Faculty Senate
Executive Committee
Wednesday, January 13, 2010
1:00 – 3:00 p.m. – Adelbert Hall, Room 352

AGENDA

1:00pm Approval of Minutes from the December 8, 2009 Executive Committee meeting, attachment

C. Musil

Chair’s Announcements

C. Musil

1:05pm Update on Dual-Degree: School of Dental Medicine and Peking University

G. Wnek

1:10pm Report from Committee on Research

M. Chance

1:25pm Report from Budget Committee

J. Grant

1:40pm Report from Committee on Faculty Compensation

M. Smith

1:55pm Edits to Handbook on Grievance Process

B. Leatherberry

2:15pm Update on New Conciliation/Mediation Program

W. Gingerich

2:35pm Finalized Faculty Parental Leave Policy

C. Gregory

New Business

Approval of Draft Agenda for the January 19, 2010 Faculty Senate meeting

attachment

C. Musil
Call to Order and approval of minutes
Professor Carol Musil, chair, Faculty Senate, called the meeting to order at 1:30 p.m. The minutes of the December 21, 2009 meeting of the Faculty Senate Executive Committee were accepted as amended.

Provost’s announcements
Deputy Provost Lynn Singer announced that she is working with Prof. Wally Gingerich to implement the pilot conciliation/mediation program. This new initiative will not address issues of discrimination, sexual harassment, hostile work environment, or research misconduct, as the university already has processes in place to deal with these issues. Over 4M dollars have been awarded to fund 12 research proposals in the strategic alliances groups. There will be a second request for new proposals later in 2010. Future funding may include areas outside the strategic alliances, such as internationalization. Funding was awarded for new initiatives in undergraduate student academic advising, including a new staff position in the Office of Undergraduate Studies. The job search has begun for a new university librarian. The university signed an agreement to partner with the library of the Western Reserve Historical Society. Deputy Provost Singer briefly mentioned the Higher Education Act; there will be more discussion about related university initiatives shortly.

Chair’s announcements
Prof. Carol Musil mentioned that the administration will fund the Senate’s top ranked budget priorities for 2009-2010. Provost Bud Baeslack will give a brief report at the January meeting of the Faculty Senate. Prof. Musil attended a recent meeting of the Academic Affairs and Student Life Committee of the Board of Trustees. Don Feke, vice provost for undergraduate education, and members of the Board of Trustees discussed issues related to the Committee on Undergraduate Education (FSCUE). They expressed concern that if all the FSCUE-approved changes in academic policies are recommended to the Faculty Senate for further review that the proposed changes in academic policies will be subject to unnecessary and inefficient deliberations. Members of the FSCUE
are discussing the matter, and the committee will recommend an effective review and approval process to the
Executive Committee shortly.

**Update on Dual Degree: School of Dental Medicine and Peking University**
Prof. Gary Wnek, chair, Graduate Studies Committee reported that Prof. Mark Hans, contacted the committee
to report that the Dental School is embarking on a partnership with Peking University. Prof. Wnek described the
program: students from Peking University will take all their classes toward the Master of Science in Dentistry
(MSD) at Case Western Reserve. The students will then complete their Ph.D. in Dentistry at Peking University.
The MSD curriculum for these students is unchanged. The students will be admitted by the Case Western
Reserve School of Dental Medicine according to existing standards of admission. As such, a new string of
students will enroll in an existing degree program. It was pointed out that such an arrangement is a dual degree
program, not a joint degree program, and it was agreed that no further review by the Faculty Senate is required.

**Report from Committee on Research**
Prof. Mark Chance, chair, Committee on Research reported that the committee has been working on a report
about non-scientific research support since last year; the committee expects to present this report to Mike
Edwards, associate vice president for research, and Provost Bud Baeslack at its February meeting. The
committee is focusing on issues that cross school boundaries. Although the report is not final the issues of
greatest concern are contract signing, hiring and firing, and communications between the schools and central
administration. The committee has some concerns about the expense of an increased number of staff members
in research administration and their lack of experience. The committee is advocating for transparency in the
selection process for the alliance proposals. Provost Baeslack has mentioned that he would like to get the
Committee on Research more involved in the selection process after the request for proposals next fall; the
committee is eager to get more details. The Executive Committee suggested that international research might
be a good topic for an upcoming meeting; associate provost David Fleshler would be invited. It was pointed out
that previous administrators used to bring policy changes to the Committee on Research for regular review; this
is not happening anymore. Prof. Chance indicated that he would inquire. Prof. Musil thanked Prof. Chance for
his leadership of the Committee on Research.

**Report from the Budget Committee**
Prof. Julia Grant, chair, Budget Committee, reported that the committee is staying abreast with the work of the
Budget System Review Committee. Both she and Prof. Alan Levine, chair-elect, Faculty Senate serve on the
committee. The Budget System Review Committee is meeting with each of the deans; the last two deans will
present shortly. It was commented that the web updates on the committee’s activities have been excellent.
Prof. Grant reported that tweaking the budget formulas will bring about minor improvements; the opportunities
for change lie with the cost pools being allocated. However when the university is under-funded in many areas,
determining priorities is difficult. It was commented that the growth of staffing costs in student services should
be further examined; and the costs of operations in campus services, such as grounds maintenance, should also
be reviewed. The committee has discussed the new capital budgeting process with Mr. John Sideras, senior
vice president for finance, and the PADS data (tracking grant proposals and awards) with Ms. Chris Ash, vice
president of planning and institutional research. The Budget Committee has had presentations from five areas
of major cost pools: University Libraries, Information Technology Services, Campus Planning and Operations,
Human Resources and Development and External Relations. Prof. Musil thanked Prof. Grant for her leadership
of the Budget Committee.

