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FACULTY GOVERNANCE RIGHTS: CLARIFYING COMMON QUESTIONS

What Are the Rights of Non-Tenure-Track Faculty and Faculty Outside the AAUP Bargaining Unit?

Over the past 10 years, there has been an expansion campus-wide in the use of off-tenure-track faculty titles (field service, clinical, research, adjunct) at UC. This trend, along with separation of most College of Medicine clinicians from the AAUP-UC bargaining unit, has resulted in a significant increase over the past few years in inquiries about the governance rights of faculty members with various titles. We'd like to review these questions with respect to the AAUP-UC contract and national AAUP policies in hopes of clarifying these issues.

Governance Rights of Faculty in the AAUP Bargaining Unit

Faculty Members' primary governance rights are described in Article 27 of the Agreement, but governance rights are also found in Articles 6 (Appointment), 7 (RPT), 24 (Faculty and Librarian Development), 31 (Academic Unit Heads), and others. Much of Article 27 is based directly on the National AAUP policy document, *Statement on Government of Colleges and Universities*.

The AAUP Chapter office has received questions with increasing frequency, however, about how these rights apply to off-tenure-track Faculty Members, both full-time (field service, clinical, research titles) and part-time (adjunct title). In other words, do governance rights of bargaining unit members vary depending on their faculty titles?

In a nutshell, the contract does not differentiate by rank or title the governance rights of faculty members who are part of the AAUP bargaining unit (i.e., those to whom the AAUP-UC collective bargaining agreement applies). The only provisions of the collective bargaining agreement that distinguish certain off-tenure-track faculty from those who are tenured or tenure-track are: (1) adjunct faculty members may not serve on RPT committees; and (2) adjunct faculty members are not eligible for academic leave because eligibility for such leave is based on full-time service to the University. Other than these, there are no differences among bargaining unit members with regard to contractual protections and rights, including participation in shared governance matters.

It should be noted, however, that while Article 7 of the collective bargaining agreement provides for all bargaining unit members in academic units and colleges to determine democratically how they want to constitute RPT committees, it does not require representation of all categories on the committee itself. Thus, while all Faculty Members must be involved in the decision as to how to constitute the RPT committees, the committees themselves don't necessarily have to reflect the full diversity of the bargaining unit.

For example, the contract does not forbid a department faculty from voting to restrict votes on promotion to full professor to only those in the department who already have the rank of full professor—but, all bargaining unit members (and any others who have been granted voting rights by the department) have the right to participate in the vote enacting that restriction.

It is our opinion that Faculty should only vote to restrict participation by category for reasons that are well-grounded and only after careful consideration of the potentially divisive effects of such restrictions. Mere tradition is not a sufficient reason. The contract, however and as noted above, leaves these decisions (as they should be) in the hands of the voting Faculty in each department and college.

Governance Rights Applying to All UC Faculty

Many of the rights to shared governance are not tied to the collective bargaining agreement. This Chapter was formed in 1942 and, like all AAUP chapters, upholds the shared governance rights of *all* Faculty as defined in various National AAUP documents. This element of the AAUP-UC Chapter was not altered by the UC Faculty’s decision to engage in collective bargaining in 1974.

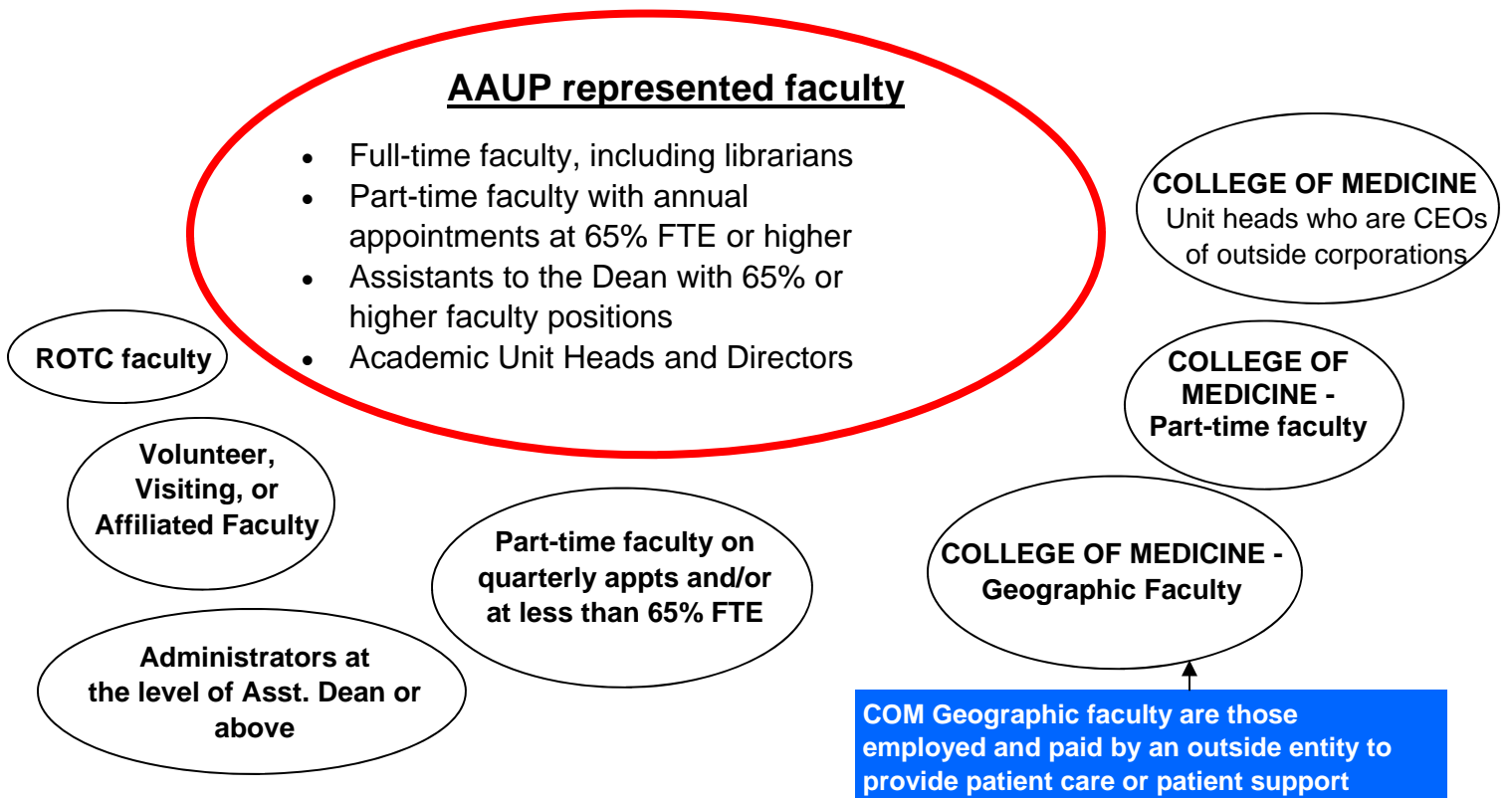
In fact and as noted above, most of the language in Article 27 of the collective bargaining agreement is rooted in the National AAUP standards described in the

