

November 27, 2013

TO ALL MEMBERS OF THE FACULTY SENATE:

The Faculty Senate will meet on Monday, December 2, 2013, at 3:00 PM  
in the **College of Law, Room 164.**

PLEASE NOTE: The meeting will begin at 3:00 PM, and we will make every effort to  
conclude by 5:00 PM.

Bobbi McKean, Secretary of the Faculty

# **Proposal to Create Undergraduate Certificates**

## **Justification**

The higher education environment is rapidly changing, driven by globalization, ubiquitous communication, disciplinary collaboration, economic stress and notable shifts in the needs and demands of students. In addition, the rapid pace of innovation in the knowledge economy demands that individuals consistently refine and expand their knowledge and skill sets. Creating strongly relevant but academically rigorous undergraduate certificates presents an opportunity to respond to the evolving environmental conditions in higher education and concurrent shifts in student needs.

## **Definition and Guidelines**

An undergraduate certificate is a programmatic or topically-linked series of courses, either from a single field or across disciplinary boundaries. The certificate provides a focused, structured and deeply interrelated set of courses that can be used to enhance the undergraduate experience in areas of deep disciplinary, interdisciplinary, regional or global interest, or which may be targeted toward a defined professional development need. The following guidelines will provide structure to the undergraduate certificate model:

1. Certificates will be offered to degree seeking and non-degree seeking undergraduate students.
2. Students who have not been admitted to a degree program are required to apply for admission to an undergraduate certificate and pay an application fee. Students who have been admitted to an undergraduate degree program may add a certificate prior to completing their degree requirements by contacting the offering unit and satisfying the admission requirements for the desired certificate.
3. Applicants for certificates must meet Undergraduate Admissions requirements and must have no less than a high school diploma, GED or the equivalent. The department offering the certificate may set additional or more stringent admission criteria.
4. The total number of units required for an undergraduate certificate may vary by academic discipline, but must require a minimum of nine (9) units of credit.
5. At least six (6) units of credit must be upper division units of UA course work.
6. All University policies apply, including academic, grading, admission, retention, contact hours, and faculty eligibility to teach.
7. Offering units may determine whether course work taken to complete the certificate may also be applied to a degree program. There is no University maximum on the number of units completed for a certificate that may also apply toward a degree program.

8. Offering units may determine whether course work taken at another institution may be applied to a certificate.
9. Maximum duplicate units from a previously awarded degree program applicable to a certificate shall be no more than six (6) units.
10. Course work taken more than four (4) years prior to admission to a certificate may not be applied.
11. Time to complete the certificate shall not exceed four (4) years. The clock begins with the date of the earliest course work used for the certificate.
12. Certificates may be structured as either discipline-specific or cross-disciplinary. Academic units applying for certificates must consult with and/or obtain support from related programs and departments to insure availability of courses required for the certificate, but offered by another department, and to avoid unnecessary duplication of content.
13. Subplans/options may not be offered under an approved certificate.
14. Certificates may be stand-alone or linked to an existing degree program.
15. Certificates may be offered by an academic unit that does not currently offer a related degree program.
16. Non-academic units may create certificates that are sponsored by an academic unit that undergoes an academic program review.
17. Certificates should enhance existing programs, not take the place of them. Sufficient resources must exist to support the certificate without penalizing existing academic programs including subplans/options and minors.
18. Officially approved certificates will be posted to UA transcripts. The sponsoring unit may provide a paper certificate document if desired; it must not resemble a UA diploma in any way.

### **Demand and Needs Assessment**

Undergraduate certificates will create an additional path to a UA educational experience that is less costly to students in terms of financial expense and opportunity cost (time). It will also increase access to the UA by enhancing the student pipeline into formal UA undergraduate degree programs, particularly in the case of transfer and international students.

Since international undergraduate students currently can only receive a visa if they are admitted to and pursuing a “recognized course of study” or participating in a formal exchange, the certificate model will allow UA to reach international students for short-term studies in Tucson.

This may include developing an Arizona Winter School, helping cement UA as a global destination for talented students and creating new revenue opportunities for UA departments.

## **Management**

- A request to implement a new certificate must be approved by the Undergraduate Council prior to marketing and/or announcing a new certificate. Members of the College Academic Administrators Council will receive notification of a request for a new undergraduate certificate prior to final approval of the certificate.
- Completion of a certificate will be verified by the academic unit/college and the Registrar's Office.
- Certificates must be included in the academic program review process.
- Certificates may be terminated at any time by the offering academic unit. Offering units must notify Curricular Affairs prior to terminating a certificate so updates can be made to systems and publications. Students currently enrolled in the certificate should be accommodated until completion of their certificate program.
- Academic units may petition for an exception to these guidelines by submitting a request and justification to the Undergraduate Council.

## **Approvals**

Undergraduate Council	10/20/2013
Provost's Council	10/21/2013
Faculty Senate Executive Committee	10/21/2013
College Academic Administrators' Council	11/19/2013
Faculty Senate	

# The University of Arizona

## REQUESTS FOR IMPLEMENTATION AUTHORIZATION FOR NEW ACADEMIC DEGREE PROGRAM - UNIQUE

### I. PROGRAM NAME AND DESCRIPTION AND CIP CODE

#### A. DEGREE(S), DEPARTMENT AND COLLEGE AND CIP CODE

**Degree:** Masters of Professional Studies in Indigenous Governance

**Department:** Law

**College:** Law

**CIP Code:** 22.0299

#### B. PURPOSE AND NATURE OF PROGRAM

The MPS in Indigenous Governance would broaden the potential pool of students who are eligible to enroll in Indian and Indigenous law courses offered at the James E. Rogers College of Law. The College of Law is the preeminent law school in the United States for the study of Indian and Indigenous Peoples law. It is the only law school offering all three law degrees (JD, LL.M, and SJD) with a specialization in that field. Those programs have been tremendously successful, due in large measure to two primary factors: (1) the national and international reputation of the faculty, and (2) the program's experiential learning component, which teaches students how to apply classroom learning to real life situations. More than 50% of the graduates earning the LL.M and SJD degrees enter public service (as opposed to 10% of law graduates in general), and 96% of the program's graduates are employed. Those graduates can be found on six continents, working for tribal, state, and federal governments, in private practice, and at universities teaching the next generation of lawyers and leaders.

The IPLP Program partners regularly partners with two other units at The University of Arizona, the Native Peoples Technical Assistance Office (NPTAO) and the Native Nations Institute (NNI), both of which are part of the Office of Vice President for Research. The partnerships between the units are designed in large part to provide professional education programs to those who work with and for tribal governments. All three programs (IPLP, NPTAO, and NNI) receive frequent inquiries from prospective students interested in a master's degree for non-lawyers. This proposal responds to those inquiries by creating an MPS in Indigenous Governance to complement the LL.M in Indigenous Peoples Law & Policy already offered. It draws on existing courses, faculty, and administrative resources. It would not require the hiring of any additional staff or faculty, and the expenses directly attributable to the program would be limited to marketing and advertising costs.

- C. PROGRAM REQUIREMENTS** -- List the program requirements, including minimum number of credit hours, required courses, and any special requirements, including theses, internships, etc.

