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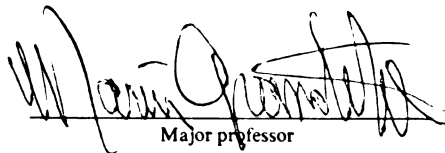
REJECTION OF COLLECTIVE BARGAINING BY FACULTIES AT
MAJOR RESEARCH UNIVERSITIES: A THEORETICAL INQUIRY

presented by

Eileen Margaret Wilson

has been accepted towards fulfillment
of the requirements for

DOCTOR OF PHILOSOPHY degree in College and University
Administration



Major professor

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REJECTION OF COLLECTIVE BARGAINING BY FACULTIES AT
MAJOR RESEARCH UNIVERSITIES: A THEORETICAL INQUIRY

By

Eileen Margaret Wilson

A DISSERTATION

Submitted to
Michigan State University
in partial fulfillment of the requirements
for the degree of

DOCTOR OF PHILOSOPHY

College and University Administration

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ABSTRACT

REJECTION OF COLLECTIVE BARGAINING BY FACULTIES AT MAJOR RESEARCH UNIVERSITIES: A THEORETICAL INQUIRY

By

Eileen Margaret Wilson

By 1990, a significant exception to faculty unionization was apparent. Faculty at major research universities have abstained from unionization. The problem is to explain the failure of unionization in research institutions. This study develops a theory explaining why faculty at AAU institutions have not chosen collective bargaining for pursuit of their legitimate interests.

Some researchers have offered explanations of rejection of collective bargaining based on the presence or absence of the requisite conditions, an approach that does not explain rejection where favorable conditions are present. Other researchers suggest that failure to unionize is based on "fear" of the consequences of collective bargaining, an hypothesis not strongly supported by studies of the results of faculty unionization. Neither the "presence/absence" nor the "fear" hypotheses adequately explain the hostility of AAU faculty toward unionization.

This thesis holds that the elements of collective bargaining exist within a work environment whether or not a bargaining unit is present. Other bargaining mechanisms may fulfill the function and scope of bargaining, mimicking collective bargaining. When workers are granted autonomy,

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individual or collective influence can stabilize the labor-management relationship and attain the goals of employees.

AAU faculty do not need a union to achieve equality with management. They provide that for themselves through autonomy and influence. Conformity and uniformity demanded by unionization is inconsistent with the individuality necessary to the AAU faculty member's work. Influence becomes the surrogate for bargaining power. Shared autonomy generates collective power which translates into collective influence. The function and the scope of bargaining are achieved by the individual and collective influence of AAU faculty.

Central to this theory is the claim that in AAU institutions, faculty strive for those interests that are usually pursued through collective bargaining. The collective interests of the group are funneled through formal and informal mechanisms that replicate functions and subject matter typically covered in a labor agreement. The presence of sufficient bargaining mechanisms within the work environment and the employment relationship makes collective bargaining irrelevant and superfluous.

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ACKNOWLEDGEMENTS

The author wishes to thank Dr. Marvin Grandstaff, Committee Chairperson, for his full mentorship and exceptional guidance in the completion of this study. His deliberate and thoughtful attention to and constant interest in the development of this theory are immeasurable. Special thanks are extended to Dr. Daniel Kruger for his friendship and mentorship. His genuine enthusiasm and inspiration for my success are invaluable. The author wishes to thank Dr. Louis Stamatakos and Dr. Keith Anderson for their interest in this study.

The author is grateful to Dr. John Forsyth for his professional mentorship and steady interest in her academic life. Further recognition is overdue to Dr. Tony Wojcik and Dean Theodore Bickart for their continued support in her academic pursuits. For her technical expertise, patience and friendship, the author extends much appreciation to Michelle M. Sidel.

The author would like to acknowledge the skills and discipline acquired during her undergraduate liberal arts education at Thiel College and her graduate program in philosophy at University of Dayton. This training provided the essential foundation for clear, analytical thinking

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There are a handful of special friends that have provided support, encouragement and patience throughout this project. The author would like to publicly thank Gerry Brintnall, Marilyn Douglas, Laura Long, Brenda Minott, Connie Pollard and Doug Kinder, and Jane and Tom Smith for their gift of friendship.

The author will always be grateful to her parents, Barbara J. Brush and James A. Wilson, who instilled in her the importance of persistence, pride in one's work and a strong internal work ethic. The author wishes to note the special contribution of her 15 lbs tabby cat, Casey, who provided her many warm fuzzies and was her best study buddy, lying on her research throughout this study.

