

AN IMPARTIAL, HONEST, EFFECTIVE, and JUST RIGHT OF APPEAL IS ESSENTIAL--Address to the Texas A&M Faculty Senate Meeting to be held on Monday 11 June, 2018.

In his famous 1887 letter to Bishop Mandell Creighton, British politician Lord Acton stated, *“Power tends to corrupt, and absolute power corrupts absolutely”*. This truism explains the need for an effective, fair, transparent, and impartial grievance and appeals mechanism.

It is why the American constitution incorporated the checks and balances on power through the separation between the three branches of US government: The Executive; the Congress; and, the Judiciary—no more ‘divine right of Kings’ and the tyranny it protected and perpetuated—what gave rise to the American Revolution.

But even more fundamental is the code of conduct reflected in our actions and behavior toward others. ***“Do unto others as you would have them do unto you”***, is the biblical golden rule (Luke 6.31). Some adhere to it in practice, others in lip service only, and others not even that.

Of course, there exists an opposite golden rule—*“He who holds the gold, makes the rules”*. The latter has created and explains some of the worst human conduct, practices, and problems we have faced and continue to face in human history. This model was articulated by one of the most senior US elected representatives in his May 2017 commencement address to the US Naval Academy, *“Follow the chain of command without exception.... Submit yourselves, as the saying goes, to the authorities that have been placed above you.”* Imagine if this had been the guiding principle of the US founding fathers. Forget what is moral, what is ethical, what is right, what is just, and just do as you are told by *“the authorities that have been placed above you.”*

At Texas A&M University, through our AGGIE Code we seek to **encourage and inspire** our students, colleagues, and alumni, not to intimidate, subjugate, manipulate, and exploit them. Recognition and respect of human dignity and inclusivity really matter. There is no ‘us’ and ‘them’—rather we are all us—*“AGGIES are we”*.

1. Our Mission as faculty committed to Texas A&M University

We strive to achieve an environment at Texas A&M University where everyone’s voice matters and where each of us has an inalienable right to be heard, to vote according to our conscience and reason, and to be afforded the dignity and respect that all deserve regardless of administrative rank or position—not just empty rhetoric, but evidenced in action, culture, and every deed. No one should be forced to live with fear in their hearts.

A fair and just system needs to be protected through checks and balances and not controlled or rigged by the dominant party or tribe in a way that ensures minority points of view are marginalized or targeted for extinction, and diversity, while rhetorically championed, is left to wither in practice. A culture of inclusion and respect was once the byproduct of tertiary education and its tenure system. It delivered bountiful dividends to generations of Americans up to its present day, only to face torturously strong political and administrative climate change.

The example of the 2016 SAP revision relating to Post-tenure review is a case in point where the above principle was needlessly undermined.

“Just over 18 months ago, we as the TAMU Faculty Senate hit rock bottom when we were told mid deliberation/mid meeting that we could discuss all we liked the punitive nature of the draft revision of the “Post Tenure Review SAP” but the fact was, it had already, unbeknown to us, been signed into effect just days before (refer Faculty Senate Meeting 10 October, 2016 at <http://facultysenate.tamu.edu/Faculty-Senate-Meeting-Recordings> [video record of discussion] + <http://rules-saps.tamu.edu/PDFs/12.06.99.Mo.01.pdf> revised 6 October, 2016).

The words of Professor Jordan Peterson in his 2018 book “12 Rules for life—An antidote to chaos”, ring in our ears,

*“A sin of commission occurs when you do something you know to be wrong. **A sin of omission occurs when you let something bad happen when you could do something to stop it**....Someone power-hungry makes a new rule at your workplace. It's unnecessary. It's counterproductive. It's an irritant. **It removes some of the pleasure and meaning from your work**. But you tell yourself it's all right. It's not worth complaining about. Then it happens again. You've already trained yourself to allow such things, by failing to react the first time. You're a little less courageous. Your opponent, unopposed, is a little bit stronger. The institution is a little bit more corrupt. The process of bureaucratic stagnation and oppression is underway, and you've contributed, by pretending that it was OK. Why not complain. Why not take a stand? If you do, other people, equally afraid to speak up might come to your defense.”*

These are matters that are fundamental to our collective well-being and productivity as faculty at Texas A&M University. If we are constantly looking over our shoulders to protect our colleagues and our careers, how can we focus on our raison d'être—strengthening Texas A&M University to the benefit of all. As the 2017-18 Speaker of the Faculty Senate, Angie Hill PRICE worked hard to champion shared governance at Texas A&M University—its success is vital to meeting the challenge facing Higher Education in the USA as articulated by President Michael Young in his September, 2017 address to the Texas A&M Faculty Senate.