**Report from Committee on Faculty Compensation**
Prof. Mark Smith, chair, Committee on Faculty Compensation, presented the committee’s updated draft of the Faculty Compensation Policy. It addresses the issues of compression and inversion to faculty salaries. It was distributed to the deans; a few objected to parts that were too prescriptive. Someone commented that although it was only a recommendation, not a mandate, tying salaries to the Consumer Price Index (CPI) would be impossible unless costs and revenues keep pace with increases in the CPI. The committee will update the draft to reduce redundancy and address the concerns of the deans, while maintaining the urgency of issues addressed. It was recommended that the committee examine the process for job performance reviews for faculty. Prof. Smith commented that transparency of average salaries across departments and schools is of interest to the committee; it was commented that the Committee on Faculty Compensation used to request and compile this information for an annual report to the Faculty Senate. The Executive Committee encouraged the Committee on Faculty Compensation to reinstate such an annual report. Prof. Musil thanked Prof. Smith for his leadership of the Committee on Faculty Compensation.

Edits to Handbook on Grievance Process
Prof. Bill Leatherberry, chair, ad hoc Committee on Grievance Process Reform, presented the edits to the Faculty Handbook about the grievance process, approved by the Committee on By-laws, as Prof. Christine Cano, chair of the committee, was unable to attend. The final report of the ad hoc committee was presented to the Executive Committee in September 2009; the proposed edits to the Faculty Handbook reflect the proposed changes reviewed by the Executive Committee in September 2009. The ad hoc committee made edits to the Faculty Handbook to make the grievance process more efficient. The chair of the grievance hearing committee has the ability to focus the evidence presented by the grievant, conflict of interest issues are addressed, and the size of the hearing panel is reduced so that hearings can be scheduled more quickly. It was noted that the proposed revisions to the grievance process would restrict the grievance process to “personnel conflicts” – conflicts between a faculty member and his/her supervisor, such as a department chair or a dean. An objection was voiced that “inter-collegial conflicts” – conflicts between colleagues - would be restricted to the pilot conciliation/mediation process and would now be ineligible for the grievance hearing process. Edits were suggested that would clarify the process for replacing the chair of the grievance hearing committee. As amended, the Executive Committee approved the proposed edits to the Faculty Handbook describing the grievance process, for final approval by the Faculty Senate.

Update on New Conciliation/Mediation Program
Prof. Wally Gingerich presented preliminary plans for the new conciliation/mediation process. Prof. Gingerich will serve as the conciliation counselor for the 18 month pilot program. The conciliation counselor would make suggestions to help faculty members resolve conflicts for themselves. If an aggrieved faculty member and the opposing party agree to the proposed process, Prof. Gingerich could mediate the conflict. The conciliation counselor is always a neutral party. Confidentiality is required. When complex conflicts arise, or when Prof. Gingerich would be unable to serve as a neutral party, an assigned mediator off campus would be contracted to resolve the conflict. If the opposing party is uninterested in mediation or if mediation fails, the grievance process would be a last resort. It is anticipated that a successful conciliation/mediation program can resolve conflicts before disagreements become entrenched; and if the program is successful the number of grievance hearings can be reduced. Prof. Gingerich seeks feedback and suggestions. When the process and an advisory committee have been established, he plans to report to the Faculty Senate again.
Approval of the Monday, January 19, 2010 Faculty Senate meeting agenda
The agenda for the January 19 faculty senate meeting was approved. The meeting was adjourned at 3:30 p.m.

APPROVED
by the
FACULTY SENATE EXECUTIVE COMMITTEE

ELIZABETH H. WOYCZYNSKI
SECRETARY OF UNIVERSITY FACULTY
These proposed amendments to the Section V of Chapter 3 of the Faculty Handbook are intended to implement the recommendations of the Faculty Senate ad hoc Committee on Grievance Process Reform. Existing provisions are shown in regular type. Provisions that would be deleted are shown by strikethrough and new text is in bold italic. Explanatory comments with respect to the changes are at the end of the section in italics inside brackets [brackets].

V. GRIEVANCE PROCEDURES

A. Introduction
The purpose of this Section V is (1) to provide a source of informal confidential advice on faculty personnel matters to members of the faculty, which source can serve the function of informal conciliation where appropriate; and (2) where the informal mechanisms are not successful in resolving the dispute, to provide a mechanism for the formal adjudication of disputes about personnel practice. This adjudication mechanism, described in Section C below, is substantially similar to the procedures described in Section IV, D of the Policies and Procedures. The difference is that procedures under IV, D are the result of a complaint by the faculty or by the administration against an individual faculty member, while procedures under V, C are the result of a complaint by an individual faculty member against the administration, or officer thereof, or against a faculty member or group. Allegations of research misconduct and sexual harassment shall be sent to the appropriate committee or administrative offices as outlined in Section IV, D, 1. The chair of the Faculty Senate shall represent the University Faculty in overseeing the grievance process. [No changes.]

B. Informal Advice, Investigation, and Conciliation
In most cases, a faculty member who desires information about and assistance with personnel decisions which may affect him or her will consult with his or her colleagues or his or her own dean or department chair. However, there may be cases in which the faculty member needs such advice from a knowledgeable source outside of his or her own faculty. An example of this would be where an adverse recommendation on promotion, tenure, or retention has been made at the departmental level, and the individual believes that the proper procedures were not followed in making the decision. For such cases, the Committee on Faculty Personnel is available for informal advice, investigation, and conciliation on the informal request of any faculty member. In such a case, the chair of the committee shall maintain as confidential the source and nature of the request and shall not reveal it to the Faculty Senate, to the administration, or to any other group or person without the express consent of the faculty member. The chair and other committee members will provide information and counsel to the faculty member, investigate the facts, and where appropriate, offer its services as a mediator. The members of the Personnel Committee will continue in their role as mediators of disputes and may be provided formal
training in the process of mediation. However, the functions of investigation and mediation shall be performed only to the extent they can be without a breach of the obligation of confidentiality.

[No changes to this section are proposed at this time. The Committee and the Administration have agreed to the Mediation Pilot Program described at pp. 5-7. Implementation of the pilot program is intended to supplement the procedures described in this section. It is expected that complainants and respondents would, during the period of the Pilot Program, choose to use the services provided in the Pilot Program rather than the procedures in this section. They will be required, as a condition of the service, to waive their rights to use this existing process. If the pilot program is successful, by-laws amendments to make it permanent, with whatever changes and adjustments are needed, will be proposed at a later time.]