Finally, the author is exceedingly grateful for the cherished friendship of Jan Brintnall. For without her unwavering belief and unconditional support and care, the completion of this study would not have been possible.

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CHAPTER ONE

INTRODUCTION

BACKGROUND OF THE STUDY

Collective bargaining for university employees began in the 1950's and unionization of American higher education faculties increased steadily through the 1970's and 1980's. The National Labor Relations Act of 1935 (NLRA) and President J. F. Kennedy's Executive Order 10988 of 1962 and, in Michigan, the Public Employment Relations Act of 1965 (PERA) insured the rights of both private and public university employees to bargain collectively in good faith. At the present time the pace of faculty unionization has slowed to a trickle. One factor has been the decision of the U.S. Supreme Court in the NLRB v Yeshiva University (1980) in which the Court held that faculty members serve managerial functions and, for that reason, are precluded from the protection of the NLRA. In addition, there has been no expansion of the number of states in which state law guarantees the right of public employees to organize. After the feverish growth in faculty unionization in the 1970's, 480 of the 2400 college and universities voted to organize, which equates to 133,000 of the 540,000 or 25% of college faculty across the nation.¹ Since that time, few labor unions have successfully organized college faculty that did not previously participate in collective bargaining. It is fairly safe to say that, given present circumstances, the unionization of faculty in higher

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education has reached its practical limits, having its strongholds in community colleges, public multi-institutional systems and public institutions of less than "major university" status.

STATEMENT OF THE PROBLEM

By 1990, a significant exception to faculty unionization was apparent. Faculty at major research universities--those holding membership in the American Association of Universities (AAU)--have relentlessly abstained from unionization. This response is inconsistent with both the trend in other colleges and universities and with increased unionization among white collar workers in the public sector. It is plausible to suppose that there are features of AAU institutions that set them apart from other institutions of higher education, serving to explain the rejection of unionization by AAU faculties. The problem, then, is the explanation of the failure of unionization to take root in AAU institutions. The approach taken is the formulation and application of a comprehensive and tenable theory-- a thesis-- having power to explain why faculty at AAU schools have not chosen collective bargaining as a vehicle for pursuit of the legitimate interests of the faculty group.

This study is a contribution to a growing literature on faculty unionization. That literature is summarized in Chapter Two, but it is useful here to establish the relationship between this and other studies, since it is the

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NEED FOR THE STUDY

The dynamics and consequences of faculty unionization have attracted the attention of many scholars. Some researchers have concentrated their attention on the question of why faculty unionize. They have attributed unionization to salary and other economic issues, job security/tenure and participation of academic governance.² Other scholars have examined unionization in relationship to the restructuring of individual institutions or to systems threatening a perceived stable environment.³ Explanations of rejection of collective bargaining, when these studies have attended to it at all, have simply supposed that rejection can be understood as the absence of the requisite conditions. This "presence/absence" approach does not delve very deeply into the question of why certain faculty have no inclination to unionize.

Another cluster of researchers list the problems associated with faculty unionization. Concerns about possible effects of collective bargaining on academic governance, the bargaining unit composition, tenure, academic freedom and potential strike activity have been examined.⁴ There are legitimate concerns over the interaction of a faculty member's role as a practitioner of a profession and as a bargaining unit member. There is, however, little to support the view that actual incompatibility between the university and the

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union is inevitable. As an explanation for failure to unionize, these analyses seem to suggest "fear" of the consequences of unionization as an hypothesis.

Those hypothesized fears, as least in regard to the standards for unionization, are not supported by studies of the results of collective bargaining. Bargaining units have provided greater power and influence for their members.⁵ Employee participation has increased, procedures have been formalized, job security/tenure is more clearly defined and slight salary increases have been observed.⁶ Collective bargaining among college faculty has increased the operational cost of their institutions and has made administration feel uneasy⁷ and there is disagreement on the effects of academic governance from unionization's political nature.⁸ There is no disagreement, however, that once established, unionization is unlikely to be abandoned.

It seems clear, then, that neither the "presence/absence" nor the "fear" hypotheses do much to explain the distinctive problem of non-unionization at AAU institutions. Neither do recommendations for improvements in faculty collective bargaining. In addition to suggesting adjustment of collective bargaining so that it is better concert with academe, one researcher suggests that a craft union model be adopted to continue the collegial atmosphere and participation while maintaining union representation.⁹ It is suggested that this model would blend the employee and the manager role faculty members fulfill. This work presents some

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useful hints for theory development but is not, in itself, a theory.