2. The Jurisdiction of the Texas A&M University Grievance Committee (UGC)

The UGC is a deliberative body responsible for making recommendations on only the following two matters:

- A. Under TAMU Standard Administrative Procedure 12.99.99Mo.01 the UGC considers whether or not to investigate, report and recommend to the Provost through the Dean of Faculties on those grievances brought by a faculty member,

“concerning a matter **not** covered by the procedures described in the University's Statement on Academic Freedom, Responsibility, Tenure and Promotion (12.01.99.M2), Investigation and Resolution of Complaints Against Faculty Members for Illegal Discrimination, Sexual Harassment, or Related Retaliation Charges (08.01.01.M1.02)”, where said grievances have not or could not be satisfactorily resolved at the College or Departmental level. Where the UGC decides there is sufficient merit to hear the grievance, the UGC Chair forms a UGC Hearing Sub-Committee to investigate, report and recommend on the grievance. The grievant has the obligation to make their case and the right to be heard and represented by legal counsel. The UGC report is submitted through the Dean of Faculties to the Provost for final determination.

- B. Under TAMU Standard Administrative Procedure 08.01.01.M1.02 the UGC is charged with hearing appeals by a respondent against sanctions (short of dismissal) applied by the Dean of Faculties arising from Complaints Against Faculty Members for Illegal Discrimination, Sexual Harassment, or Related Retaliation Charges. Standard Administrative Procedure 08.01.01.M1.02 explicitly states, “The findings of the UGC will be limited to determining whether or not the sanction(s) imposed is reasonable, not whether or not the findings regarding the complaint was justified.” The UGC is **not** charged with conducting a *de novo* hearing.

3. The members of the UGC are elected by faculty members from each of the Colleges and serve two year terms

Please see Appendix 1 attached for the UGC Directory for the 2018-2019 year commencing on 1 September, 2018. Please note that Professors Elizabeth MARTINEZ (Veterinary Science) and Helmut KATZGRABER (Science) are UGC members until 30 August, 2018, and have provided exemplary service to faculty in the time they have served on the UGC.

4. UGC Code of Conduct and Principles

The UGC at its meeting on Thursday 25 January, 2018 reaffirmed its view that, **“a strong, fair, and just grievance process, procedure, and body is essential to the healthy development of Texas A&M University.**

The UGC reaffirmed as spelt out in its Code of Conduct: “Texas A&M University has committed itself to elevating its ranking as a premier academic institution and hence to the highest standards of governance and probity. The AGGIE honor code is one of our most valued traditions. The [committee] believes that all involved are valued members of the Texas A&M University faculty, who deserve an impartial investigation, report and recommendation on how to best determine this grievance. [Its] preference is to steer grievance[s] in a positive and not adversarial manner, although pursuant to its charge it is required to investigate, report and recommend in relation to the faculty member's Grievance. [Its purpose] is to get all the issues out

in the open and see if all the parties can be helped to a better place – not just for their sake, but also for Texas A&M University. The UGC believes that secrecy is poison when it comes to matters of trust and understanding. To this end all parties will be given the opportunity and encouraged to exchange documentation, evidence, and testimony in this hearing. We will recommend inter alia to the Provost through the UGC committee chair and the Dean of Faculties that our investigation, report, and recommendation/s be made available to all parties to this Grievance.’

‘University communication (including our work on the UGC) is subject to The **Texas Public Information Act** which was originally known as the Texas Open Records Act.

All matters dealt with by the committee must be kept strictly confidential to Committee members. Treat everyone in the grievance process in the same manner as you would have them treat you.

As committee members we must all be scrupulously transparent with each other in dealing with University Grievance Committee matters. Communication should not be limited or selective to or between committee members. Everyone's voice matters on the UGC and each University Grievance Committee member's contribution is both essential and valued.

Each University Grievance Committee member has an inalienable right to be heard and to vote according to their conscience and reason.

As each of us has been elected to University Grievance Committee by tenured faculty in our respective Colleges, our membership of this Committee and our identities are a matter of public record, as it should be in any effective and just grievance resolution system.”

