

DATE: September 6, 2007

TO: All Department Chairs
Cc: Deans
VPAA

FROM: Mougou Nyaggah
President,
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**SUBJECT: New Grievance Option: Electing a Faculty
Hearing Panel**

The Collective Bargaining Agreement effective May 15, 2007, provides a new pathway for faculty unit members to pursue grievances. *In addition to the* contractual procedure already in place, grievants may now choose to have their complaint heard by a Faculty Hearing Committee. These committees will be randomly selected from a Faculty Hearing Panel consisting of **full-time** Unit 3 members elected by each department or equivalent unit. The process whereby the Faculty Hearing Panel is selected is outlined below.

Faculty Hearing Panel Defined

The Office of Faculty Affairs has compiled FTEF for each department or equivalent unit using an October 2006 snapshot. Each department or equivalent unit with at least 4.0 FTEF is required to elect 25% of its FTEF (rounded up to the next whole number) to serve on the faculty hearing panel. Units with less than 4.0 FTEF must elect one member to the panel. Note that, although the FTEF figures used to determine the size of the panel comes from fall 2006, eligibility to serve is based upon full-time status in the current roster of Unit 3 employees. So, if your department had 22 FTEF in October 2006, you are asked to elect 6 full-time faculty to the panel. FAR will provide the FTEF count and roster for all departments and equivalent units by next week.

Conducting the Elections

Membership on the panel *requires election* (volunteering or nomination is not sufficient). Election procedures should, as far as possible, mirror existing election processes in the

department or equivalent unit **except that all Unit 3 members, either full-time or part-time, may vote.** Voting is limited to Unit 3 members only.

Conducting the Elections (continued)

- If your department has written procedures for conducting elections or a prior practice that requires nominations, then adopt this process in your panel election. If you receive nominations greater than the number you have been assigned, then conduct the election on the basis of those nominations and rank individuals by order of votes received.
- If your department does not have policies or prior practices requiring nominations, or if the nominations received are fewer than your assigned number, then conduct the election from a list of all eligible faculty members within the department or equivalent unit, and rank individuals by order of votes received.

While all Unit 3 members may vote, only full-time faculty are eligible to be elected to serve the panel.

Not eligible to serve are:

- Faculty in FERP
- Faculty who have elected Pre-Retirement Reduction in Time Base
- Part-time faculty, librarians, counselors, and coaches.

Service as a member of the panel or the hearing committee is a normal obligation of each full-time member of Unit 3 and shall not result in or require additional compensation. However, service on faculty hearing committees by full-time lecturers and other temporary, full-time Unit 3 members shall be possible if the person volunteers their service and is subsequently elected by the department.

Votes will be prorated based on the faculty member's current time-base. Faculty with less than a 0.5 time base are entitled to a one-half vote in the department election. Faculty with 0.5 time base or greater are entitled to one vote in the election.

Election Deadlines

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| September 11 | Departments and equivalent units receive instructions for how to elect members to the Faculty Hearing Panel. |
| September 21 | Departments and equivalent units complete elections and submit rank ordered lists of nominees to Office of Faculty Affairs and California Faculty Association. |