Consideration of the literature does not satisfactorily solve the perplexing question of why AAU faculty consistently reject unionization. Other college faculty join bargaining units because they believe that there inadequate methods for achieving the aims of the faculty group. Why, then, do AAU faculty not perceive a need for unionization?

A PREVIEW OF THE THESIS

The inquiry reported further on indicates that the lack of union activity among AAU faculty is not based on negative attitudes by faculty about unions as only a blue collar tradition, nor in a heavy weighting of monetary criteria, nor faculty perceptions of their administration, nor a supposed incongruence of collective bargaining and academic governance, nor negative/positive outcomes of unionization. If these are valid reasons for college faculty unionization, then AAU faculty would not consistently defy them, since it is not unusual to find these conditions at AAU institutions. Researchers have not clearly recognized this pattern. Much research and hypothesizing has been done on the pattern in community college faculty unionization and non-AAU institutions, but no one has adequately explained why AAU faculty almost never elect to bargain collectively.

The theory presented here proceeds from the thesis that the elements of collective bargaining exist within a work

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environment whether or not a bargaining unit is present. When there is no bargaining unit, bargaining mechanisms may fulfill the function and the scope of bargaining through other procedures, mimicking the process of collective bargaining. Employees can bargain individually and as a group if they possess enough power and influence in their work environment to effectively bargain for their wants and needs.

The tendency to join a union or not for white collar workers is predicated on the nature of their work environment and the actual work functions they perform. The employment structure dictates how employees respond to their work lives and, consequently, whether they chose to bargain collectively. An external employment structure is where the employer provides structure to an employee's job and work environment, hence little autonomy is provided. An internal employment structure requires the employee to self-impose structure in their work and work environment. Autonomy is important in understanding an employee's work environment. For the purpose of this theory, autonomy is defined as the quality or state of being self-governing and independent.¹⁰ The amount of autonomy provided by the employer increases if the requirement is for the satisfactory completion of complex, multiple task jobs. When autonomy is extended to workers, the employee gains power and influence. Influence, exercised in either individual or collective ways, can be used by employees to equalize and stabilize the labor-management relationship as well as to attain the aims of employees.

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Faculty at AAU universities work in an environment where individual effort and excellence are encouraged and expected. Autonomy is provided in the work place in order for faculty members to accomplish complex and individualized tasks, some of which are totally outside the expertise of administrators. This individual autonomy promotes individuality and non-conformity. Faculty who exercise their autonomy demonstrate power which, when used, can influence other faculty and the administration. Coupled with this is the expectation of self-management. Faculty are provided autonomy so that they may plan, perform and evaluate their work. This shifts some of the management functions to the employees themselves. This displaced management power allows additional leverage for faculty.

It becomes apparent why AAU faculty almost always reject unionization. First, the AAU faculty do not need a union to balance equality between management and labor because they provide that for themselves through autonomy they are provided and the influence they possess. Second, unionization demands uniformity and conformity among its unit members. This is directly inconsistent with the individuality found and required in the AAU faculty member's work life. Third, the influence AAU faculty possess becomes the surrogate for bargaining power. Influence is used as an effective negotiating tool. Both the function and the scope of bargaining is achieved by the individual AAU faculty member's influence without the facilitation of a union. The role the

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bargaining unit can provide is replaced by individual bargaining through formal and informal mechanisms. Fourth, faculty as a group have similar bargaining power to those they possess as individuals. Shared autonomy generates collective power which translates into collective influence used to shape management decisions. This collective influence shifts some of the power from management to the employee group which allows the employees to influence the group's work life and work environment. This group power and influence is exercised through academic governance, other formal mechanisms and informal mechanisms. An influential faculty group can bargain for economic and professional benefits through the academic governance process. The faculty, then, equalize the employment relationship themselves through the influence they exert.

At the heart of the theory presented here is, finally, the claim that in AAU institutions faculty function to pursue those interests that, in other schools, are pursued through collective bargaining--in fact, they operate as a union. The collective interests of the group are funneled through mechanisms that replicate both the function and the subject matter typically covered in a collective bargaining agreement. This assimilation of a collective bargaining unit obviates the need for unionization. The presence of sufficient bargaining mechanisms available within the work environment and employment relationship serves to make collective bargaining irrelevant.

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IMPORTANCE OF THE STUDY

Research on faculty unionization has, thus far, treated the object of study as fairly undifferentiated. The further development of the field of inquiry may benefit from turning to more sharply focused investigations of discrete classes of institutions. Further, the articulation of a theory that centers of positive elements in the culture of AAU universities re-directs the pattern of inquiry in a way that may prove more powerful than do "presence/absence" or "fear" hypothesis. Thus, one importance of this study lies in its potential contribution to the structure of research into faculty unionization.