Statement on Government of Colleges and Universities.

This document is a National AAUP standard that applies to all college and university faculties, regardless of whether or not they are represented by a collective bargaining agent. The fact that most of those rights apply to all UC faculty members is indicated in the collective bargaining agreement—albeit in a way that may not be immediately obvious to the reader.

The collective bargaining agreement defines the term “Faculty Members” (with capital “F” and capital “M”) as faculty who are members of the AAUP bargaining unit, and some governance rights (e.g., service on RPT committees evaluating other bargaining unit members) are reserved exclusively to “Faculty Members.” But the term “Faculty” means something different: it is defined as “individuals holding faculty titles whether or not they are members of the bargaining unit” (see p. 136 of the contract for definitions of these terms). Many governance rights under the agreement are explicitly described as belonging to all “Faculty,” not “Faculty Members,” because *total* faculty input is necessary for appropriate consideration and action.

Article 27 provides many examples of this. For example, Section 27.2 gives the Faculties of the colleges and other units the power to make



regulations governing various matters including admission of students, courses of instruction to be offered, and grading policy. The same section gives Faculties the right to share significantly in decision-making regarding program development and review, department review, and department and college reorganization. Subsections of Section 27.2 give Faculty the right to provide input (advice) on matters that affect them at the University, college, and academic unit levels. That input may come through individual vote or through service as or election of representatives to committees established by the Faculties at those levels. The Faculty Senate, the main Faculty governance body at the University level, represents the entire Faculty in advising the President and the Vice Presidents.

By definition and use of these terms, the UC and the AAUP-UC Chapter have mutually agreed that those rights under Article 27 (and elsewhere in the contract) that are given to “Faculty” do indeed apply to all UC faculty members. The Board of Trustees Rule No. 50-1-03 parallels parts of Article 27 and applies to all faculty, reiterating this commitment. Thus, most basic governance rights belong to *all* faculty, regardless of whether or not they are represented by the AAUP in collective bargaining.

COM Clinicians: A Case in Point

The question of how shared governance rights apply to various categories of Faculty has been most recently raised in the College of Medicine, where most departments now contain Faculty Members who are represented by the AAUP and Faculty who are not. There has been some confusion as to how committees and other shared governance functions of the faculty can be constituted in such a situation.

As noted above, both the University of Cincinnati Board of Trustees Rule No. 50-1-03 and Article 27.2 of the AAUP-UC contract establish the University of Cincinnati’s commitment to the shared governance rights of all University faculty members, regardless of bargaining unit status. There are a few differences in governance rights, the most significant one for shared governance participation being that only AAUP bargaining unit members may serve on RPT committees evaluating the reappointment, promotion, or tenure dossiers of other AAUP bargaining unit members. In most other situations, a faculty member’s bargaining

unit status is irrelevant and any committee created for shared governance purposes at the college or department level can therefore include both represented and GFT faculty as chosen through established mechanisms for populating such committees.

The Role of the AAUP Chapter in Defending Shared Governance

The role of the Faculty Senate and the AAUP Chapter are functionally different with regard to governance. The Faculty Senate is the highest-level faculty governance body at the university. It engages in shared

governance activities and helps ensure that Faculty have the right to participate. It often considers and makes public resolutions analyzing a situation and advising a particular course of action (e.g., the wisdom of moving to a “single disciplinary department” model).

The AAUP Chapter could make similar advisory statements through a vote of

the Executive Council, a vote at the Chapter membership meeting, or a ballot of the full membership, but historically has rarely done so. It is the role of the Chapter to protect the Faculty’s right to governance input, not generally to give such input itself. On the occasions where it does give such input, it is usually because the Chapter as a body feels there is a threat to the basic AAUP principles of shared governance or academic freedom.

The AAUP Chapter staff does frequently advise and assist individual Faculty Members, or groups of Faculty, at the department and college level who feel their shared governance rights may be impeded. The Chapter’s elected leadership and the membership as a whole may become involved in university-wide initiatives (e.g., collegiate restructuring) to ensure that Faculty have the right to shared input as guaranteed under Article 27.

As collegiate restructuring processes move forward, contractual questions related to shared governance may come to the fore even more frequently. If you have questions, please do not hesitate to contact us.

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