To earn the MPS in Indigenous Governance, students would be required to complete a minimum of 26 credit hours. The following classes, all of which are currently already approved, would be required:

Introduction to U.S. Law (2 credits)  
 Legal Research (2 credits)  
 Federal Indian Law (3 credits)  
 Law, Policy, and Economics of Contemporary Tribal Government (1 credit)  
 Comparative Indigenous Governance (1 credit)  
 Experiential learning (clinic or internship) (3-4 credits)  
 Thesis (3-4 credits)

- D. CURRENT COURSES AND EXISTING PROGRAMS** -- List current course and existing university programs which will give strengths to the proposed program

The list of recommended electives, some of which are cross-listed with American Indian Studies, demonstrates the strength of the College of Law's course offerings:

LAW 525 Native Economic Development  
 LAW 527 International Human Rights and Indigenous Peoples  
 LAW 537A Nation Building I  
 LAW 631B Tribal Courts & Tribal Law  
 LAW 631E Gaming and Gambling  
 LAW 631F Who Owns Native Culture?  
 LAW 631G Jurisdiction in Indian Country  
 LAW 631H Critical Race Theory  
 LAW 643D Native American Natural Resources  
 LAW 656G Comparative Law on Indigenous Peoples  
 LAW 659 International Human Rights  
 LAW 696N §2 International Human Rights Advocacy Workshop  
 LAW 696Z Criminal Justice Policy Seminar  
 LAW 697B Globalization and Transformation of Culture  
 LAW 699 Independent Study (maximum of 3 credits)

- E. NEW COURSES NEEDED** -- List any new courses which must be added to initiate the program; include a catalog description for each of these courses.

Two courses would need to be added to the law school curriculum: Nation Building Research (1 credit) and Native Nations Constitutions (1 credit). These courses are already taught as part of the Continuing Education Certificate.

*Nation Building Research* examines the empirical work that led to and supports the Nation Building principals. Students learn how to critically read and assess articles presenting empirical studies.

*Native Nations Constitutions* explores the concept of a constitution, the various forms it can take, and strategies for drafting, revising, ratifying, and implementing culturally-appropriate constitutions.

Because the MPS will be available either in a traditional or executive education format, four other courses that currently exist as “in person” courses would need to be approved for distance learning: Nation Building I, Federal Indian Law, International Human Rights Advocacy, and the Criminal Justice Policy Seminar. The distance learning portion of the courses already exists as part of the Continuing Education Certificate.

- F. REQUIREMENTS FOR ACCREDITATION** -- Describe the requirements for accreditation if the program will seek to become accredited. Assess the eligibility of the proposed program for accreditation.

The James E. Rogers College of Law is accredited by ABA. The ABA accredits only the JD program. It acquiesces in the offering of post-JD and non-JD degrees. The standard for acquiescence is whether the proposed program will have a detrimental impact of the JD program. The College of Law anticipates it can easily demonstrate that the proposed degree will not have an adverse impact on the JD degree, since no new resources are needed for the MPS and no resources would be diverted from the JD program.

## **II. STUDENT AND PROGRAM LEARNING OUTCOMES AND ASSESSMENT**

- A. What are the intended student outcomes, describing what students should know, understand, and/or be able to do at the conclusion of this program of study?**

Since the MPS is a version of the existing LLM program, the students' outcomes for the MPS are modeled on those established for the LLM:

1. Students will gain knowledge of the basic historical, legal, socio-economic and cultural issues relating to indigenous governance;
2. Students will further the ability to think and communicate critically and creatively about these issues with a view to an increased cross-cultural understanding in the areas of governance;

3. Students will gain familiarity with the contemporary issues affecting indigenous governance;
4. Students will understand and develop ways of making use of contributions from various disciplines in addressing concerns of indigenous peoples including, but not exclusive to, law, business and public administration, economics, public health and sociology;
5. Students will be able to identify and articulate the legal and policy issues facing indigenous peoples;
6. Students will be able to conduct legal and interdisciplinary research relevant to indigenous governance;
7. Students will be able to understand by way of experiential learning the structural and operational aspects of indigenous governmental bodies including the administration of justice, land use and economic development;
8. Students will have the ability to intersect domestic and international laws as they affect indigenous governance;
9. Students will be able to communicate in writing and orally about such issues; and lastly
10. Students will develop solutions to these issues that take into account the differing interests, cultural contexts, and historical relationship for indigenous peoples and other communities both domestically and internationally.

**B. Provide a plan for assessing intended student outcomes.**

The IPLP LLM already has in place a system for assessing student outcomes, and that plan is easily adaptable to apply to the MPA. The assessment consists of three elements: objective rubrics assessing student learning based on the major assignment in each course; faculty evaluations based on the extensive one-on-one contact that is a key component of the IPLP Program, and assessment of student employment.

**C. What are the intended program outcomes, describing what the program is intended to accomplish.**

The program is intended to equip students with the necessary tools to work successfully with and for Indigenous governments in the United States and abroad.

**D. Provide a plan for assessing intended program outcomes.**

The same assessment tools used for assessing intended student outcomes can and will be used to assess intended program outcomes. The only difference is the student assessments measure each student individually, whereas the program outcomes will look at the graduates as a whole.

### III. STATE'S NEED FOR THE PROGRAM

#### A. HOW DOES THIS PROGRAM FULFILL THE NEEDS OF THE STATE OF ARIZONA AND THE REGION?

Over 550 Indian tribes are located in the United States. Of the 333 federally-recognized tribes in the continental U.S., 188 or 56% are located in Arizona and its adjoining states. Twenty-one Indian tribes have reservations within the boundaries of the state of Arizona. Twenty-eight percent of land within Arizona consists of reservation land. A number of the reservations adjoin major population centers in the state such as Tucson, Yuma and Phoenix. Many tribal governments operate business enterprises in addition to running their government. The result is a wide variety of individual who need exposure to law and policy issues and reasoning, but do not need full-fledged law degrees. This program is designed to fill that need.

#### B. IS THERE SUFFICIENT STUDENT DEMAND FOR THE PROGRAM? -- Explain and please answer the following questions.

1. What is the anticipated student enrollment for this program? (Please utilize the following tabular format).

<b>5-YEAR PROJECTED ANNUAL ENROLLMENT</b>					
	1 <sup>st</sup> yr.	2 <sup>nd</sup> yr.	3 <sup>rd</sup> yr.	4 <sup>th</sup> yr.	5 <sup>th</sup> yr.
No. Student Majors	4	8	12	12	12

2. What is the local, regional and national need for this program? Provide evidence of the need for this program. Include an assessment of the employment opportunities for graduates of the program during the next three years.

The need for this program is strong at the local, regional, and national levels. A number of pieces of evidence of support that need, including the fact that other institutions are starting programs in the area; we receive numerous inquiries from around the world as to whether we have such a program; the non-degree continuing education program for non-lawyers that we started turned a profit in its first year; and the fact that more than 90% of IPLP postgraduate students are employed, even in this difficult economic climate.

3. Beginning with the first year in which degrees will be awarded, what is the anticipated number of degrees that will be awarded each year for the first five years? (Please utilize the following tabular format).

<b>PROJECTED DEGREES AWARDED ANNUALLY</b>					
	<b>1<sup>st</sup> Year</b>	<b>2<sup>nd</sup> Year</b>	<b>3<sup>rd</sup> Year</b>	<b>4<sup>th</sup> Year</b>	<b>5<sup>th</sup> Year</b>
<b>No. Degrees</b>	4	8	12	12	12

- IV. APPROPRIATENESS FOR THE UNIVERSITY --** Explain how the proposed program is consistent with the University mission and strategic direction statements of the university and why the university is the most appropriate location within the Arizona University System for the program.

The University of Arizona is the world's leading institution for research and outreach work with Indigenous communities. The proposed MPS program would complement the existing programs and would build upon The University of Arizona's strategic plan to support basic and applied research through interdisciplinary collaboration. The College of Law already holds extensive linkages across departments and into communities and other academic institutions across the globe. The many American Indian communities in this state have presented additional opportunities for students and faculty to collaborate to preserve cultural identities and support economic development. By opening the opportunities to learn from this expertise to non-lawyers, the College of Law will further increase these interdisciplinary linkages, enabling the University to better serve local and state needs.

**V. EXISTING PROGRAMS AT OTHER CAMPUSES**

**A. EXISTING PROGRAMS IN ARIZONA –**

1. For a unique, non-duplicative, program please provide a statement to the effect that there are no existing programs at other Arizona public universities that duplicate the proposed program.

