

JUL - 2 2003

April 16, 2003

M E M O R A N D U M

Faculty Senate Received
413

TO: Mr. Robert Buckley
Chair, Faculty Senate

FROM: Donald R. Gerth

RE: FS 03-04/EX, Proposed Amendment to Section 2.00 of the UARTP Document

I have carefully reviewed the proposed change to Section 2.00 of the University ARTP document. I have two concerns with this proposed language. First, the beginning of the proposed sentence, "Unless otherwise expressly excepted, faculty until employees and administrators shall be governed by the University ARTP policy," appears redundant with other UARTP policy. For evaluators in the process, 5.05B of the policy clearly indicates that evaluators may not create their own requirements. For candidates, it seems unnecessary to indicate that UARTP policy governs faculty unit employees since that is the purpose of that policy.

Of greater concern is the phrase at the end of the proposed sentence, "the primary and secondary unit policies consistent with it." This language, in my opinion, may be subject to misinterpretation because of the use of the word "and." My specific concern is that the proposed language could be interpreted to bind all evaluators to the primary level document. While Section 9.01M of the UARTP policy indicates that the primary document must be consistent with secondary policies in the University's policy, it is possible for the two documents to be different. My position on this issue has been stated clearly each time it has been raised. The primary committee and department chair follow department policy. The secondary committee and the college dean follow the secondary policy. All evaluators are governed by the provisions of the UARTP policy.

I am aware of the inquiry which led to this proposed change in language. It will be made clear to those involved in the evaluation process that the secondary level committee and the dean are to follow the secondary policy of the college or

equivalent unit. Because of the potential for misinterpretation, I am not able to approve the proposed language as presented to me.

DRG/kn

- c. Vice President Ric Brown
- Vice President Edward Del Biaggio
- Vice President Robert Jones
- Vice President Elizabeth Moulds
- Vice President Shirley Uplinger
- Dean David Wagner



CALIFORNIA STATE UNIVERSITY, SACRAMENTO

FACULTY SENATE

September 16, 2003

To: The Faculty Senate
Via: The Senate Executive Committee
From: *William A. Dillon*
William A. Dillon
Presiding Member
University ARTP Committee

California State University, Sacramento
6000 J Street
Sacramento California 95819-6036
SEP 19 2003

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Subj: Amendment of Section 2.00 of the University ARTP document

The University ARTP Committee recommends amendment of the subject section by adding a new Section 2.00 and renumbering as 2.01 the current section:

Section 2.00 Application

Unless otherwise expressly excepted, faculty unit employees and administrators shall be governed by the University ARTP Policy and the ~~primary and secondary unit policies~~ document consistent with it that governs the level of evaluation at which they are acting.

Background

This amendment arose from a case where it was alleged but never proven that an administrator claimed that he or she was not bound to follow a policy set forth in a College RTP document because the document as written spoke to the conduct of the College RTP Committee but made no mention of the administrator. Absent express inclusion of the administrator in the provisions of the College document, it was alleged but never proven that the administrator claimed to be left by the silence of the document to evaluate faculty on a basis of his or her own choosing so long as that basis fell within the broad categories of evaluation set forth in University ARTP policy.

Intent

This amendment states clearly in the University document that all faculty and administrators who have a part in ARTP decisions are bound by University and unit policy in all cases and may depart from them only if expressly authorized to do so by University or unit policy. The intent of the amendment is to preclude any participant in the process from claiming that he or she is not bound to follow a policy because the policy by expressly applying to another participant such as a committee does not by implication apply to him or her.

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Response to objections to the amendment

1. It has been objected that the reference in the amendment to the UARTP Policy is redundant. Perhaps. But the whole amendment addressing the question of the coverage or application of University, secondary and primary unit policies makes clear what 5.05.B as written may not, namely that there is no jurisdiction to evaluate anyone for RTP purposes that does not flow from the UARTP Policy and the secondary and primary unit policies consistent with it.
2. It has been objected that the use of the word "and" in the phrase ". . . and primary and secondary unit policies consistent with it", in the second part of the original of this amendment might have been read to promote an interpretation that would deprive secondary units of some of their independence and bind them to the primary unit's policy in the matter of the relative weighting of the categories of evaluation. To cure this asserted defect, the Committee proposes revising the proposed amendment by deleting the phrase ". . . primary and secondary . . ." and adding at the end of the sentence the phrase ". . . governing the level of evaluation at which they are acting." Since no one may act at more than one level of evaluation at any time, this alteration of the original proposal should preclude any interpretation that would bind the secondary level evaluators to the will of a department's faculty without the prior consent of the college faculty acting to adopt college RTP policy to so bind the college's evaluators, including a dean.

Need of the amendment:

Previously the understanding to be conveyed by this amendment was embodied in an interpretive letter from the Committee to the Senate. But because no record of that letter appears to have survived and the understanding appears again to be in question, the Committee is recommending amendment of the University policy to preserve and publicize the understanding until the Senate shall see fit to alter it.

Legislative history:

During AY 02-03, the Senate recommended the unamended version of the proposed amendment stated above. President Gerth declined to adopt this recommendation for reasons that may be inferred from the response to objections stated above. At the request of the Senate Executive Committee, the University ARTP Committee has again entertained the question of the amendment and resolved upon the answer submitted to you by this letter.

The Committee requests that its Chair be invited to participate in the Executive Committee's discussion of this recommendation.

WAD/cj
Enclosure

cc: D. Wagner, Dean, Faculty and Staff Affairs
S. Orman, Director, Faculty Affairs
B. Buckley, Chair, Faculty Senate