Please see minutes of the UGC meeting held on Thursday 25 January, 2018 in Appendix 2 hereof for the Committee’s suggestions on how to improve the draft SAP Revisions as proposed by the Dean of Faculties for TAMU Standard Administrative Procedure 12.99.99Mo.01

Finally, the UGC in determining TAMU Standard Administrative Procedure 08.01.01.M1.02 appeals, the Committee formed the unanimous view that, **any and all faculty members, no matter their rank or administrative position, have a responsibility to never use their position of authority and power over another for inappropriate actions and purposes and to always treat everyone with respect and dignity.**

Further the UGC has expressed our concern with, “the on-going potential to weaponize SAPS, rules, etc., to target individuals. All elements of each specific case must be given fair and complete consideration and complaints fully investigated so that everyone is dealt with fairly...to determine both the facts and motivation of the various parties.”

5. QUESTIONS

I will be happy to answer any questions you may have of me other than those that relate to particular cases consistent with our explicit and promulgated UGC Code of Conduct which as I explained above, inter alia provides, “All matters dealt with by the committee

must be kept strictly confidential to Committee members. Treat everyone in the grievance process in the same manner as you would have them treat you.” The biblical golden rule (Luke 6.31).

Gig'em,

Geoffrey J. BOOTH
Chair, Texas A&M University Grievance Committee

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Thursday 31 May, 2018.

APPENDIX 1

ELECTED MEMBERS

(Tenured faculty listed in alphabetical order by last name)



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Information on this committee can be obtained from the Office of the Dean of Faculties and Associate Provost (see contact details below).

Dean of Faculties Office

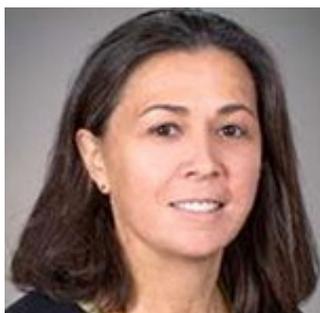


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APPENDIX 2

**Minutes of Meeting of the University Grievance Committee (UGC)
commenced at 10.00am on Thursday January 25, 2018 in 108R, the Dean of
Faculties Office Conference Room, located on Floor 1 of the YMCA Building.**

In attendance:

ALVARADO, Jorge
ATHREYA, Sheela (via webex)
BALOG, Robert (via webex)
BOOTH, Geoffrey (chair)
CARRILLO, Genny (via phone)
DORMIRE, Sharon
FITZGERALD, Lee
LARA-ALECIO, Rafael
NORRIS, William
PUTTAIAH, Raghu
RAGAVAN, Srividhya (via webex)
RYAN, James
SPARKS, David
ZARDKOOHI, Asghar

MURPHY, Maria
ROJO DEL BUSTO, Mario
AUGUST, John
LUPIANI, Blanca

Apologies:

KATZGRABER, Helmut
LU, Dai
MARTINEZ, Elizabeth
Van DUINKERKEN, Wyoma

Purpose of Meeting:

The purpose of the meeting was to: deliberate and discuss the proposed revised draft Standard Administrative Procedure (SAP) 12.99.99.MO.01; provide the opportunity for all UGC members to meet and discuss matters with the Dean of Faculties and his team; and, any other business members wished to raise and discuss. A catered lunch was provided by the Dean of Faculties and was sincerely appreciated by all present.

Record of Meeting

The chair opened the meeting at 10.00am welcoming members and confirming with all members that they had received and had carefully considered the documentation in relation to matters to be discussed, deliberated, and determined at today's UGC meeting.

Confirmation of Record of Meeting

The record of the UGC meeting held on 6 December, 2018 was discussed and adopted without amendment. The Dean of Faculties, Dr. John August thanked all members of the committee for both serving on the UGC and for their careful and principled deliberation of the matters determined at the 6 December, 2018 meeting. The chair brought his email response to the Dean of Faculties dated Thursday, January 11, 2018 at 7:56 AM entitled, “Clarification from the University Grievance Council determination of the **(case name redacted)** appeal of sanctions” and its attachments (previously copied to all UGC members) to the attention of the committee and invited any response or comments from UGC members thereon. The UGC endorsed the chair’s email. A full and frank discussion of the appropriate standards of conduct involving faculty and students then ensued including that of the sanctions appropriate where these standards of conduct were found to have been breached.

Committee Discussion, Deliberation, and Determination:

1. Indemnity of UGC members

The chair was asked the status of advice from the Dean of Faculties concerning individual member liability and indemnity in serving on the UGC. The Chief of Staff and Associate Dean of Faculties, Mario Del Busto confirmed that members would **not** be individually liable and would be indemnified in serving on the UGC providing they exercised their obligations and duties in good faith. Mario undertook to get this advice in writing from the TAMU Office of General Counsel and circulate to all members of the UGC.