No other University in Arizona offers such a program. Although Arizona State does offer a Masters in Law for non-lawyers, that program is heavily focused on providing a concentrated course of study in law for those who do not wish to pursue the full JD degree. The proposed MPS would merge legal studies with public administration and governance. The proposed MPS depends heavily on the College of Law's experiential learning options and partnership with the Native Nations Institute. None of those elements are duplicated in ASU's MLS program.

2. Other Institutions—If this program is not currently offered at the same academic level by private institutions in the state of Arizona, provide a statement to that effect. If a similar program is currently offered by private institutions, list all programs and indicate whether the institution and the program are accredited. (A list of private institution can be provided by ABOR staff. Please contact Stephanie Jacobson, [stephanie.jacobson@asu.edu](mailto:stephanie.jacobson@asu.edu), (602) 229-2529 for assistance.

No private institutions in the state of Arizona offer such a program. The only potential competitors are The University of Tulsa, which recently launched an online Masters in Jurisprudence in partnership with Kaplan University's Concord Law School; Evergreen State College in Washington, which offers a Masters of Public Administration with a concentration in Tribal Government; and The University of Minnesota-Duluth, which offers a Masters of Tribal Administration and Governance. None of these programs are at the same academic level as the proposed MPS.

## **B. PROGRAMS OFFERED IN OTHER WICHE STATES**

1. Identify *WICHE* institutions that currently offer this program. If appropriate, briefly describe the program(s). (Please utilize the following tabular format).

No WICHE institutions currently offer this program.

## **VI. EXPECTED FACULTY AND RESOURCE REQUIREMENTS**

### **A. FACULTY**

1. Current Faculty -- List the name, rank, highest degree and estimate of the level of involvement of all current faculty who will participate in the program. If the proposed program is at the graduate level, also list the number of master's theses and doctoral dissertations each of these faculty has directed to completion. Attach a brief vita for each faculty member listed.

All the faculty have substantial experience supervising graduate student writing, including directing doctoral dissertations to completion, and collectively that experience adds up to almost two centuries of work, making it virtually impossible to individually list the total graduate papers supervised. The faculty for the program will consist of:

S. James Anaya, JD  
 Regents' Professor and James J. Lenoir Professor of Human Rights Law and Policy  
 The University of Arizona James E. Rogers College of Law

Raymond D. Austin, PhD  
 IPLP Distinguished Jurist in Residence

The University of Arizona James E. Rogers College of Law

Robert A. Hershey, JD  
 Professor of Practice & Director, Indigenous Peoples Law Clinic  
 The University of Arizona James E. Rogers College of Law

James Hopkins, JD, LL.M.  
 IPLP Associate Clinical Professor  
 The University of Arizona James E. Rogers College of Law

Melissa L. Tatum, JD  
 Research Professor of Law & Director, IPLP Program  
 The University of Arizona James E. Rogers College of Law

Robert A. Williams, Jr., JD  
 E. Thomas Sullivan Professor of Law & American Indian Studies  
 The University of Arizona James E. Rogers College of Law

Miriam Jorgensen, PhD, MPP  
 Research Director, Native Nations Institute  
 The University of Arizona

Stephen Cornell, PhD  
 Director, Udall Center for Studies in Public Policy  
 Professor of Sociology and of Public Administration and Policy  
 The University of Arizona

Joseph P. Kalt, PhD  
 Ford Foundation Professor of International Political Economy (Emeritus)  
 John F. Kennedy School of Government, Harvard University  
 Adjunct Professor, The University of Arizona James E. Rogers College of Law

Ronald Lloyd Trosper, PhD.  
 Professor & Department Head, American Indian Studies  
 Graduate Interdisciplinary Degree Program (GIDP)  
 The University of Arizona

2. Additional Faculty -- Describe the additional faculty needed during the next three years for the initiation of the program and list the anticipated schedule for addition of these faculty.

No new faculty will be required.

3. Current FTE Student and Faculty -- Give the present numbers of FTE students and FTE faculty in the department or unit in which the program will be offered.

The proposed degree will be offered by the College of Law, which has a student/ faculty ratio of 11 to 1.

4. Projected FTE Students and Faculty -- Give the proposed numbers of FTE students and FTE faculty for the next three years in the department or unit in which the program will be offered.

The proposed program would enroll an additional 12-15 students per year, which would have no significant impact on the student/ faculty ratio.

### **C. LIBRARY**

1. Current Relevant Holdings -- Describe the current library holdings relevant to the proposed program and assess the adequacy of these holdings.

The College of Law started its Indian law program 26 years ago, its LLM program 11 years ago, and its SJD program 7 years ago. It is currently the only law school offering all three law degrees with a concentration in Indian Indigenous peoples law. The Law Library has invested substantial resources in building a collection to support the research of the IPLP faculty and students. The current holdings are sufficient to also encompass the proposed MPS program, and the current library staff is also sufficient.

2. Additional Acquisitions Needed -- Describe additional library acquisitions needed during the next three years for the successful initiation of the program.

No new acquisitions will be required.

### **D. PHYSICAL FACILITIES AND EQUIPMENT**

1. Existing Physical Facilities -- Assess the adequacy of the existing physical facilities and equipment available to the proposed program. Include special classrooms, laboratories, physical equipment, computer facilities, etc.

The IPLP Program is housed in Rountree Hall, a historic building that forms part of the College of Law. IPLP's space includes: five faculty offices; two staff attorney offices; one office used for the UN Special Rapporteur Support Project; two administrative offices (one for the administrative associate and one for the IT Director); an office for the student association; a graduate student office; a student lounge; a small reading library; and access to one small

classroom, one seminar room, and a conference room. (Other IPLP courses meet in a variety of classrooms in the law building).

2. Additional Facilities Required or Anticipated -- Describe physical facilities and equipment that will be required or are anticipated during the next three years for the proposed program.

The space in Rountree Hall is sufficient to encompass the proposed program, with no changes in the way the rooms are allocated.

#### **E. OTHER SUPPORT**

1. Other Support Now Available -- List support staff, university and non-university assistance.

Carrie Stusse, Administrative Associate  
 Mary Guss, Staff Attorney & Adjunct Professor  
 Leonard Alvarado, Senior Research Fellow & Adjunct Professor  
 Seanna Howard, Staff Attorney & Adjunct Professor  
 MJ Vuinovich, Research Fellow  
 Ariel Mack, 0.25 FTE, Graphic Designer  
 Michael Wagenheim, IT Director

2. Other Support Needed, Next Three Years -- List additional staff needed and other assistance needed for the next three years.

The current staff and support is sufficient; no new staff would be required.

### **VII. FINANCING**

#### **A. SUPPORTING FUNDS FROM OUTSIDE SOURCES – None**

#### **B. NEW ACADEMIC DEGREE PROGRAM BUDGET PROJECTIONS FORM --** Complete the budget form available at <http://www2.nau.edu/ugstudy/UCCForms.htm> describing the current departmental budget and estimating additional costs for the first three years of operation for the proposed program. Please note that these costs for each year are incremental costs, not cumulative costs.

Because the only new expenses would be for marketing and PR, those expenses would be covered even with only one student in the program.

