misconduct"	Dismissal for "gross misconduct"
	Permits "other discipline," including unlimited pay cuts	Permits "other discipline," using other language
	"Other discipline" to be imposed without prior hearing	"Other discipline" to be imposed only after hearing, if requested
	Hearings on "other discipline" before labor arbitrator; no consideration of academic freedom issues	Hearings on "other discipline" before Judicial Committee (peer review)

Faculty Senate	Reagan/Spence	Sullivan
----------------	---------------	----------

Judicial Committee (sec. 13)

The Sullivan proposal calls for a study group to review the issues relating to judicial procedures. Amendments would be postponed until the study group reports, except where both other drafts have proposals in common.

	Judicial committee rules to be approved by Board of Regents	<i>Appoint study group to review judicial procedures</i>
President and Committee to appoint Legal Officer to assist Committee in its business	President and Committee to appoint Legal Officer to regulate conduct of cases before the committee	<i>Retain present language which permits appointment of Legal Officer to assist committee.</i>

Judicial Procedures (secs. 14 and 15)

Section 14 deals with procedures in removal for cause cases; section 15 deals with other cases. In these sections, as well, the Sullivan proposal calls for a committee review, postponing action on all issues on which there is currently no agreement.

Eliminates review by provost of termination case	Eliminates review by provost of termination case	Eliminates review by provost of termination case
Eliminates appeal of termination to Board of Regents	Retains possibility of appeal to Board of Regents; changes language	Retains language of 1985; retains appeal to Board of Regents
	Eliminates requirement that President meet with Judicial Committee before overruling their decision	Retains language of 1985
	Eliminates expectation that President will normally follow report of hearing panel	Retains language of 1985 code
	Provides for suspension without pay before hearing	