

## **(1) Bylaws Change – Include the Vice President for Research as a member of Senate.**

*Rationale:* There has been an interest in ensuring better ongoing communication between Research, Innovation, and Impact and the Faculty Senate. Formally including the Vice President as a member of Senate would ensure they are present and can answer questions and participate in discussions. They could also be asked to participate in providing monthly reports, as do the Provost and President. In order to retain the same number of administrative representatives to Senate, we suggest removing the at large vice presidential representative if we add this one.

### **ARTICLE VIII. The Faculty Senate Section 2. Membership**

a. Ex officio voting members: The President of the University, the Provost, **the Vice President for Research** the Chair of the Faculty, the Vice Chair of the Faculty, the Secretary of the Faculty, the chair of the Strategic Planning and Budget Advisory Committee, the chair of the Undergraduate Council, the chair of the Graduate Council, and the chair of the Committee of Eleven (when the chair is not an elected member of Faculty Senate) shall be voting members of the Faculty Senate. In addition, ~~one member shall represent the Vice Presidents, and~~ one member shall represent the Deans.

## **(2) Bylaws Change – Ensure Senate Standing Committees have access to relevant administrators, when necessary, to support their work.**

*Rationale:* Having timely access to representatives from administration has been essential for Senate Standing Committees in their work on policy. This change underscores the importance of having that timely access and sets shared expectations as to administrators' availability when called upon by committee chairs.

### **Article VIII. Faculty Senate Section 4. Faculty Senate Standing Committees**

Each Faculty Senate standing committee, except the Executive Committee, shall consist of seven General Faculty members, a majority of whom must be elected Faculty who are members of Senate. The standing committee members shall be appointed by the Vice Chair of the Faculty, after consultation with the Faculty Senate Executive Committee, from names suggested by the Nominating Committee or other members of the General Faculty. **A postdoctoral scholar may also be appointed to each committee at the discretion of the Vice Chair.** Student members of standing committees shall be nominated by the Associated Students of the University of Arizona and by the Graduate and Professional Student Council. Members of standing committees shall serve one-year terms. **As appropriate, representatives from administration (such as the Dean of Students, the Vice Provost for Faculty Affairs, etc.) may be asked to attend Senate Standing Committee meetings at the invitation of the committee chair.** Members of standing committees shall serve one-year terms.

### **(3) Bylaws Change – Provide flexibility for adding a postdoctoral scholar to Senate Standing Committees (other than Senate Executive Committee)**

*Rationale:* For the past 3-4 years, we have piloted including a postdoctoral scholar on each of the Senate standing committees. This has been well received by the committee chairs and membership. We are suggesting we give the Vice Chair the option to appoint a postdoctoral scholar to these committees.

#### **Article VIII. Faculty Senate**

##### **Section 4. Faculty Senate Standing Committees**

Each Faculty Senate standing committee, except the Executive Committee, shall consist of seven General Faculty members, a majority of whom must be elected Faculty who are members of Senate. The standing committee members shall be appointed by the Vice Chair of the Faculty, after consultation with the Faculty Senate Executive Committee, from names suggested by the Nominating Committee or other members of the General Faculty. [A postdoctoral scholar may also be appointed to each committee at the discretion of the Vice Chair.](#) Student members of standing committees shall be nominated by the Associated Students of the University of Arizona and by the Graduate and Professional Student. Members of standing committees shall serve one-year terms.

### **(4) Bylaws Change – Include the CIO or their designee as an ex officio, non-voting member of the Senate Executive Committee.**

*Rationale:* We have piloted having representation from UITS on the Senate Executive Committee for a number of years and found it useful. We are suggesting we make this representation official in the Bylaws.