#### **VIII. OTHER RELEVANT INFORMATION –**No additional information to provide.

## Executive Summary

### Request for Authorization to Implement a New Degree Program

<b>Program Name/Degree</b>	Masters of Professional Studies in Indigenous Governance				
<b>Type of Request</b>	new degree				
<b>Requested by</b>	The University of Arizona James E. Rogers College of Law				
<b>CIP Code</b>	22.0299				
<b>Purpose of Program</b>	<p>The MPS in Indigenous Governance would broaden the potential pool of students who are eligible to enroll in Indian and Indigenous law courses offered at the James E. Rogers College of Law. The College of Law is the preeminent law school in the United States for the study of Indian and Indigenous Peoples law. It is the only law school offering all three law degrees (JD, LLM, and SJD) with a specialization in that field. Those programs have been tremendously successful, due in large measure to the national and international reputation of the faculty and the program's experiential learning component, which teaches students how to apply classroom learning to real life situations. More than 50% of the graduates earning the LLM and SJD degrees enter public service (as opposed to 10% of law graduates in general), and 96% of the program's graduates are employed. The IPLP Program partners regularly partners with two other units at The University of Arizona, the Native Peoples Technical Assistance Office (NPTAO) and the Native Nations Institute (NNI), both of which are part of the Office of Vice President for Research. The partnerships between the units are designed in large part to provide professional education programs to those who work with and for tribal governments. All three programs (IPLP, NPTAO, and NNI) receive frequent inquiries from prospective students interested in a master's degree for non-lawyers. This proposal responds to those inquiries by creating an MPS in Indigenous Governance to complement the LLM in Indigenous Peoples Law &amp; Policy already offered.</p>				
<b>Learning Outcomes and Plan for Assessment</b>	Because this program would essentially open the existing LLM program to non-lawyers whose jobs require legal knowledge, the learning outcomes and assessment plans are already in place and those existing standards would be applied to the new degree program.				
<b>Projected Student Demand</b>	<b>5-year projected annual enrollment</b>				
	2013	2014	2015	2016	2017
	4	8	12	12	12
<b>Job Prospects</b>	Very strong, many candidates would be seeking additional training for jobs they already hold; the employment statistics for IPLP graduate students demonstrate the market is strong – more than 90% are employed.				
<b>Sources of Funding</b>	Existing funds – the only new expenses related directly to the program will be advertising and marketing costs.				
<b>Budget Summary Bottom Line</b>	<b>Year 1</b>		<b>Year 2</b>		<b>Year 3</b>
<b>Increments</b>	\$3000		0		0
<b>+ Previous Year</b>	0		\$3000		\$3000
<b>Total Yearly Budget</b>	\$3000		\$3000		\$3000

**Faculty Senate Consent Item**

**Request for Authorization to Implement a New Degree Program**

<b>Program Name &amp; Degree</b>	Master of Professional Studies in Indigenous Governance				
<b>Requested by</b>	College of Law				
<b>CIP Code</b>	22.0299 – Legal Research and Advanced Professional Studies, Other				
<b>Purpose of Program</b>	<p>The MPS in Indigenous Governance would broaden the potential pool of students who are eligible to enroll in Indian and Indigenous law courses offered at the James E. Rogers College of Law. The College of Law is the preeminent law school in the United States for the study of Indian and Indigenous Peoples law. It is the only law school offering all three law degrees (JD, LL.M, and SJD) with a specialization in that field. Those programs have been tremendously successful, due in large measure to the national and international reputation of the faculty and the program’s experiential learning component, which teaches students how to apply classroom learning to real life situations. More than 50% of the graduates earning the LL.M and SJD degrees enter public service (as opposed to 10% of law graduates in general), and 96% of the program’s graduates are employed. The IPLP Program partners regularly partners with two other units at The University of Arizona, the Native Peoples Technical Assistance Office (NPTAO) and the Native Nations Institute (NNI), both of which are part of the Office of Vice President for Research. The partnerships between the units are designed in large part to provide professional education programs to those who work with and for tribal governments. All three programs (IPLP, NPTAO, and NNI) receive frequent inquiries from prospective students interested in a master’s degree for non-lawyers. This proposal responds to those inquiries by creating an MPS in Indigenous Governance to complement the LL.M in Indigenous Peoples Law &amp; Policy already offered.</p>				
<b>Projected Student Demand</b>	<b>5-year projected annual enrollment</b>				
	1 <sup>st</sup> year	2 <sup>nd</sup> year	3 <sup>rd</sup> year	4 <sup>th</sup> year	5 <sup>th</sup> year
	4	8	12	12	12
<b>Source(s) of Funding</b>	The program draws on existing courses, faculty, and administrative resources. It would not require the hiring of any additional staff or faculty, and the expenses directly attributable to the program would be limited to marketing and advertising costs.				

**Approvals:**

ABOR	5/16/2013
Undergraduate Council	N/A
Graduate Council	10/18/2013
CAAC	
Provost’s Council	
Faculty Senate	

# GUIDELINES FOR REORGANIZATIONS AND MERGERS OF ACADEMIC UNITS AT THE UNIVERSITY OF ARIZONA

## Principles

The environment in which the University of Arizona functions is highly dynamic. Shifts in economics, politics, technology, and demographics create opportunities we must take advantage of and challenges that we must meet. In order to survive and thrive in a highly dynamic environment, we must collaborate, bringing our collective intelligence to bear on the best courses of action in changing circumstances.

Senior academic administrators have a responsibility to monitor these changes and, when appropriate, to propose changes in the structure of academic units which will allow them to prosper under new circumstances. Shared governance leadership has a corresponding responsibility to participate constructively in managing these transitions in ways that bring faculty perspectives and expertise into the decision making process while also protecting faculty rights and privileges.

These guidelines focus on the role of faculty in influencing decisions about reorganizations and mergers, but every benefits-eligible university employee who would be affected by the proposal has the right to be informed as early as possible when strategic planners are giving serious consideration to merging, reorganizing, or making significant changes to the mission of their college, department, school, or center; to be able to provide feedback on those ideas; and to know that their feedback will be taken seriously.

For those – administrators or faculty – who believe a reorganization or merger of one or more academic units has sufficient merit to warrant broader discussion:

- **Be transparent:** Provide a clear case for change, based on the strategic vision of the University and the affected units. Avoid even the appearance of “solutions in search of a problem.” What demonstrable benefits would the proposed change bring the University? What problems would the proposed change solve? If the proposed benefits are financial, be specific about the savings or efficiencies you anticipate would result from the change.
- **Share information:** What are the drivers (financial, academic, political, etc.) for the proposed change? What are the advantages (economic, synergistic, etc.) of the proposed change? What are the disadvantages of retaining the status quo? What is your timetable for making a final decision? What external deadlines, if any, affect the timing of the decision? What other options have been considered thus far?
- **Engage in consultation:** With whom have you consulted with so far? How do you plan to involve shared governance groups at the university, college, and/or departmental level? What are the plans for soliciting and assessing feedback from affected groups and individuals?
- **Insure tenure/continuing status protections:** As a matter of principle, promotion and tenure/continuing status criteria should not be changed as a byproduct of a merger or reorganization. Have you considered the impact of your proposal might affect the

promotion and tenure (or continuing status) criteria or process for faculty in affected units? How would the proposed changes affect Service Professionals and Academic Professionals on year-to-year appointment? How would reporting relationships change? Be frank about the impact of the proposed change on job security for every category of employee.

- Avoid summer decisions: Avoid initiating major academic mergers or reorganizations over the summer or winter break. Do not proceed past the idea stage without shared governance representation in the process.

For faculty and other personnel in the affected units:

- Participate. Engage early and often. Be civil. Understand that, whether you ultimately agree with the proposal or not, its makers have acted in good faith.
- Make an effort to understand both the pros and cons of the proposed action.
- Make an effort to understand both the pros and cons of NOT undertaking the proposed action.
- Are there additional options or approaches that merit consideration? What are they? What problems with the original proposal for change would they solve?
- Be willing to serve as a shared governance representative on a committee to explore issues and plan changes.

**Definitions:** These guidelines apply to proposals which would transfer groups of faculty members from one academic unit to another as a part of a reorganization or merger of units.

- Reorganization means changing the administrative structure of the university such that:
  - A new college is created from all or parts of existing departments; or
  - An existing department is transferred from one college to another.
- Merger means combining existing departments or colleges into a new unit.