C. Formal Grievance Procedures.

1. Scope of Procedures.

a. A formal grievance complaint may be filed by any person (hereafter referred to as the complainant) who is a full-time member of the University Faculty, as defined in the “Constitution of the University Faculty.” [No changes.]

b. A grievance complaint may be filed and this procedure invoked only if the complaint alleges a dispute about “personnel practice,” which means a conflict between a faculty member and a person with administrative or supervisory authority over that faculty member (e.g., a dean, a department chair, or a member of a promotion and tenure committee) with respect to some employment-related adverse action against the faculty member. An “inter-collegial conflict” is a conflict between faculty colleagues about academic matters, other than a decision to take employment-related adverse action, when such a conflict seriously impairs the effective functioning of the academic unit. Examples include disrespectful behavior, refusal to participate or to include others in the decision making process within the unit, and airing conflict to outsiders, thereby causing damage to the grievant, the unit, or the University. An “academic conflict” may not be the subject of a grievance complaint. This formal grievance procedure does not apply to such conflicts. [This new subsection differentiates personnel practice disputes from academic conflicts. “Academic conflicts” will, during the Pilot Program be directed to the Conciliation Counselor and may be sent to the outside Mediator. The ad hoc Committee believes that the existing grievance procedure does not apply to such conflicts but that a mediation process, with either the Conciliation Counselor or a Mediator, should be available to facilitate resolution. The ad hoc Committee believes that an adjudication process like the grievance procedure is not appropriate for such conflicts.]

c. Such a grievance complaint may be filed against any person (hereafter referred to as the respondent) who is a member of the University Faculty or an officer of the university administration, except the president. A grievance complaint may not be filed against the University Faculty, the Faculty Senate, or the Board of Trustees. [This subsection becomes subsection c.]
ed. Formal grievances shall be heard in any case in which it is charged that the respondent has
taken action which adversely affects the complainant and which action is a violation of the
“Constitution of the University Faculty,” Chapter 3 of the Faculty Handbook, the by-laws of the
Faculty Senate, the by-laws of a constituent faculty or of a department, these policies and
procedures, or of accepted norms of university academic personnel practice. Action on
promotion and tenure matters is subject to these procedures only if it is charged that the
respondent(s) failed to follow prescribed procedures or used an impermissible standard (see
Section 1 above). A hearing committee which considers a grievance involving a promotion or
tenure matter may not in its recommendations substitute its judgment with respect to the merits
of the action for the judgment of any other committee, department, or faculty which is part of the
normal review process (see Section 1 above). [This subsection becomes subsection d.]

de. Only the chair of the Faculty Senate and the secretary of the Faculty Senate may
communicate with the hearing committee regarding interpretation of the formal grievance
procedure as stated in the Faculty Handbook. [This subsection becomes subsection e. No other
changes at this time.]

2. Complaint.

a. Formal procedures are initiated by filing with the secretary of the Faculty Senate a written
grievance complaint addressed to the chair of the Faculty Senate. The complaint shall identify by
name the complainant and all respondents, and shall state in detail the action complained of, the
norm or rule alleged to have been violated, and the resolution sought. The complaint shall refer
specifically to the “Constitution of the University Faculty,” Chapter 3 of the Faculty Handbook, the by-laws of the Faculty Senate, the by-laws of a
constituent faculty or of a department, these policies and procedures, or other accepted norms
of university personnel practice that were allegedly violated. The complaint shall state the
remedy requested. If the complainant does not have the names of the respondents, he or she may
identify the faculty, committee, or other group, and the chair of the Faculty Senate shall identify
the appropriate individuals and designate them by name as respondents. Additional respondents
may be added to the grievance proceedings at any stage subject, however, to such requirements
of notice as the hearing committee may impose in the interest of fair and expeditious process.
Upon receipt of the complaint, the secretary shall send copies thereof to the respondent and the
chair of the Faculty Senate. The respondent shall submit a written answer to the complaint and
supporting documents within two weeks after delivery of the complaint, unless for good reason
the chair of the Faculty Senate grants an extension. Upon receipt of the answer, a copy thereof
shall be forwarded by the secretary to the complainant and to the chair of the Faculty Senate.
[The changes are meant to help the complainant focus the grievance complaint.]

3. Selection of the Hearing Committee

a. The panel members provided for in Section IV, D, 3 shall constitute the members for a
hearing committee under this section. a. Creation of Grievance Panel. In the spring semester
of each academic year, the secretary of the Faculty Senate shall solicit faculty members
interested in serving on hearing committees during the following academic year and shall
make a list of those faculty members who respond. At the same time, the secretary shall make
a list of those faculty members who have served as members of recent grievance committees or
as advisors to either complainants or respondents. The secretary shall provide the lists to the Faculty Senate Nominating Committee. The Nominating Committee shall nominate twenty-five member of the University Faculty to serve on the Grievance Panel from which members of hearing committees are to be chosen during the following academic year. The Nominating Committee shall designate up to eight of the panelists nominated as eligible to serve as chair of a hearing committee. The panelists so designated shall have had multiple experiences with the grievance process as members of hearing committees or as advisors to complainants or respondents or shall have other relevant training or experience. [The panel is enlarged and experienced panelists are to be designated as potential chairs for hearing committees. Section IV, D, 3, a currently provides for three faculty members to serve on each seven-member committee. Two must be Faculty Senators and one must be a member of the Personnel Committee. The changes are to expedite scheduling of hearings and to provide chairs who can manage the hearing procedures efficiently. The hearing committees are reduced to five members and the requirement that three individuals designated under Section IV, D, 3, a serve on all hearing committees is eliminated. This provision substitutes for the existing Section IV, D, 3 with only respect to grievance hearings. It leaves that section unchanged with respect to disciplinary hearings( meaning hearings with respect to allegations of conduct violating professional standards or university standards or regulations on the part of a faculty member which may lead to disciplinary action by the University against a faculty member). Unless or until Section IV, D, 3 is changed to require the process described here to select the group of faculty members available to serve on disciplinary hearings it will be necessary to appoint two groups—one for Section IV matters and this one for Section V matters. Some faculty members could, of course, be appointed to both groups simultaneously.]