2. V2 Amendments to SAP 12.99.99.Mo.01 (herein after referred to as ‘the SAP’)

This document had been circulated prior to the UGC meeting on held on 6 December, 2018, but its consideration had to be deferred due to insufficient time at that meeting to discuss and provide a considered response to the proposed amendments. The chair invited each member present, in turn, to comment on each of the amendments proposed. UGC members noted the content of the document prepared by Sri Ragavan (please note the specific comments contained therein which are designed to improve the clarity and precision of the wording of the SAP) and the chair’s notes for discussion, copies of which had been circulated to all committee members and the Dean of Faculties personnel prior to the meeting.

The chair explained that the Committee was not and should not assume responsibility for the legal drafting of the SAP and that the UGC’s focus should be on considering and articulating the principles, policy and procedures that underpinned it to ensure the SAP resulted in a complete, fair, unbiased, just, thorough, and reasonable University Grievance regime that respected the interests of all parties and thereby elevated Texas A&M University, and all who form a part of our University community.

A thorough discussion ensued resulting in the following UGC determinations concerning the following elements of the SAP:

a. A strong, fair, and just grievance process, procedure, and body is essential to the healthy development of Texas A&M University.

The UGC reaffirmed as spelt out in its Code of Conduct: “Texas A&M University has committed itself to elevating its ranking as a premier academic institution and hence to the highest standards of governance and probity. The AGGIE honor code is one of our most valued traditions. The [committee] believes that all involved are valued members of the Texas A&M University faculty, who deserve an impartial investigation, report and recommendation on how to best determine this grievance. [Its] preference is to steer grievance[s] in a positive and not adversarial manner, although pursuant to its charge it is required to investigate, report and recommend in relation to the faculty member's Grievance. [Its purpose] is to get all the issues out in the open and see if all the parties can be helped to a better place – not just for their sake, but also for Texas A&M University. The UGC believes that secrecy is poison when it comes to matters of trust and understanding. To this end all parties will be given the opportunity and encouraged to exchange documentation, evidence, and testimony in this hearing. We will recommend inter alia to the Provost through the UGC committee chair and the Dean of Faculties that our investigation, report, and recommendation/s be made available to all parties to this Grievance.”

“University communication (including our work on the UGC) is subject to The **Texas Public Information Act** which was originally known as the Texas Open Records Act.

All matters dealt with by the committee must be kept strictly confidential to Committee members. Treat everyone in the grievance process in the same manner as you would have them treat you.

As committee members we must all be scrupulously transparent with each other in dealing with University Grievance Committee matters. Communication should not be limited or selective to or between committee members. Everyone's voice matters on the UGC and each University Grievance Committee member's contribution is both essential and valued.

Each University Grievance Committee member has an inalienable right to be heard and to vote according to their conscience and reason.

As each of us has been elected to University Grievance Committee by tenured faculty in our respective Colleges, our membership of this Committee and our identities are a matter of public record, as it should be in any effective and just grievance resolution system.”

“1. INITIAL INFORMAL RESOLUTION EFFORT”

b. Mediation first wherever possible

(i) Changing terms of description

The UGC pursuant to the foregoing concluded that **if** renaming ‘grievances’ as ‘complaints’ and ‘hearings’ as ‘appeals’ (throughout the SAP) would promote mediation and thereby minimize conflict and alienation then this proposed change to the SAP would be beneficial.

(ii) Personal conference and mediation decisions

The Dean should not possess the unilateral power as proposed in the SAP revision to ‘forego’ personal conferences and/or referral mediation, without the written consent of all grievant/s. The reasons for both parties choosing to forego personal conferences and/or referral mediation should be in writing and be a matter of record.

c. College grievance processes, procedures, and bodies should be of the same ethics, probity, and transparency standard across all Colleges as that of the high standard set by the Texas A&M University Grievance Committee (UGC)

(i) Uniform minimum standard for College Grievance processes, procedures, and bodies

All faculty irrespective of whether they are the grievant or the subject of a grievance deserve to be dealt with in a fair and just manner irrespective of the College in which they serve. A uniform minimum standard consistent with that set by the Texas A&M University Grievance Committee should apply to all College grievance processes, procedures, and bodies rather than being the subject of different standards set as part of individual College Grievance Policies. The UGC Code of Conduct should apply across the University at all levels of the grievance process.