**Disclaimer:** These guidelines do **NOT** apply to:

- The voluntary movement of individual faculty members from one department or college to another;
- Reorganizations or mergers within a department, or within a single department college;
- *Reorganization proposals that would involve the release of general faculty prior to the end of an appointment period. The procedure for reorganizations that involve the release of general faculty prior to the end of an appointment period is governed by ABOR policy 6-201K, "Release of Faculty for Reorganization Caused by Budgetary Reasons or Programmatic Changes," and ABOR Policy 6-301J, "Release of Professional Employees and Continuing Eligible Professionals."* [italicized language taken verbatim from current policy]

## Process

1. Shared governance representation in planning: As soon as consideration of an academic reorganization or a merger moves beyond mere speculation, proposers will work with the senior academic administrator (e.g., provost, dean) of the affected unit(s) to put together a planning committee consisting of both administrators (e.g., deans, department heads) and non-administrative faculty from the affected units. Where there are local faculty shared governance groups in place, those groups will be asked to choose at least two members of the planning committee. Where no local shared governance groups are in place, the senior academic administrator will work jointly with members of the Faculty Senate from the affected college(s) to appoint at least two faculty members to the planning committee. Faculty from affected units will make up no less than 50% of the planning committee.
2. Opportunities for meaningful feedback: The planning committee will share its progress with members of the units likely to be affected no less frequently than monthly. Progress reports will be distributed to members of these and other affected units via email. The planning committee will seek feedback both in writing and in person, and should include one or more straw polls in order to assess the level of support or resistance to the plan, or to substantive elements within the plan. Face to face feedback meetings will be scheduled within a week of the release of each written report. The planning committee will compile the feedback they receive, along with the committee's response (if appropriate) within two weeks.
3. Impact analysis: The planning committee's work will include an analysis of where individual faculty members in affected units will fit in the new structure.
  - a. If units (e.g., departments or colleges) are to be broken up, the plan will detail which parts of the units will go where.
  - b. If units are to be merged, the plan will detail how the leadership of the new unit will be chosen.
  - c. The plan should include provisions to protect current promotion and tenure/continuing status criteria and processes in the new environment.
  - d. If faculty teaching workloads will be affected by the proposed change, the plan will explain how and why. Teaching loads vary from department to department and from discipline to discipline, but the proposed merger/reorganization should avoid creating greater disparities than currently exist.
  - e. Similarly, while market-driven differences in faculty salaries are to be expected, the proposed merger/reorganization should avoid creating greater disparities than currently exist.
4. Final plan:
  - a. The committee's "final" plan will be released in draft form to allow members of the affected units and other interested parties to offer feedback during a two week window.

- b. The committee will hold at least one extensive Q&A session to explain their plan, answer questions about it, and listen to feedback sometime within two weeks of releasing their draft final plan.
  - c. At the end of this period, the committee will meet to review feedback and make modify their plan if they have received new information that suggests changes are appropriate.
5. Plan Approval: Once the planning committee has revised its plan based on feedback from all quarters, faculty in the affected units will be formally polled on their approval or disapproval of the proposal. If a majority (50% plus one) of a quorum (50% plus one of the faculty eligible to vote in each of the affected units) vote to support the proposal, and if the President believes it is of value, then implementation can proceed in accordance with University processes and ABOR policies, as appropriate. If the proposal does not receive the support of a majority of the quorum of eligible faculty voters as defined above, the planning committee can:

**[Vote # 1 by APPC: 3 in favor/2 opposed]**

- a. Opt to amend the proposal and seek a second vote, or
- b. Request that the President approve the proposal as is, providing a written rationale and holding an open session to justify proceeding with a proposal that has strong opposition from faculty in the affected units.

**[Vote # 2 by APPC: 2 in favor/3 opposed]**

- a. Opt to amend the proposal and seek a second vote.
- b. If the second vote on the amended proposal fails to generate the required level of support from affected faculty, the proposal will no longer be considered.

6. Implementation:
- a. Absent a compelling reason to move more quickly, the best time to implement a merger or reorganization is the beginning of the next fall semester.
  - b. Those implementing the reorganization or merger should work with the UA Division of Human Resources to initiate a change management process, offering assistance as needed for faculty and other employees during the period of transition.
7. Procedural review: The Shared Governance Review Committee will investigate allegations of failure to comply with the process and/or principles enumerated above upon receipt of a written complaint by a faculty member or other benefits-eligible employee.

## **For Presentation at Faculty Senate, December 2, 2013**

Draft revisions of the Grievance Policy are designed to accomplish the following:

- a) Require all grievances to begin with the Grievance Clearinghouse Committee;
- b) Authorize the Grievance Clearinghouse Committee to decline to forward certain matters for additional review;
- c) Offer grievants an opportunity to express their concerns to the Committee on Academic Freedom and Tenure without participating in a formal hearing process;
- d) Limit formal Committee on Academic Freedom and Tenure hearings to matters that involve suspension, dismissal, or discriminatory or unconstitutional actions that result in adverse decisions concerning promotion, tenure or release of employment;
- e) Better balance of faculty rights and faculty time;
- f) Provide a more effective way to resolve conflicts;
- g) Explain that everyone deserves a right to be heard, but not every situation merits a formal hearing; and
- h) Document the Faculty Senate's commitment to using resources (time & money) prudently.

**Article VII**  
**Grievance Policies and Procedures for Faculty**

Section 1. Purpose: To provide for **hearing review** procedures for members of the General Faculty implementing 6-201(N) (See *Arizona Board of Regents Policy Manual* at 6-201(L) and 6-201(M) for **hearing** procedures applicable to dismissal, suspension without pay or adverse actions concerning promotion, tenure or nonrenewal allegedly based on discrimination or unconstitutional action, and 6-~~301 (K)~~ **302** for **hearing** procedures applicable to dismissal or suspension of Academic Professionals.

Source: *Arizona Board of Regents Policy Manual* - 6-201  
*Arizona Board of Regents Policy Manual* - 6-~~301~~ **302**  
*University Handbook for Appointed Personnel (UHAP)*

Section 2. Grievance Principles

- a. The Board of Regents and the President, administrators and faculty of the University of Arizona (UA) recognize the importance of providing a prompt and efficient procedure for fair and equitable resolution of grievances without fear of prejudice or retaliation for initiating a grievance or participating in the grievance process. Faculty members should have a reasonable amount of time to file grievances to seek redress for perceived harm they have suffered.
- b. Each individual's attempt to rectify a perceived wrong is considered consistent with UA's role as an upholder of individual rights and the integrity of the University.
- c. The existence of a grievance process in no way diminishes the responsibility of faculty and administrators for the exercise of sound **academic** judgment.
- d. All grievants shall have clearly defined avenues of appeal and redress that may include mediation and/or **a hearing** **an opportunity to present one's concerns to before** a faculty committee that reports to the President or his or her designee. The President decides the matter and his or her decision is the final agency decision. The grievant's rights to relief in the courts shall not be affected by this policy.

- e. Faculty grievance procedures apply to general faculty as defined in the Constitution of the General Faculty, Article II.
- f. The preferred option is to resolve grievances internally at the level closest to the grievant. By using internal conciliation and hearing procedures first, the grievant should ordinarily be able to obtain acceptable results without escalation to a formal charge with an outside agency.
- g. At each level of the grievance process, the ~~committee~~ Grievance Clearinghouse Committee or decision maker will advise the grievant of the options available for redress and appeal as part of his or her decision if the grievance is not resolved at that level.
- h. In cases involving dismissal of tenured faculty or continuing-status professionals, suspension without pay, violation of due process and academic freedom, the Arizona Board of Regents Policy Manual 6-201 and 6-~~301~~ 302 takes priority. In other cases, a grievant may have his or her issues reviewed by the Grievance Clearinghouse Committee for potential review by the Committee on Conciliation and/or Committee on Academic Freedom and Tenure. ~~request either a conciliation route that may then be followed by a grievance hearing or may directly choose a grievance hearing.~~
- i. ~~When a matter reaches a formal hearing, faculty~~ Faculty may choose to ~~present the grievance have a hearing on a grievance~~ present the grievance before a panel of their peers without counsel present. Alternatively, faculty may choose to be represented by legal counsel at his or her own expense in all hearings.
- j. Each grievant has the right to a fair and reasonably speedy investigation and judgment by members of the appropriate committee or office.
- k. Two or more faculty members with the same grievance have the right to seek redress jointly or individually.
- l. Grievance committees shall keep written records, as appropriate, which shall be equally available to all parties in the case, except privileged communications or documents that are confidential pursuant to state or federal laws or regulations. Committees are not required to keep records of deliberations.
- m. All parties to a grievance are entitled to notification within three (3) business days of changes in the status of their grievance.
- n. Grievances involving faculty members who work off the main UA campus generally shall be handled by grievance procedures prescribed herein.
- o. Grievants and witnesses are assured freedom from reprisals related to their testimony ~~or participation in the grievance process~~. A separate whistleblower policy describes whistleblower protections and when those protections are applicable.