b. The hearing committee shall consist of five members. The selection of members of the hearing committee will proceed in the following manner. From the panel the respondent shall first appoint two members and the complainant shall then appoint two members. The chair of the Faculty Senate shall then appoint three members of the panel, at least one of whom shall be a person eligible to chair a hearing committee. The chair of the Faculty Senate shall designate the chair of the hearing committee. If either the complainant or the respondent fails to take advantage of his or her privilege of appointing a committee member or if a group of respondents cannot agree among themselves upon such selection, then the remaining members of the hearing committee shall be appointed from the Grievance Panel by the chair of the Faculty Senate. The chair of the Faculty Senate may replace hearing committee members if the chair determines that these members are unable to serve or have a conflict of interest. Timeliness of the grievance process is important, and the committee should consider evening and weekend meetings. [The size of the hearing committee is reduced and the composition revised to expedite scheduling of hearings.]

c. The chair of the hearing committee shall consider and decide a claim by either party that a member of the hearing committee has a conflict of interest requiring removal from the hearing committee. The chair of the faculty senate shall consider and decide a claim by either party that the chair of the hearing committee has a conflict of interest requiring removal from the hearing committee.
Only the following grounds justify removal of the chair or a member of the hearing committee: 1) the chair of a member is a witness or is otherwise directly involved in the dispute. 2) The chair or member has a history of conflict with the complainant and respondent. 3) The chair or member is unable to approach the issues in a fair or neutral way.

e. Prior to each hearing, the hearing committee will meet to select a chair and review Section 4, “Conduct of the Hearing.” [This section is eliminated because of the decision to select an experienced chair and have that person work with the parties before the hearing to focus the matters to be heard as provided in V, C, 4.]

d. No persons involved in the grievance procedure shall discuss the grievance except as provided herein. [This subsection becomes subsection c. No other changes.]


a. Copies of the complaint, supporting documents, the respondent's answer, and all other material shall be made available to both parties and the hearing committee by the Office of Secretary of the Faculty Senate. The secretary shall work with the parties and the committee to schedule a hearing at the earliest possible date. Notice of the time and place of the hearing shall be sent to all parties. The procedure shall be implemented as expeditiously as possible. Either party may offer additional documentary material during the pendency of the hearing, and such additional material shall be accepted. All additional material to be considered must be submitted through the Office of the Faculty Senate. Not less than ten calendar days before the hearing, the parties shall submit to the chair of the hearing committee their lists of witnesses and any documents they plan to offer as evidence at the hearing. The chair of the hearing committee shall meet with the parties in person or by conference call to discuss the witness lists, the documentary evidence to be introduced, and possible stipulations of fact. The chair of the hearing committee shall work with the parties to assist them in focusing the issues to be decided and to minimize or eliminate the offering of irrelevant or repetitive testimony or documents. If either party demands to present a witness or a document that the chair believes to be irrelevant or repetitive, the chair of the hearing committee may rule the testimony or document inadmissible. The inadmissibility ruling shall be communicated to the other members of the hearing committee and the committee may overrule the chair by a vote of three of the five committee members. The chair of the hearing committee may also request that additional documentary material be furnished by either party. In either case, the additional material so provided by a party shall be made available to the parties, other party and to the committee members unless it is ruled inadmissible by the chair of the hearing committee. The availability of documents is subject to the rule that the confidentiality of any documents accepted by the University in confidence shall be maintained. Thus, for example, letters written by external referees or reviewers submitted in connection with a promotion and/or tenure action shall not be disclosed to a complainant if they were received in confidence. [Changes are meant to expedite the hearing process by having the chair work with the parties before the hearing to focus the dispute and the evidence to be presented.]

b. The complainant and respondent shall have the right to be present during the hearing,
except for the deliberations of the committee and for the examination of witnesses concerning confidential material. [No changes.]

c. Unless specifically requested to be absent by the chair of the hearing committee, the secretary of the Faculty Senate shall be present at the hearing to advise the hearing committee on procedure and to make the audio tape recording. Otherwise, the hearing shall be closed to all except the hearing committee, complainant, respondent, witnesses and advisors. The hearing committee shall maintain the confidentiality of closed proceedings. [No changes.]

d. The burden of proof (by preponderance of the evidence) shall be borne by the complainant. The hearing committee shall not be bound by the rules of evidence applicable to legal proceedings but may consider any relevant evidence with due regard for its probative value. If witnesses are presented by either party, the other party and the committee shall have the right to cross-question any witness. The hearing committee may call its own witnesses, in which case the parties shall also have the right to cross-question such witnesses. Witnesses shall be present at the hearing only while presenting their testimony. The hearing committee may examine the complainant, the respondent, and all witnesses. However, any member of the Committee on Faculty Personnel who was involved in informal counseling, investigation, or conciliation, pursuant to Section B above, shall not testify as to anything said or done during such informal proceedings without the express consent of the complainant. [No change to this section at this time. Parties using the services of the Conciliation Counselor or an outside Mediator under the Pilot Program should be required, as a condition of the service, to agree that the service is confidential. They should be required to agree that the Conciliation Counselor and the Mediator shall not be called to testify or otherwise report on the counseling or mediation process in a subsequent grievance proceeding without the consent of the Conciliation Counselor or Mediator and all parties involved in the counseling or mediation.]

e. During the pendency of the grievance process and at any stage thereof prior to final resolution, the complainant may withdraw the complaint and terminate the grievance proceeding, provided, however, that the respondent shall be given notice of the withdrawal and shall consent in writing to the termination. If the respondent does not consent to the termination, then the proceeding shall continue to its final conclusion. [No changes.]