#### **Article VIII. Faculty Senate**

##### **Section 4. Faculty Senate Standing Committees**

###### **a. Executive Committee**

The committee membership shall consist of the Chair of the Faculty, the Vice Chair of the Faculty, the Secretary of the Faculty, chairs of the Faculty Senate standing committees, chair of the Committee of Eleven, chair of the Strategic Planning and Budget Advisory Committee (SPBAC), chair of the Undergraduate Council (UGC), chair of the Graduate Council (GC), ~~one member of the Appointed Professionals Advisory Council (APAC)~~ [two members of the UArizona Staff Council](#) shall be appointed annually by the Chair of APAC, two members of the Senate elected at the regular May meeting of the Faculty Senate in alternate years from nominees whose names were submitted to the Faculty Center in time for distribution with the agenda for that meeting, the President of the University or their designee (non-voting), the Provost or their designee, (non-voting), [the Chief Information officer or their designee \(non-voting\)](#), the President of ASUA or their designee, the President of GPSC or their designee, and the Parliamentarian who shall be non-voting. The committee shall establish the agenda for each meeting of the Faculty Senate and shall receive reports from the officers, the chairs of the Senate standing committees, UGC, GC and SPBAC. The Vice Chair of the Faculty shall serve as chair of the committee.

#### **(5) VOTE on HOUSEKEEPING CHANGE**

**Bylaws – Remove references to SAC and APAC and replace with UArizona Staff Council but retain the same number of representatives from both SAC and APAC.**

*Rationale:* SAC and APAC no longer exist and have been replaced by the UArizona Staff Council. We are recommending we remove SAC and APAC where they are mentioned in the Bylaws, but keep the same level of representation (i.e., two members if both were represented on a shared governance body).

#### **(6) VOTE on HOUSEKEEPING CHANGE**

**Bylaws – Remove reference to "Point of View" Informal Mediation as a service that is offered by HR as an option in the grievance process.**

*Rationale:* The "Point of View" informal mediation service is no longer formally offered by Human Resources. Human Resources can aid grievants in identifying point of view mediation support on campus, but the service no longer exists. The Bylaws will be amended to clarify this.

### **ARTICLE VII. Grievance Policies and Procedures for Faculty** **Section 4. Informal Resolution Procedures.**

"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.~~ Human Resources can provide and/or assist with securing access to neutral trained mediators. 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.

#### **(7) Bylaws Change - Include ex officio voting members from Senate on the Undergraduate and Graduate Councils, and on the University-Wide General Education Committee**

*Rationale:* This addition is being suggested to ensure adequate representation to and from Senate in these governance groups' work. Currently, the only representation is through the Chairs of the Committees. Including Senators also ensures there is a baseline of elected shared governance representation on each group, since colleges are given significant leeway (including appointments) in selecting their own representatives.

### **Article VI. University-wide Committees with Shared Governance Participation** **Sections 4, 5 & 6**

Two ex officio voting members from Faculty Senate, appointed by the Vice Chair of the Faculty in consultation with the Chair. Terms are for one year but are renewable.

**(8) Bylaws Change – Require that the Committee on Elections post vote totals following all General Faculty elections.**

*Rationale:* We currently provide vote totals only when individuals request them directly from the Committee on Elections. There is an interest among many faculty in simply posting the vote totals along with the results for all to see.

**Article IV. Committee on Elections and Elections Procedures  
Section 2. Conduct of Elections**

f. The committee shall notify the General Faculty of the results of the runoff election no later than April 25. Results for all General Faculty elections will include a list of any individuals elected and policies adopted, vote counts, as well as an and the overall participation rate for the election. ~~Requests for vote counts in individual races may be made to the Committee on Elections.~~

**(9) VOTE on HOUSEKEEPING CHANGE  
Bylaws - Reformat wording on Undergraduate Council and University-Wide General Education Committee to mirror format of Graduate Council**

*Rationale:* The current formatting on the section on the membership of the Graduate Council reads more easily than that of the Undergraduate Council and University-Wide General Education Committee. We recommend we reformat those sections in a similar manner.

**Article VI. University-wide Committees with Shared Governance Participation  
Sections 4 & 5**

**(10) VOTE on HOUSEKEEPING CHANGE  
Constitution - Remove references to the College Academic Administrators Council, or CAC, in the Constitution**

*Rationale:* The College Academic Administrators Council, or CAC, no longer exists and has been split into two groups to more effectively deal with curricular matters. We recommend removing it from the Constitution. Because the two groups that have since been formed out of CAC are not shared governance bodies, we do not see a need to include them in the Constitution.