- p. Allegations of sexual or other impermissible harassment will be referred to the University Office of Institutional Equity for investigation. following the procedures developed by that office.
- q. Allegations of discrimination on the basis of race, color, religion, sex, national origin, age, disability, veteran status, sexual orientation, or gender identity, or genetic information will be referred to Office of Institutional Equity for investigation. Separate documents describe the policies and procedures. However, if a faculty member alleges that an adverse decision was based on unlawful discrimination other than that covered by ABOR 6-201(M) or 6-301(L), the faculty member may proceed to a CAFT hearing under this policy and these procedures following an investigation by the Office of Institutional Equity and appeal.
- r. Issues of misconduct in research, scholarship, or creative endeavor; conflict of commitment, and facilities misuse are handled by the University Committee on Ethics and Commitment (UCEC) or other committees designated under a separate policy. In conducting inquiries on those matters, UCEC or other appropriate committees follow the applicable University policies on research integrity, professional commitment, and proper facilities use.
- s. Generally, if a conflict cannot be settled through informal means, the Ombuds or Conciliation process, a member of the faculty is best served by filing his or her grievance with the single and most appropriate committee or office. The Grievance Clearinghouse Committee will direct the faculty grievant to the appropriate office or hearing body. inform the parties which committee (Conciliation or CAFT) or process (Office of Institutional Equity) will handle the grievance.
- t. The standard of proof for all findings, conclusions, and recommendations relating to grievances shall be a preponderance of the evidence.
- u. No faculty member or administrator can be a decision maker in a dispute in which he or she is a party or in which he or she has a conflict of interest.
- v. No faculty member shall forfeit the right to grieve a matter unless he or she is aware that s/he has been harmed, has a right to grieve the matter, and is specifically apprised of any time limits regarding contesting the matter.

### Section 3. Grievance Resolution Procedures

The Grievance Clearinghouse Committee shall be composed of the chairs of the Committee on Academic Freedom and Tenure (CAFT), the Committee on Conciliation, the Committee on Ethics and Commitment, a representative of the Office of Institutional Equity, and a faculty representative selected by the Faculty Senate. The Vice vice chair of CAFT shall also serve on the Grievance Clearinghouse Committee as a non-voting member. The chair of CAFT will function as the *ex-officio* voting chair of the Grievance Clearinghouse Committee.

- a. The recommended starting point for resolving grievances is at the head or dean level, whichever is applicable. If, however, the grievant does not wish to follow

this route, or this route has not provided acceptable resolution, a grievant has the option of using an ombudsperson, Ombudsperson Committee member, informal University mediator, members of the Committee on Conciliation or a more formal grievance hearing process, or review by the Grievance Clearinghouse Committee.

- b. In most cases, faculty may choose an informal route, (ombuds Ombuds Committee member, informal mediation or members of the Committee on Conciliation), which may be followed (if necessary-appropriate) by review by the Grievance Clearinghouse Committee. ~~the grievance hearing route or the grievance hearing route alone.~~ Grievances alleging discrimination (including sexual harassment) may be filed with either the Grievance Clearinghouse Committee (see Article V, Section 7, for composition of Grievance Clearinghouse Committee) or directly with the Office of Institutional Equity, but will be investigated in either instance by the Office of Institutional Equity.
- c. Informal problem resolution may be requested, or formal grievances may be filed if the grievant believes any of the following:
  - i. There has been a violation, a misinterpretation, or an arbitrary or discriminatory application of University policy, regulation, or procedure which, applied personally to that faculty member, infringes upon his or her privileges, responsibilities, or terms and conditions of employment, (e.g., salary, teaching assignment, equipment access, or other inequities); or
  - ii. He or she has suffered an adverse employment decision ~~been discriminated against~~ on the basis of race, color, religion, sex, national origin, age, disability, veteran status, sexual orientation, or gender identity, or genetic information; or
  - iii. There has been an infringement on his or her academic freedom.
- d. ~~The names of University ombudspersons, members of the Committee on Conciliation and members of the Committee on Academic Freedom and Tenure (CAFT) are available from the Faculty Center.~~

#### Section 4. Informal Resolution Procedures

Informal resolution procedures are provided for the faculty member who desires informal assistance in the resolution of a complaint. An Ombudsperson Committee member, informal University mediator, or members of the Committee on Conciliation are available to conciliate and coordinate communication among the grievant, respondent and others related to the complaint. The purpose of ~~this process~~ these processes is to air differences between the parties and to resolve the complaint to the satisfaction of both parties without resorting to more formal hearings review. In some instances, upon the agreement of the parties and contingent on the availability of resources, a professional an outside mediator may be available to conduct dispute resolution. Informal resolution is strongly recommended.

a. Ombuds Program

- i. The purpose of the Ombuds Program is to provide informal assistance to prevent or resolve disputes or problems in a neutral setting, to facilitate communication, to preserve or improve working relationships and to create a better working environment.
- ii. An Ombuds **person** Committee member is a neutral individual who helps manage conflict or perceived conflict by listening and generating options to help the faculty member resolve his or her problem. The **ombuds person Ombuds Committee member** may work confidentially with one, both, or all parties to reach a mutually satisfactory agreement and prevent disputes from escalating.

b. **“Point of View”-The University’s Informal Mediation Program**

The Point of View Informal Mediation, sponsored by Human Resources, provides neutral trained mediators from the University community. Those who elect to use this process are provided an opportunity to share their uninterrupted point of view. The mediator does not decide who is right or wrong; instead, the mediator helps people understand the conflict and brainstorm options to solve it.

**c.-b.** Conciliation Process

- i. The Committee on Conciliation has jurisdiction to make inquiry and discuss any problem involving any member of the General Faculty in his or her relationship with the University. The committee may consult and advise but shall not conduct hearings. It is the duty of the committee, after careful investigation, to offer advice to the person or persons involved.
- ii. The faculty member seeking **conciliation Conciliation** shall file a complaint with the Grievance Clearinghouse Committee within six (6) months of his or her knowledge of the actions which form the basis of the complaint.
- iii. The Grievance Clearinghouse Committee shall consider the complaint and assign it to the appropriate committee chair (e.g., Conciliation Committee).
- iv. Legal counsel may not attend or participate in the **conciliation.** Conciliation. A grievant may have an adviser from the University community who has no personal knowledge of the matter, who may attend meetings and review written documentation.
- v. The **e**Conciliator(s) shall have fifteen (15) days after assignment by the Grievance Clearinghouse Committee to contact the parties followed by thirty (30) days to try to resolve the conflict. Upon agreement of the parties, the chair of the Conciliation Committee may extend the conciliation period by thirty (30) days.