(ii) Constitution and composition of College Grievance Committees

The SAP should specify that appointment of a grievance committee at the College level should include one nominee of the Dean, one nominee of the grievant/s, and a chair appointed by the Dean of Faculties who will be, barring unforeseen circumstances, an elected member from that College serving on the Texas A&M University Grievance Committee. This would promote, and as far as possible ensure a fair and consistent approach to investigation, report, and recommendation of the grievance free of the bias that has been evident in some cases where the Dean appoints all members of the College committee. It is noted that the existing provisions of the SAP prevent any elected representative from the respective College serving on a UGC committee hearing any grievance that relates to their College, thereby mitigating any bias, or appearance of bias in

circumstances where the College level grievance is subsequently brought to the UGC.

(iii) Grievances against the Dean

Where the grievance is against the Dean of a College that grievance should automatically be referred to the Texas A&M University Grievance Committee, for determination as to whether or not it should be heard, and where considered appropriate to be heard, then investigation, report, and recommendation pursuant to the SAP.

“2. SUBMISSION OF A FORMAL WRITTEN GRIEVANCE”

The UGC endorsed Sri Ragavan’s note which pointed out that the reference to Section ‘8’ was a typo and should be Section ‘9’ with respect to “Grievances related to salary...”

The UGC agreed that letters of complaint/grievances “must describe in detail the nature of the grievance and state against whom the complaint is directed”.

d. Emphasis on complete, fair, impartial, just, reasonable and thorough investigation, report, and recommendation of all written complaints/grievances at all levels within the University

(i) Time limits with respect to committee

Where any committee at any level in the University is charged with investigating, reporting, and recommending on written complaints/grievances it must be given adequate time to do so. Ten (10) working days is likely to be too short a period for anything other than a perfunctory investigation—any time limits should be subject to reasonable extension—just as has been the consistent practice with the UGC and its hearing subcommittees—and require a complete written report made available immediately upon completion to all parties (including all parties to the complaint/grievance).

(ii) Committee’s charge and obligation

Where any committee at any level in the University is charged with investigating, reporting, and recommending on written complaints/grievances it must be given the explicit charge and obligation to complete a fair, impartial, just, and thorough investigation, report, and recommendation on the matters which have been referred to it. A complete written report must be produced and upon completion be made available immediately upon completion to all parties (including all parties to the complaint/grievance).

“3. PETITIONING THE UNIVERSITY GRIEVANCE COMMITTEE”

e. The current right enjoyed by faculty to petition the University Grievance Committee should be preserved

(i) Time limits on lodgment and the nature of complaints/grievances

The proposal that all complaints/grievances must be lodged with the Dean of Faculties, ‘by the complainant within thirty (30) business days from the date the grievance arose or it may be deemed untimely filed and dismissed’, is considered a time period that is so short and is likely to encourage rash action which with more time could be avoided – particularly as it is from “the date the grievance arose”—which time period includes the time period taken by the College level grievance process. The question also arises whether we continue to perform the current role of University Grievance Committee or merely hear appeals from College committees apart from those matters involving the Dean or other grievances that are inappropriate to be heard at the college level. The UGC believes these proposed changes to be too restrictive and are not supported.

(ii) Ability for Dean of Faculties to extend Committee time limits to facilitate completion of their charge and obligations

As is current practice the Dean of Faculties should in no way be constrained from extending the time limits specified in the SAP to facilitate the proper fulfilment of the committee’s charge and obligations.

“7. COMPOSITION OF THE UGC”

f. Matching the workload of the UGC to those serving on the committee and ensuring continuity of knowledge and best practice

(i) Term and election of UGC members

The SAP requires three (3) tenured faculty representatives be elected from each College for a three year term, every **two** years. To ensure continuity, what is required is that all current UGC members be deemed elected for a three year term commencing August 2017 through to August 2020, and that in August 2018 an additional representative be elected from each College for a three year term, and then in August 2019 a third representative from each college be elected for a three year term—thereafter elections for one representative from each college would be held for those whose term was expiring that year.

It was noted that for smaller colleges it may prove difficult to have three (3) faculty members serve on the UGC due to available faculty willing and able to serve. Clearly this needs to be monitored over the initial years of the SAP’s implementation.

“8. CODE OF CONDUCT OF THE UGC”

Please see (a) above.

The discussion was adjourned midway through the meeting for 20 minutes for the lunch provided by the Dean of Faculties.

Close of Meeting:

The chair thanked all committee members for their careful deliberation and participation in the work of the University Grievance Committee, and there being no further items, closed the meeting at 2.00pm.

Note: James Ryan asked that meetings be held later in the day as he travels up from Galveston. Robert Balog pointed out that holding meetings later in the day in Texas made it around midnight and the early hours of the morning in Qatar.

Geoffrey J. BOOTH

Chair, University Grievance Committee
Texas A&M University