f. An audio tape recording of each hearing session shall be made by the hearing committee and preserved in the university archives. Access to the recording shall be limited to the complainant, respondent, and members of the hearing committee. Requests shall be addressed to the chair of the Faculty Senate. Upon approval, the tape shall be made available for review in the Office of the Secretary of the Faculty Senate. To preserve confidentiality, no other taping or copies of these tapes will be permitted. [No changes.]

g. The complainant and respondent each shall have the right to an advisor of his or her choice, chosen from the faculty or administration. Such advisor shall have no right to participate in the proceedings except to advise his or her principal. [No changes.]

h. The order of the hearing, unless the chair of the hearing committee rules otherwise, shall be as follows:
1. Complainant's opening presentation of his or her case, followed by questions by the hearing committee, if any;
2. Respondent's presentation of his or her defense, followed by questions by the hearing committee, if any;
3. Complainant's witnesses;
4. Respondent's witnesses;
5. Rebuttal by complainant;
6. Surrebuttal by respondent.

Normally, witnesses, other than the complainant and respondent shall be present at the hearing only when testifying. [No changes.]

i. As soon as possible following the hearing, the hearing committee shall make its findings of fact, conclusions and recommendations by majority vote. The findings of fact shall be based solely on the record adduced at the hearing, and no evidence extrinsic to the record shall be considered. [No changes.]

j. The chair of the hearing committee shall preside at all sessions and shall make all procedural decisions, subject to being overruled by a majority vote of the committee. vote of three of the five committee members.

5. Failure to respond to complaint
It is expected that all respondents in grievances cooperate and appear for the hearing. The deliberate failure or refusal of a respondent to file an answer or the deliberate failure or refusal of the respondent to appear at the hearing after the filing of an answer, shall not prevent the hearing committee panel from proceeding with the hearing. In case of such default or partial response on the part of the respondent, the hearing committee shall hear the complainant's oral presentation and shall make findings and recommendations based upon the oral and written material presented by the complainant and any oral or written presentation by the respondent. [No changes.]

6. Commencement or pendency of litigation or external administrative proceeding
If either before or after the complainant files a grievance complaint he or she commences litigation or files a complaint with a local, state, or federal agency concerning the matters set forth in the grievance complaint, the pendency of such litigation or administrative proceeding shall not prevent the hearing committee from proceeding with the hearing in due course. The complainant shall not be deprived of the internal grievance process by virtue of such litigation or administrative proceeding. [No changes.]

7. Report of the Hearing Committee
Within two weeks of the end of deliberations, the chair of the hearing committee shall present a written report of its findings of fact, conclusions, and recommendations. If the vote of the committee is not unanimous, the minority may prepare a minority report to be appended to the majority report. The secretary of the Faculty Senate shall forward the report forthwith to the president, the chair of the Faculty Senate, and to the parties, copied to the chair and members of
the hearing committee. If the majority finds in favor of the complainant, the report should be considered an interim report. It should require the respondent to reconsider the matter complained of and to report the result of such reconsideration to the chair of the Faculty Senate within ten calendar days from the date of receipt of the committee's interim report. Upon receipt of the respondent's report of reconsideration of the matter, the committee shall revise its interim report, incorporate the result of such respondent’s report of reconsideration as an addendum to its final report. The report and addendum shall constitute the final report of the hearing committee. When the committee has completed its report and recommendations, the committee may request a meeting with the president to present its report. It is understood that this meeting is intended to provide the president with an opportunity to hear directly from the committee and for the president to ask questions about the report. The president’s response to the report will not be made at this meeting. The final report shall forthwith be transmitted by the secretary of the Faculty Senate to the president, the chair of the Faculty Senate, and to the parties, copied to the chair and members of the hearing committee with the committee's recommendations. If the majority finds in favor of the respondent, the hearing committee's report shall be considered its final report.

8. Decision by the President

The final resolution of the complaint shall be made by the president, normally within a period of two weeks after receipt of the committee's final report. If the president agrees with the majority report, he or she shall so notify the secretary of the Faculty Senate in writing. The secretary of the Faculty Senate shall transmit the written notification to the chair and members of the hearing committee, the chair of the Faculty Senate, and to the parties. If the president disagrees with the final report and its recommendations, he or she shall so notify the secretary of the Faculty Senate in writing, setting forth the reasons for disagreement and final resolution of the matter. The secretary of the Faculty Senate shall transmit the written notification to the chair and members of the hearing committee, the chair of the Faculty Senate, and to the parties. In the alternative, the president may ask the secretary of the Faculty Senate to reconvene the hearing committee to reconsider its final report and recommendations in the light of his or her stated objection thereto. In such case, the hearing committee shall reconvene to reconsider the matter, taking new evidence, if necessary, and report the results of its reconsideration to the secretary of the Faculty Senate, and shall then transmit to the president, the parties, and the chair of the Faculty Senate, copied to the chair and members of the hearing committee, the results-written report of its reconsideration. After review of the hearing committee's reconsidered report and recommendations, the president shall transmit to the secretary of the Faculty Senate a final proposed resolution of the matter; and the secretary shall transmit the same to the parties, the chair and members of the hearing committee, and the chair of the Faculty Senate. At the end of the academic year, members of the Grievance Committee Panels faculty members who served on hearing committees may request a meeting with the president to discuss the grievance process in general terms without reference to the specific cases that have been heard. [No changes. These changes acknowledge that most communications will be transmitted online rather than by paper. Experience shows that posting documents to a secure website, created by the secretary of the Faculty Senate is preferable to email, as email between aggrieved parties can create a litany of additional angry correspondence. Having
correspondence routed through the secretary of the Faculty Senate, ensures that communications are transmitted correctly, confidentially, and most productively.
The new faculty paid parental leave policy enhances the existing leave programs and expands the benefits available to parents. The following table presents the key provisions of faculty parental leave under the prior and new policies:

<table>
<thead>
<tr>
<th>Primary Caregivers</th>
<th>Prior Policy</th>
<th>New Policy</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maternity Leave for Birth Mothers</td>
<td>Up to 12 weeks of leave, as provided for under HR Policy Manual, Policies IV-8, IV-9 and IV-11.</td>
<td>Up to 12 weeks of leave, as provided for under HR Policy Manual, Policies IV-8, IV-9 and IV-11.</td>
</tr>
<tr>
<td>Birth Parent</td>
<td>Up to 8 days of sick leave annually, as provided for under HR Policy Manual, Policy IV-9.</td>
<td>Refer to Parental Leave information below.</td>
</tr>
<tr>
<td>Adoption Leave for Adoptive Parents</td>
<td>Up to 6 weeks of sick leave, as provided for under HR Policy Manual, Policies IV-9 and IV-13.</td>
<td>Refer to Parental Leave information below.</td>
</tr>
<tr>
<td>Foster Custody Care</td>
<td>Up to 8 days of sick leave annually, as provided for under HR Policy Manual, Policy IV-9.</td>
<td>Refer to Parental Leave information below.</td>
</tr>
<tr>
<td>Guardian Parent</td>
<td>n/a</td>
<td>Refer to Parental Leave information below.</td>
</tr>
<tr>
<td>Parental Leave</td>
<td>Yes, for birth and adoption</td>
<td>Yes, for birth, adoption, foster care and guardianship</td>
</tr>
<tr>
<td>Eligibility - FMLA</td>
<td>n/a</td>
<td>Meets FMLA eligibility requirements. The university will seek to make appropriate leave accommodations for an otherwise eligible faculty member who either is not eligible for FMLA or has exhausted available FMLA leave time during the past 12 months through a process administered by the Provost’s Office (FMLA eligibility is defined in HR Policy Manual, Policy IV-8).</td>
</tr>
<tr>
<td>- Faculty Position</td>
<td>Tenured and tenure track</td>
<td>Across all Schools and</td>
</tr>
</tbody>
</table>
### Prior Policy

- Faculty are eligible. However, faculty members without significant research, scholarship or other duties aside from teaching are not eligible. Non-tenure track faculty, special faculty and faculty with terminal appointments are also not eligible.

### New Policy

- Colleges FTE faculty who are at least 50% time, as defined by the Faculty Handbook, are eligible.

<table>
<thead>
<tr>
<th></th>
<th>Prior Policy</th>
<th>New Policy</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Commencement</strong></td>
<td>During the academic year in which live birth or adoption occurs</td>
<td>Within 12 months of live birth, adoption or placement</td>
</tr>
<tr>
<td><strong>Duration</strong></td>
<td>One academic semester</td>
<td>Up to 16 weeks (equivalent of one semester).</td>
</tr>
<tr>
<td><strong>Pay</strong></td>
<td>100% salary</td>
<td>100% salary</td>
</tr>
<tr>
<td><strong>Benefits</strong></td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td><strong>Use Sick Leave</strong></td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td><strong>Use Vacation</strong></td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td><strong>Workload Release</strong></td>
<td>Teaching and service duties are released. For faculty with tenure track (but without tenure) the letter granting leave shall specify whether the leave period is to be counted as part of the pre-tenure or pre-promotion period, as the case may be.</td>
<td>Teaching, service, scholarship and research duties are released. The pre-tenure period can be extended during this period, as stated under the pre-tenure extension provisions in the Faculty Handbook.</td>
</tr>
</tbody>
</table>

### Secondary Caregivers

<table>
<thead>
<tr>
<th>Secondary Caregivers</th>
<th>Prior Policy</th>
<th>New Policy</th>
</tr>
</thead>
<tbody>
<tr>
<td>Birth Parent</td>
<td>Up to 8 days of sick leave annually, as provided for under HR Policy Manual, Policy IV-9.</td>
<td>Refer to Parental Leave information below.</td>
</tr>
<tr>
<td>Adoption Leave for Adoptive Parents</td>
<td>Up to 8 days of sick leave annually, as provided for under HR Policy Manual, Policies IV-9 and IV-13.</td>
<td>Refer to Parental Leave information below.</td>
</tr>
<tr>
<td>Foster Custody Care</td>
<td>Up to 8 days of sick leave annually, as provided for under HR Policy Manual, Policy IV-9.</td>
<td>Refer to Parental Leave information below.</td>
</tr>
<tr>
<td>Guardian Parent</td>
<td>n/a</td>
<td>Refer to Parental Leave information below.</td>
</tr>
<tr>
<td>Parental Leave</td>
<td>Prior Policy</td>
<td>New Policy</td>
</tr>
<tr>
<td>----------------</td>
<td>-------------</td>
<td>------------</td>
</tr>
<tr>
<td>Eligibility</td>
<td>No</td>
<td>Yes, for birth, adoption, foster care and guardianship</td>
</tr>
<tr>
<td>- FMLA</td>
<td>n/a</td>
<td>Meets FMLA eligibility requirements. The university will seek to make appropriate leave accommodations for an otherwise eligible faculty member who either is not eligible for FMLA or has exhausted available FMLA leave time during the past 12 months through a process administered by the Provost’s Office (FMLA eligibility is defined in HR Policy Manual, Policy IV-8). Across all Schools and Colleges FTE faculty who are at least 50% time, as defined by the Faculty Handbook, are eligible.</td>
</tr>
<tr>
<td>- Faculty Position</td>
<td>n/a</td>
<td>n/a</td>
</tr>
<tr>
<td>Commencement</td>
<td>n/a</td>
<td>Within 12 months of live birth, adoption or placement</td>
</tr>
<tr>
<td>Duration</td>
<td>n/a</td>
<td>Up to 3 weeks</td>
</tr>
<tr>
<td>Pay</td>
<td>n/a</td>
<td>100% salary</td>
</tr>
<tr>
<td>Benefits</td>
<td>n/a</td>
<td>Yes</td>
</tr>
<tr>
<td>Use Sick Leave</td>
<td>n/a</td>
<td>No</td>
</tr>
<tr>
<td>Workload Release</td>
<td>n/a</td>
<td>n/a</td>
</tr>
</tbody>
</table>

It is certain that a FMLA eligible primary caregiver, who takes leave under this policy, will exhaust the 12-week allowance for FMLA leave before the parental leave ends. The university’s FMLA policy permits employees to draw upon the 12-week FMLA leave allowance over a 12-month period (refer to HR Policy Manual, Policy IV-8 for details); consider the following illustrative examples:

1. A primary caregiver has used no FMLA leave time during the prior 12 months and commences parental leave on June 1. During the leave, the 12-week FMLA allowance is exhausted. The primary caregiver will become eligible for a new 12-week leave allowance on the following June 1.