- vi. The eConciliation process results shall be summarized in a report prepared by the eConciliator and sent to the parties.
- vii. If eConciliation provides a mutually satisfactory result, the process ends. If the parties cannot resolve the differences, the grievant has thirty (30) days from the date of the Conciliator's report to contact the Grievance Clearinghouse Committee to request that the grievance be reviewed by the Committee on Academic Freedom and Tenure. ~~may, if he or she chooses, seek a grievance hearing with a request to the Grievance Clearinghouse Committee. The request shall be filed within thirty (30) days of receipt of the conciliator's report.~~

Section 5. Grievance Hearing Review Procedures

- a. Whether or not a grievant has sought eConciliation, he or she may request a hearing review by a grievance hearing committee through the Grievance Clearinghouse Committee. If the grievant alleges unlawful discrimination not covered by *Arizona Board of Regents Policy Manual 6-201(M)* or ~~6-301(L)~~ 302, he or she may file a complaint directly with the Office of Institutional Equity without first going through the Grievance Clearinghouse Committee.
  - i. Requests for ~~hearings by a grievance committee should be filed with the~~ Grievance Clearinghouse Committee review should be filed at the Faculty Center.
  - ii. ~~If the Office of Institutional Equity representative determines that the~~ Grievance Clearinghouse Committee determines the grievant's case contains an allegation of unlawful discrimination, the grievant's case shall be referred to the Office of Institutional Equity. ~~If the Office of Institutional Equity representative determines that the grievant's case does not contain an allegation of unlawful discrimination, the remaining voting members of the Grievance Clearinghouse Committee will advise which committee shall handle the grievance.~~
  - iii. The Grievance Clearinghouse Committee has the right and responsibility to decline to forward grievances for further consideration if the complaint does *not* involve:
    - (1) A violation, a misinterpretation, or an arbitrary or discriminatory application of University policy, regulation, or procedure which, applied personally to that faculty member, infringes upon his or her privileges, responsibilities, or terms and conditions of employment (e.g., salary, distribution of effort, equipment access, or other comparable inequities); or
    - (2) An allegation of an adverse employment decision on the basis of race, color, religion, sex, national origin, age, disability, veteran status, sexual orientation, ~~or~~ gender identity, genetic information; or
    - (3) An infringement on his or her academic freedom; or

- (4) Those grievances covered under ~~UA Faculty Bylaws, Article VII, Section 5,b, iii, (2), (a).~~
- iv. The Grievance Clearinghouse Committee has the right and responsibility to decline to forward grievances for further consideration if the complaint is substantively identical to an earlier grievance by the same individual which has been, or is being, dealt with through ~~CAFT~~ the Committee on Academic Freedom and Tenure or the Office of Institutional Equity process.
- b. The grievance ~~review~~ procedure will involve the following steps:
- i. Within thirty (30) days of ~~receipt~~ ~~the date~~ of the ~~e~~Conciliator's report on matters that were the subject of ~~e~~Conciliation or within six (6) months of the grievant's knowledge of the occurrence of the actions which formed the basis for the grievance, the grievant shall make a written request for a formal ~~hearing~~ ~~review~~ to the chair of the Grievance Clearinghouse Committee.
  - ii. The request must be filed by the grievant by hand delivery or by certified mail, return receipt requested, at the Faculty Center and shall contain: grievant's name, address, telephone number, a statement of the complaint, resolution sought, and either the name and address of grievant's attorney, or a statement that grievant is proceeding without an attorney.
  - iii. The Grievance Clearinghouse Committee shall ~~review the facts surrounding the allegation(s) and may either decline to forward the grievance for further consideration or forward~~ ~~advise which committee or process will handle~~ the case based on the following jurisdictional guidelines:
    - (1) Alleged discrimination. If discrimination in employment, program, or activity based on race, color, religion, sex, national origin, age, disability, veteran status, sexual orientation, ~~or~~ gender identity, ~~or genetic information~~ is the basis of the grievance, the matter will be referred to the Office of Institutional Equity for consideration in accordance with the procedures established by that office.
    - (2) Other faculty grievances, including infringement on academic freedom and tenure not covered by *Arizona Board of Regents Policy Manual* 6-201(M) or 6-~~301(L)~~302, will be ~~handled~~ reviewed by the Committee on Academic Freedom and Tenure ~~(CAFT)~~ under this policy.
      - (a) Under this policy, ~~CAFT~~ ~~the Committee on Academic Freedom and Tenure~~ shall ~~hear~~ ~~review~~ any faculty allegation that a decision affecting his or her employment relation with the University was not

determined in substantial compliance with regular University procedures, but only after any administrative appeal mechanism applicable to the decision in question has been exhausted. This includes, but is not limited to, non-renewal of contracts, denial of tenure, promotions, sabbatical leaves, leaves, and disputes on the amount of salary due a non-tenured faculty member who has been suspended or dismissed before the expiration of the employment period.

(b) ~~CAFT~~ The Committee on Academic Freedom and Tenure shall ~~hear~~ review other faculty grievances, such as alleged unfair treatment, where no policies or procedures exist or existing policies or procedures have been misinterpreted, misapplied or violated by a University administrator, but only after any administrative appeal mechanism applicable to the decision in question has been exhausted.

(c) The Committee on Academic Freedom and Tenure review process shall include an interview with the grievant who will be afforded an opportunity to express his or her concerns, and may include interviews with other parties which are required if further action is considered. Within ten (10) days of this interview, the Committee on Academic Freedom and Tenure will either choose to recommend a formal hearing before the Committee on Academic Freedom and Tenure or will determine that the faculty member will not be afforded a formal hearing.

## Section 6. Grievance Hearing Procedures

a. In cases in which a faculty member is suspended or dismissed, receives an adverse decision concerning his or her promotion, tenure, or nonrenewal as a result of allegedly discriminatory or unconstitutional action, or is released from employment under ABOR Policy 6-201L (Conditions of Faculty Service, Hearing Procedures for Faculty), he or she may request a formal hearing before the Committee on Academic Freedom and Tenure.

i. ¶. The chair of ~~CAFT~~ the Committee on Academic Freedom and Tenure shall forward to the respondent the request for a hearing and the formal grievance within seven (7) days after ~~GCC~~ the Grievance Clearinghouse Committee has referred the case to ~~CAFT~~ the Committee on Academic Freedom and Tenure, with instructions to respond within fifteen (15) days. If the grievant has indicated that he or she will be represented by counsel, the time for respondent to respond should be extended as needed in order for the respondent to seek the advice of counsel. The response shall contain the name, address, telephone number of respondent, a statement of respondent's position on the issue, and the name and

address of the respondent's attorney (if any) if grievant elects to be represented by an attorney.

v. Within fifteen (15) days of receipt of the respondent's position statement, the grievant and respondent will receive written notification from the chair of the Grievance Clearinghouse Committee as to which committee will handle the case and a statement of procedures of that committee. The chair of the Grievance Clearinghouse Committee shall notify the chair of CAFT (or the appropriate committee) of the case assignment at the same time.

ii. vi. The chair of CAFT the Committee on Academic Freedom and Tenure will appoint a hearing panel within ten (10) class-days of a case assignment. The chair of the CAFT Committee on Academic Freedom and Tenure panel will set a hearing date in conjunction with all parties involved in the case. The hearing should begin within sixty (60) calendar days of the date the grievance is assigned to the hearing panel. The sixty (60)-day period includes only the time when the University is in session. Semester breaks and summer recess are not included unless otherwise agreed to by the CAFT Committee on Academic Freedom and Tenure panel chair and the parties. The parties shall receive notice of the hearing date at least twenty (20) days before the hearing date. The notice shall include:

- (1) A statement of the time, place and nature of the hearing;
- (2) A statement of the authority and jurisdiction under which the hearing is to be held;
- (3) A reference to the particular statutes, rules, or policies involved; and
- (4) A short and plain statement of the matters asserted. If CAFT the Committee on Academic Freedom and Tenure is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of issues involved. Thereafter, upon application, a more definite and detailed statement shall be furnished.

iii. vii. A grievance shall not proceed if the grievant, after due notice, fails to be present or fails to obtain a continuance. A grievant may withdraw his or her grievance at any stage in the grievance procedure by writing the chair of the panel designated to hear the grievance.

iv. viii. If a grievant commences a grievance with an outside investigative agency based on the same or similar grounds, either the conciliator or the chair of the hearing panel, depending on the stage of the complaint process of the internal grievance, will continue the internal process unless the grievant withdraws the internal grievance or desires a postponement.