**Article VII. University-wide Committees with Shared Governance Participation  
Sections 4 & 6**

**(11) VOTE on HOUSEKEEPING CHANGE**

**Bylaws - Replace references to University of Arizona South with The College of Applied Science and Technology.**

*Rationale:* UA South, as an entity, no longer exists. It makes sense to replace the reference to it (which is in reference to UWGEC representation) with The College of Applied Science and Technology.

**Article VI. University-wide Committees with Shared Governance Participation  
Section 5**

**(12) VOTE on Rescinding Bylaws Change Previously Approved by Senate (but not yet Voted on by the General Faculty) to Require All Faculty Representatives to Undergraduate Council and Graduate Council to be Either Elected or Appointed by an Elected Faculty Officer.**

*Rationale:* After additional conversation with these committees and their Chairs (who strongly oppose the proposed change), we recommend rescinding this vote (which has not yet gone to a vote of the General Faculty, so there would be no actual change to the Bylaws as a result). Because these committees do an extraordinary amount of work requiring specific expertise, and also because not all colleges have mechanisms for electing representatives to these positions, it is important to allow for the current level of flexibility in empaneling these groups. Adding two elected Senators to each group (which is being recommended as a change to their membership) should ensure a baseline of campus-level shared governance representation.

**Article VI. University-wide Committees with Shared Governance Participation  
Sections 4 & 6**

## **(13) Bylaws Change - Removing voting rights for administrators with ex officio appointments on Faculty Senate**

*Rationale:* There has been interest among Senators and Members of the General Faculty to remove voting rights from administrators who have ex officio appointments on Senate. This would include the Provost, the President, the administrative representative for the Vice Presidents (which will become the Chief Research Officer, if the vote on that change is approved) and the Deans' representative. While the individuals in these roles rarely vote in Senate, proponents of this change feel that extending voting rights to administrators on Senate is inappropriate on a shared governance body such as Senate.

### **Article VIII. The Faculty Senate**

#### **Section 2. Membership**

The ~~voting~~ members of the Faculty Senate shall be comprised of the following:

- a. Ex officio ~~non~~-voting members. The President of the University, the Provost, ~~the Chief Research Officer at the University, and a representative of the Deans.~~
- b. ~~Ex officio voting members:~~ the Chair of the Faculty, the Vice Chair of the Faculty, the Secretary of the Faculty, the chair of the Strategic Planning and Budget Advisory Committee, the chair of the Undergraduate Council, the chair of the Graduate Council, and the chair of the Committee of Eleven (when the chair is not an elected member of Faculty Senate) shall be voting members of the Faculty Senate. ~~In addition, one member shall represent the Vice Presidents, and one member shall represent the Deans.~~
- c. Elected ~~voting~~ members: Elected members of the Faculty Senate will hold office for two years, beginning on June 1 of the year in which they are elected, in accordance with the following: [...]
- d. Seven students: four students selected annually by the Associated Students of the University of Arizona and three students, selected annually by the Graduate and Professional Student Council in whatever manner those bodies decide. ~~All will hold voting membership and be afforded the full privileges thereof.~~



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Date: April 23, 2021

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Re: Arizona Open Meeting Law and University of Arizona Organizations

### **ISSUE**

Are components of the University of Arizona – such as shared governance organizations, committees, and task forces – subject to the Arizona Open Meeting Law?

### **BRIEF ANSWER**

No. The Arizona Open Meeting Law only applies to a “public body.” Given the definition of a “public body” in the statute, no organization within the University of Arizona, e.g., student government, faculty senate, or advisory committees, fit within the statutory definition. Therefore, no committees or organizations within the University of Arizona are required to comply with the Arizona Open Meeting Law.

### **DISCUSSION**

#### **I. The Arizona Open Meeting Law**

The Arizona Open Meeting Law is set out in Arizona Revised Statutes (“ARS”), Title 38, Chapter 3, Article 3.1, Sections 38-431 through 38-431.09. ARS Section 38-431.01(A) provides in relevant part, “All meetings of any public body shall be public meetings and all persons so desiring shall be permitted to attend and listen to the deliberations and proceedings.”