2. A primary caregiver uses four weeks of FMLA leave starting August 1. The faculty member commences a parental leave on December 1. The remaining eight weeks of FMLA leave allowance for the prior 12 months are exhausted during the parental leave.
The primary caregiver will be able to take up to 4 weeks of FMLA leave again on the following August 1. If no FMLA leave is taken until after December 1, the faculty member will be entitled then to a new 12-week leave allowance.

The effect of FMLA usage on the 12-week FMLA leave allowance for a FMLA eligible secondary caregiver is exactly the same; however, there exists no certainty that a secondary caregiver will exhaust the 12-week allowance while taking parental leave.

A high level summary of the parental leave eligibility determination process is outlined in the attached Appendix A.

Please refer to the attached Appendix B for details regarding the applicable HR and Faculty Handbook policies that pertain to parental leave.
APPENDIX A

FACULTY PARENTAL LEAVE
Eligibility Determination

[Flowchart diagram showing the process of determining eligibility for faculty parental leave, including questions about eligibility and FMLA availability, leading to a decision on leave duration and conditions for primary and secondary caregivers.]
APPENDIX B

APPLICABLE LEAVE OF ABSENCE POLICIES

Absence and Leaves for Personal Medical, Family Medical, Parenting, and Family Military Service Member Reasons Under the Family and Medical Leave Act (HR Policy Manual, Policy IV-8)
The Family and Medical Leave Act of 1993 (FMLA) requires Case to provide up to 12 work weeks of unpaid, job-protected leave to “eligible” employees for certain family and personal medical reasons. To be “eligible” for FMLA leave, an employee must meet the following minimum requirements: be employed by Case at least 12 months prior to the commencement of the leave and have worked at least 1,250 hours during the 12-month period prior to the leave. The general FMLA provisions are posted in the Human Resources Department, Room 304 Crawford Hall and the Office of Equal Opportunity and Diversity, Room 310 Adelbert Hall.

The university recognizes that employees need to tend to both personal medical and family medical concerns in a constructive manner in order to be fully productive. Therefore, the university provides a measure of stability through benefit protection and a reasonable allowance for paid and unpaid time off of work. The amount of paid sick time that an employee is eligible to receive does not constitute the amount of leave time an employee is granted.

An employee may draw upon the 12-week allowance either intermittently or in total over a 12-month period based on eligibility date. “Eligibility date” refers to the date of the employee’s first FMLA leave within the previous 12 months. For example, if an employee has taken 8 weeks of leave during the past 12 months, an additional 4 weeks of leave may be taken. If an employee has used 4 weeks beginning February 1, 4 weeks beginning June 1, and 4 weeks beginning December 1, the employee would not be entitled to any additional leave until after February 1, of the following year. Under the university’s leave policy, “family” includes the employee’s spouse as recognized in the state of Ohio, son, daughter, parent or guardian, and domestic partner who has met the requirements for receipt of domestic partner benefits under Case’s policy.

Sick Days Policy for Faculty (HR Policy Manual, Policy IV-9)
The following schedule states the sick days available for absences due to personal or family illness, personal medical, family medical, and parenting reasons Under the Family Medical Leave Act (Policy IV-8). Years of service are based on anniversary date, and the allowance shown is for the year, not for each occurrence. An employee may draw from their sick day balance up to a maximum of 26 weeks within any twelve month time period for personal medical reasons. Employees may draw on this time over the year but may not carry the time forward to the next year nor include it in termination pay calculations.
### Years of Service

<table>
<thead>
<tr>
<th>Years of Service</th>
<th>100% Pay</th>
<th>60% Pay</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than 1 year</td>
<td>1 2/3 days per month(s) worked</td>
<td></td>
</tr>
<tr>
<td>1 year to less than 3 years</td>
<td>1 month</td>
<td>1 month</td>
</tr>
<tr>
<td>3 years to less than 5 years</td>
<td>2 months</td>
<td>1 month</td>
</tr>
<tr>
<td>5 years to less than 10 years</td>
<td>3 months</td>
<td>3 months</td>
</tr>
<tr>
<td>10 years or more</td>
<td>6 months</td>
<td></td>
</tr>
</tbody>
</table>

Employees in Category 0 have the option to use up to a total of eight (8) days annually of their unused sick days for bereavement, parenting for natural child birth care or foster custody care, or family illness or family medical reasons.

Employees must use all unused vacation days after they have exhausted their sick day allowance prior to commencing any unpaid personal medical leave. Employees must also use all unused vacation days prior to commencing any unpaid family medical or parenting leave. An employee who adopts a child and is the primary care giver can use up to six (6) weeks of their unused paid sick days based on leave eligibility. If the other parent/domestic partner is an employee, he or she can use up to a total of eight (8) days annually of their unused paid sick day balance. See Adoption Leave policy IV-13.

### Other Leaves of Absence (HR Policy Manual, Policy IV-11)

The university recognizes the need to accommodate employees who request a leave but who do not meet the requirements for a leave under the Absence and Leaves for Personal Medical, Family Medical and Parenting Reasons Under the Family and Medical Leave Act Policy (IV-8) or who request a leave for various other personal or professional reasons. These leaves may be agreed to by the staff member's supervisor on an as-needed basis for the reasons outlined below. If the supervisor approves such a leave, the supervisor is responsible for determining how to continue quality operations during such a leave.