v. ~~ix.~~ No later than fifteen (15) days before the hearing date, the grievant and respondent must provide written documentation, including exhibits and a list of witnesses, to the chair of the hearing panel. The chair may require additional written submissions such as a written opening statement prior to the hearing.

vi. ~~x.~~ The chair of the hearing panel shall send a copy of the written documentation and witness lists submitted by the grievant and the respondent to the panel members within three (3) days after receipt. The grievant's witness list, exhibits, and other required documentation will be forwarded to respondent, and the respondent's witness list, exhibits, and other required documentation will be forwarded to grievant by the chair within three (3) days after receipt of lists from both parties.

vii. ~~xi.~~ Any member of the General Faculty requested by the panel to appear as a witness in its investigation of a complaint shall consider it an obligation as a General Faculty member to appear and testify. The chair of the panel may call witnesses upon request of either party or on the chair's initiative. The chair may also require the production of books, records, and other evidence. Such requests shall be made either by personal delivery or by certified mail. The chair of the hearing panel shall have the authority to issue subpoenas for the attendance of witnesses and for the production of books, documents, and other evidence.

viii. ~~xii.~~ **CAFT** **The Committee on Academic Freedom and Tenure** has an important fact-finding role. The hearing may be conducted in an informal, collegial manner and without adherence to the rules of evidence required in judicial proceedings. To the extent possible, the hearing should be carried out in a non-adversarial, collegial way. Hearings shall be conducted according to the following rules:

- (1) No fewer than three (3) faculty members shall constitute a hearing panel. Members shall not participate on a hearing panel when there is a conflict of interest.
- (2) The hearing, but not the deliberations of the committee, shall be recorded.
- (3) Unless overriding reasons under law or ABOR policy are given to grievant, respondent, and other appropriate parties, all parties shall have access to all information that is presented during the hearing at no expense to them.
- (4) The chair of the panel shall keep the parties informed about the status of the grievance.
- (5) Faculty may choose to have a hearing on a grievance before a panel of their peers without legal counsel present. Alternatively, the faculty may choose to be represented by legal counsel present at his or her own expense in all hearings. In cases between a faculty member and an administrator, if the faculty

member chooses not to be represented by counsel present at the hearing, then the administrator shall not have counsel at the hearing either. In cases between faculty members, either party may choose to be represented by counsel present at the hearing at his or her own expense. Any party may obtain legal advice and assistance in preparation for a hearing, even if a legal advisor will not be present at the hearing itself.

- (6) Legal advice to the grievance panel:
  - (a) If neither party is advised or represented by counsel and a University attorney has not been involved in the case on behalf of either party, then a University attorney may provide legal advice to the grievance committee upon request.
  - (b) Outside counsel may be ~~obtained~~ selected by ~~CAFT~~ the ~~Committee on Academic Freedom and Tenure~~ from a list of qualified attorneys provided by the University to provide legal advice to the committee if the University attorney is precluded from providing advice to the committee because of a conflict or for other reasons as determined by ~~CAFT~~ the ~~Committee on Academic and Tenure~~. The role of counsel is to give sound legal advice and assistance to the panel on the matter it is hearing.
  - (c) At the discretion of the ~~CAFT~~ ~~Committee on Academic Freedom and Tenure~~ panel, when the parties are represented by counsel, a hearing officer may be secured under the University's agreement with ~~the American Arbitration Association~~ Tri-University Outside Counsel, may conduct the hearing. Alternatively and at the ~~CAFT~~ panel's discretion, a hearing officer secured from ~~another list of impartial hearing officers maintained and used by the Department of Human Resources for personnel hearings may conduct the hearing~~. The hearing officer assists the panel in developing findings, conclusions and recommendations during deliberations and may prepare the written report in consultation with the panel but does not participate in the decision-making process of deliberation.
- (7) For good cause shown, upon request of either party or on the chair's own initiative, the chair may continue the proceedings to another time.
- (8) The hearing shall be closed to the public except that the grievant may, at his or her discretion, demand that the hearing be open to the public.

- (9) The grievant and respondent may be present during the hearing proceeding. Witnesses shall be excluded except while testifying.
- (10) Generally, the panel will allow all witnesses to testify and documents to be presented which are relevant and probative to the complaint or the response. The **CAFT Committee on Academic Freedom and Tenure** panel shall exclude irrelevant, immaterial or unduly repetitious evidence.
- (11) Each party may present an opening statement of his or her position. Generally, the grievant will then present all of his or her witnesses and documents. The panel members may question the witnesses and parties and ask questions about documents presented throughout the hearing. The respondent may question the grievant and witnesses. After the grievant has presented his or her case, the respondent shall have an opportunity to present witnesses and documents, and the committee members may question the witnesses and ask questions about documents presented. The grievant may question the respondent and witnesses.
- (12) At the completion of the hearing, including any closing statement and receipt of any written memoranda requested by the panel, the panel will deliberate and prepare a written recommendation. The recommendation shall include findings of fact and conclusions, separately stated, based exclusively on the evidence. Within thirty (30) days of the conclusion of the hearing and receipt of all written documents requested of the parties, the panel will forward its recommendation to the President, who will make the final decision. Upon good cause shown, the President may extend the recommendation date by an additional thirty (30) days.
- (13) Within forty-five (45) days of **receipt the date** of the panel's recommendation and record, the President shall issue a written decision that includes findings of fact and conclusions, separately stated. Copies of the President's decision, including the **CAFT Committee on Academic Freedom and Tenure** recommendation, shall be **mailed provided to CAFT the Committee** and the parties. The President's decision shall include a statement that an appeal to Superior Court pursuant to the Administrative Review Act, A.R.S. § 12-901 et.seq., if desired, must be filed within thirty-five (35) days from the date when a copy of the decision is served upon the party affected. If the President cannot issue a decision within the **forty-five (45)-day period**, the President will notify the parties within **the 45-day that period** of a delay in the issuing of the decision, the reasons for the delay, and the date on which the decision can be expected.

- (14) A faculty member who is dissatisfied with the President's decision may request reconsideration of the decision by filing a written request with the President no later than fifteen (15) days following receipt of the President's written decision. If no request for reconsideration is made, the President's decision is effective at the expiration of the period in which to request reconsideration.
- (a) The request for reconsideration shall be based on one or more of the following grounds:
    - (i) Irregularities in the proceedings, including any abuse of discretion or misconduct by the **CAFT Committee on Academic Freedom and Tenure** panel that deprived the faculty member of a fair and impartial hearing;
    - (ii) Newly discovered material evidence which with reasonable diligence could not have been presented at the hearing; or
    - (iii) The decision is not justified by the evidence or is contrary to law.
  - (b) If the faculty member requests reconsideration, the President will either deny reconsideration or issue a final decision within twenty (20) days of receiving a request for reconsideration.
  - (c) The President's decision on reconsideration shall include a statement that an appeal to Superior Court pursuant to the Administrative Review Act, A.R.S. § 12-901 et.seq., if desired, must be filed within thirty-five (35) days from the date when a copy of the decision is served upon the party affected.

#### Cross-References

For the composition of grievance committees, see "Bylaws of the General Faculty of the University of Arizona." **Article V, Sections 7, 8, 9.**

For the Board of Regents' policy, see *Arizona Board of Regents Policy Manual Section 6-201*, "Conditions of Faculty Service" and *Arizona Board of Regents Policy Manual Section 6-301*, "Conditions of Professional Service."

# Grievance

Initial Options

Deans or Dept. Heads

Office of Institutional Equity

Ombuds

Informal Mediation

Committee on Conciliation



Satisfactory

or

or



Unsatisfactory

Grievance Clearinghouse Review

Within 30 days

Decline to send to CAFT [GCC]

No Hearing [CAFT]



CAFT Hearing

CAFT Review