Frequently Asked Questions

- Q.** Why do we have to have faculty committees to hear grievances?
- A.** In 1999, CFA worked with the legislature to pass a bill to modify the grievance procedures outlined in the Education Code to add this option. State Bill 1212 set up this “statutory” grievance track in addition to the traditional “contractual” track. Faculty hearing committees make recommendations on grievances and complaints to the President. If the President does not agree with the committee, the grievant can go to arbitration. If neither the committee nor the President rules for the grievant, the case ends. SB 1212 also expands the range of potential grievances to any violation of an employee’s rights on the job, whether or not it is covered by a specific article in the CBA.
- Q.** How big is this panel going to be?
- A.** The CBA requires that the panel consist of no less than 25% of the FTEF of the university, which is likely to be over 300 people at CSUF. Each department or equivalent unit must elect 25% of their FTEF rounded up to the next whole number (or one panel member for every four fulltime faculty (FTEF) in the department). Since each individual hearing committee consists of three members and one alternate, you can see that we could staff a lot of grievance committees over the two-year term of each panel! It is unlikely that all those elected will ultimately serve on a hearing committee.
- Q.** Who can serve on these committees?
- A.** By statute, all full-time Unit 3 members are eligible to serve if elected. That includes tenured and probationary faculty, and full-time lecturers, librarians, counselors, and coaches.
- Q.** Does a Unit 3 member have to serve if elected? Many faculty are too busy with heavy teaching loads, research programs, and other committee service.
- A.** For tenured and probationary Unit 3 members, service on the hearing committee is considered normal service and part of their work assignment. Consider it like jury duty: we’re all too busy to serve on a jury, but if called and selected we must fulfill our civic responsibility. Service on a faculty hearing committee is a collegial responsibility. As it is with jury service, many are called but only a few actually serve on a jury. Temporary employees, on the other hand, may opt out of service. This is only fair, since a full-time temporary appointment does not normally include an assignment for service. Of course, if they are willing to serve, they may, if elected.

Frequently Asked Questions (Continued)

- Q.** Does this mean that I should ascertain a temporary Unit 3 member's willingness to serve before including them on the ballot?
- A.** While not required, that would make sense. Otherwise, whoever votes for them would have lost the impact of their votes.
- Q.** Why can't FERPing faculty, or faculty in PRTB, serve?
- A.** The statutory requirement is that faculty on hearing committees must be full-time. Faculty in FERP or PRTB are not full-time, so they cannot serve.
- Q.** How long must one serve on the faculty hearing panel?
- A.** Members of the panel are elected for a two-year term. However, a faculty member can only serve on one faculty committee per year. Since hearings are limited to one day, the total service required will be only a few days, at most.
- Q.** What about faculty who are or will be on sabbatical or difference in pay leave – are they eligible to be elected? What about faculty taking a leave of absence without pay?
- A.** Faculty who are on leave can vote; they can also be elected to the panel as long as they will be on campus sometime during its two-year term.
- Q.** What about probationary faculty members: must they serve if elected?
- A.** Yes, if elected, full time probationary faculty must serve.
- Q.** What about Unit 3 members who are not part of a traditional department or school? Do they get a vote? Are they eligible to serve?
- A.** Yes, they vote, and they are eligible to serve if full-time. The AVP for Academic Affairs and CFA Chapter leadership will determine how Unit 3 members who are not part of traditional departments can be amalgamated into units for the purpose of electing representatives to the Faculty Hearing Panel. In some cases, they may be attached to an existing department to the satisfaction of the faculty involved.

Frequently Asked Questions (Continued)

- Q.** How should we conduct the election: paper ballot, e-mail, at a faculty meeting?
- A.** You should follow as closely as possible the written procedures or prior practice or your department or equivalent unit for electing members to peer review committees (such as DPC or search committees). But keep in mind that the electorate is different for this election: it includes **all** Unit 3 members, even a part-time faculty member who teaches one class a year off-site. So you need to use a process that assures everyone their right to vote. If you use written ballots, be sure to mail them to the home addresses of those faculty members who do not teach on campus and allow enough time for them to be returned. You may choose email as the most efficient way to reach all your Unit 3 members. There is no requirement for confidentiality, but if you use email, ask your administrative support staff to receive the ballots and tabulate the results. Don't mix your methods, since that might result in an employee voting more than once. Full-time faculty can cast one full vote; part-time faculty teaching less than 0.5 get a half vote; part-time faculty teaching 0.5 or over get one full vote.
- Q.** Faculty members aren't likely to have any experience hearing grievances or weighing evidence. How will the committee members be trained in their duties?
- A.** CSU and CFA are preparing a training manual for members of Faculty Hearing Panels. But keep in mind: the concept behind Faculty Hearing Committees is that faculty bring their grievances to a committee of their peers, not legal or labor relations experts. Academics are well-trained to weigh evidence, consider arguments, and make good judgments.