Section 38-431 (6) defines a “public body” as follows:

“Public body” means the legislature, all boards and commissions of this state or political subdivisions, all multimember governing bodies of departments, agencies, institutions and instrumentalities of this state or political subdivisions, including without limitation all corporations and other instrumentalities whose boards of directors are appointed or elected by this state or a political subdivision. Public body includes all quasi-judicial bodies and all standing, special or advisory committees or subcommittees of, or appointed by, the public body. Public body includes all commissions and other public entities established by the Arizona Constitution or by way of ballot initiative, including the independent redistricting commission, and this article applies except and only to the extent that specific constitutional provisions supersede this article.

Section 38-431 (1) further defines “advisory committee” or “subcommittee” as:

[A]ny entity, however designated, that is officially established, on motion and order of a public body or by the presiding officer of the public body, and whose members have been appointed for the specific purpose of making a recommendation concerning a decision to be made or considered or a course of conduct to be taken or considered by the public body.

Under Subsection 7, “quasi-judicial body” is defined as “a public body, other than a court of law, possessing the power to hold hearings on disputed matters between a private person and a public agency and to make decisions in the general manner of a court regarding such disputed claims.” Organizations or committees that are not created by a public body are not subject to the Open Meeting Law. *See* Ariz. Att’y Gen. Op. I92-007 (opining that committee that reported to Governor was not subject to the Open Meeting Law because the Governor was not a “public body”).

## **II. Applying the Open Meeting Law to University Organizations or Committees**

There are no University of Arizona organizations, committees, or units that fit within the definition of a “public body” under the statute.

For example, the Faculty Senate does not fall within the definition of a “public body,” “advisory committee,” “subcommittee,” or “quasi-judicial body.” Nothing about the way the Faculty Senate was established, the way its members are drawn, its functions, responsibilities, powers, duties, or any other characteristics place it within the definition of a “public body” under the Arizona Open Meeting Law. The same is true for the student government bodies and various alumni and community advisory bodies that exist within the University. None of these University of Arizona organizations is required to follow the Arizona Open Meeting Law.

In contrast, committees established by the Arizona Board of Regents (ABOR) are subject to the Arizona Open Meeting Law and its requirements. ABOR is a “public body” as it is a board



of the state. ABOR committees, such as the Finance, Capital and Resources Committee or the Committee on Free Expression also fall within the definition of a “public body” and those committees are also subject to Arizona Open Meeting Law requirements. University-level committees, such as those created by the president, are not public bodies because those committees are neither appointed by ABOR nor do they report to or make recommendations to ABOR.

The Arizona Open Meeting Law includes significant requirements that dictate how public bodies must conduct business. These requirements include notice provisions, agenda setting measures, particular rights for participation from the general public, and directives as to minute-taking and record-keeping. See Open Meeting Law 101, *Arizona’s Open Meeting Law in a Nutshell* (available at: <https://azoca.gov/wp-content/uploads/Open-Meeting-Law-101.pdf>).

Some University organizations, such as Faculty Senate, elect to mirror certain aspects of the Open Meeting Law (e.g., the ability to conduct business in executive sessions) without expressly adopting all of the requirements of the statute. Operating procedures that share common language or requirements with the Open Meeting Law do not convert that organization to a “public body” or subject the organization to the requirements of the law.

There is a clear distinction between conducting meetings that are open to the public and being subject to the Open Meeting Law. As noted above, statutory requirements go well beyond simply allowing the public to attend. Additionally, there are distinctions between Open Meeting Law requirements and the process by which meetings are conducted. Conducting business in accordance with *Robert’s Rules of Order* is separate and distinct from the parameters of the Open Meeting Law. Choosing to adopt Robert’s Rules of Order as the process by which meetings are conducted does not and will not convert the organization that is conducting the meeting into a public body or subject it to the Arizona Open Meeting Law requirements.

Finally, for clarification, although University of Arizona organizations are not subject to the Arizona Open Meeting Law, they *are* subject to the Arizona’s public records laws. While that is beyond the scope of this memorandum, it should be noted given the inter-relationship of the topics.

### **CONCLUSION**

No University of Arizona organizations, committees, or other units are subject to or required to comply with the Arizona Open Meeting Law. Such organizations’ decision to mirror or follow aspects of the Open Meeting Law does not render that organization a “public body” under the statute.