#### Non-FMLA Medical Leave

Employees who do not meet the requirements for a leave under FMLA may request a leave of absence when they or a family member have a serious health condition. Supervisors have the authority to approve such a request, but the request may not be denied without consulting Employee Relations. If the request is denied and the employee decides not to report to work, employment ends as a voluntary termination effective the last day worked by the employee.

The employee must submit a completed Certificate of Health Care Provider form if more than five days of consecutive absence are anticipated. If such a leave is granted, the amount of leave will be determined between the supervisor and the employee. The employee’s position or equivalent position may be held for a specified time determined by the supervisor but in no case for longer than 12 weeks. The maximum non-FMLA leave is 12 weeks in a 12-month period, and the maximum combined FMLA and non-FMLA leave is 26 weeks in a 12-month period.
Employees must use all unused sick days and vacation days prior to commencing an unpaid non-FMLA leave. Employees who are on a paid leave will remain in their current Benelect program according to the Benelect plan and continue to accrue service time towards benefits based on active status. Once an employee commences an unpaid leave, they are eligible to continue benefits under COBRA; the employee is responsible for arranging for Benelect continuation. If an employee returns to work from an unpaid leave on the first work day of the month, his/her benefits are reinstated effective that day; if the employee’s return to work is after the first work day of the month, his/her benefits are reinstated effective the following month.

**Personal Leave**

Occasionally, employees have unique opportunities for personal and professional development which conflict with their availability to perform their jobs for a period of time. The university recognizes the related value of personal growth for legitimate purposes such as: education, travel, journalism, civic responsibilities, retreat, and other career planning situations or family-related situations. However, personal leaves are not granted for engaging in employment outside of Case. Therefore, the university may provide unpaid personal leaves of absence for up to 12 weeks if approved by the supervisor. The university may provide an extension of such leaves on rare occasions.

Supervisors are responsible for reviewing the legitimacy of the request and confirming that the leave, if approved, will not interrupt normal departmental operations and services. The employee’s position will be held for a maximum of 12 weeks if the position has not already been held for 12 weeks during the previous 12 months. The employee and supervisor will agree as to the start/end dates of the leave. Unused vacation time must be used prior to commencing the unpaid portion of the leave but will be included as part of the total leave time. Employees who are on a paid leave will remain in their current Benelect program according to the Benelect plan and continue to accrue service time towards benefits based on active status. Once an employee commences an unpaid leave, they are eligible to continue benefits under COBRA; the employee is responsible for arranging for Benelect continuation. If an employee returns to work from an unpaid leave on the first work day of the month, his/her benefits are reinstated effective that day; if the employee’s return to work is after the first work day of the month, his/her benefits are reinstated effective the following month.

**Adoption Leave**  
*Case Western Reserve University will provide "eligible" Category 0 (i.e., faculty) employees who legally adopt a child and are the primary care-givers up to six (6) weeks paid time off for adoption leave (depending on available unused sick day and vacation day balances). If the other parent/domestic partner is an employee, he or she can use up to eight (8) days annually of their unused paid sick day balance. If the employee does not have six (6) weeks sick day or vacation day balances, unpaid adoption leave may be taken in accordance with Policy IV-8 for Absence and Leaves for Personal Medical, Family Medical and Parenting Reasons Under the Family and Medical Leave Act. Vacation day balance must be used prior to commencing an unpaid adoption leave.  

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1 Policy IV-13 is shown to illustrate the applicable leave policy prior to the implementation of the new Faculty Paid Parental Leave policy.
leave. If both parents work for the university and are "eligible" for adoption leave, their combined paid time off may not exceed the six (6) weeks adoption leave plus eight (8) days parenting leave.

Eligibility and conditions for paid adoption leave will be those defined within Policy IV-8 for Absence and Leaves for Personal Medical, Family Medical and Parenting Reasons Under the Family and Medical Leave Act except that up to six (6) weeks of adoption leave may be paid, depending on availability of employee unused sick day and vacation day balances.

Other Leaves of Absence (Faculty Handbook – Summer 2006, Chapter 3, Part One, Section I.B.2)
Leaves shall be granted for maternity purposes, to those called to the armed forces, active or reserve, or to alternative services as a conscientious objector, and to those who volunteer for military service in a time of national crisis. Maternity leave shall not exceed three months. A faculty member requesting maternity leave must submit a physician's confirmation of the expected date of delivery and the date the physician recommends that she cease working. Full information about the University's medical leave/maternity leave policy is contained in the personnel policy manual.

Teaching and Workload Release² (Faculty Handbook – Summer 2006, Chapter 3, Part One, Section I.E)
The University wishes to provide eligible faculty members with a period of time in which to adjust to the demands of parenting newly born or adopted children under the age of six. A faculty member who is the primary care-giving parent and whose duties as a faculty member include teaching and service duties shall be granted a workload release from teaching and service duties for one academic semester following each live birth or each adoption of a child under the age of six.

² Introductory paragraph is shown for illustrative purposes. Full details of the Teaching and Workload Release (i.e., subsections 1 through 12) are available in the Faculty Handbook – Summer 2006.
Faculty Senate Meeting
Tuesday, January 19, 2009
3:30-5:30 p.m. – Adelbert Hall, Toepfer Room

AGENDA

3:30pm Approval of Minutes from the December 21, 2009 Faculty Senate meeting, attachment  C. Musil

3:35pm President’s Announcements  B. Snyder

3:40pm Provost’s Announcements  B. Baeslack

3:45pm Chair’s Announcements  C. Musil

3:45pm Report from the Executive Committee  A. Levine

4:05pm Report from Secretary of the Corporation  J. Arden-Ornt

4:10pm Report on Faculty Senate Budget Priorities  B. Baeslack

4:20pm Report on Funding for Strategic Alliance Proposals  R. Miller

4:35pm Edits to Handbook on Grievance Process  B. Leatherberry

4:55pm Update on New Conciliation/Mediation Program  W. Gingerich

New Business