A second importance lies in the possibility that the use of the collective bargaining template may advance our general understanding for the nature of faculty work and the culture in which it takes place in AAU institutions. Currently, one of the important fields of inquiry in higher education is institutional culture and its corollary, the academic career. The theory presented here has the potential to contribute to that work.

Finally, it is thinkable that circumstances may arise, such as stringent finances or a strong movement toward managerial control, that would generate a reawakening of interest in faculty unionization in AAU universities. Should that occur, the concerned parties might benefit from an expanded understanding of the distinctive relationship between collective bargaining and faculty in AAU universities.

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METHODOLOGY

The methodology of the study is analytic in the first instance and historical in the second. First, the thesis previewed in this chapter will be developed in detail in Chapter Three. The major elements of collective bargaining, as defined in law and practice, will be analyzed in the context of practice and culture in major research universities. The aim of this analysis is to identify mechanisms in the university setting that are plausible corollaries for the provisions of collective bargaining. Once the theory is developed in appropriate detail, its workability will be tested by applying it to the example of Michigan State University. Michigan State University was chosen for five reasons. First and most obviously, the study was done at MSU and the author is employed there. Second, documents and historical records were easily accessible. Third and more importantly, MSU is a reasonably typical AAU institution with a well-developed system of academic governance. Fourth, there have been three attempts to win approval for collective bargaining at MSU, all of them unsuccessful, but all instructive for this study. Fifth, in 1980-81, MSU experienced a "financial crisis" that sharply revealed the structure of faculty and management interests in a way not found in more tranquil times. While the analysis and application here is, of course, limited through the use of a single institution, the purpose of the application is not to "prove" the theory as to test its viability. Thus, the use of

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Michigan State University as one example is not for generalizability of the thesis, but for testing the thesis' promise.

OVERVIEW

In a theoretical investigation the review of literature has a special importance since, in a real sense, theory construction is always undertaken within the context of current research and scholarship. Chapter Two reviews historical and empirical studies of unionization in higher education with a view to identifying those variables which must be taken into account in a theory that seeks to explain the rejection of collective bargaining by AAU faculties. As noted previously, Chapter Three presents the theory in detail, while Chapter Four tests the viability of the theory by applying it to events at Michigan State University over several years and to the structure of professional influence at MSU. Finally, Chapter Five summarizes the study and pays particular attention to suggestions for further research since the chief reason for the development of this theory is the advancement of future inquiry.

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CHAPTER TWO

REVIEW OF LITERATURE

"The paradox of faculty unionization is that, although it is a faculty initiative, perhaps its most salutary effects will not be what it does for professors, but what it will do to make administrators more efficient, more alert to innovation and more responsive to the public interest."

Myron Lieberman

In this section of the study in the literature about collective bargaining among faculty was reviewed in three general areas. First, the author provided a historical perspective, both nationally and within the State of Michigan. Second, the author considered reasons for, problems with, effects of and recommendations for faculty unionization. Third, the author reviewed the three unionization efforts at Michigan State University in order to determine if, in conjunction with the general literature, it is possible to frame plausible reasons for those unsuccessful attempts.

THE HISTORY OF COLLECTIVE BARGAINING IN HIGHER EDUCATION

The United States

In 1933, President F.D. Roosevelt established labor law through the National Industrial Recovery Act (NIRA) to decrease unemployment and increase production in an effort to overcome the depression. Section 7A of the NIRA states "employers must recognize laborers rights to organize and

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bargain collectively through representatives of their own choice...".¹ Of course, the law did not force employers into good faith bargaining, but served only to recognize the legitimacy of unionization. In 1934, Roosevelt established the National Labor Relations Board to help mediate strikes resulting from the statutes set forth in the NIRA. However, in 1935, the U.S. Supreme Court found the NIRA unconstitutional because of its broad legislative power.²

Later in 1935, Roosevelt initiated the National Labor Relations Act law which gave collective bargaining national status. The Act required employers to be non-interfering in union elections, union activities and to bargain in good faith. Any violation of these were described in the NLRA as "unfair labor practices" and considered unlawful. This Act was upheld by the U.S. Supreme Court in the NLRB v Jones and Laughlin Steel Corporation (1937) where the company was found guilty of an unfair labor practice.³ The Fair Labor Standards Act of 1938 was enacted which included NIRA clauses as well as regulations on maximum work hours and minimum wages.⁴ Exclusive and fair representation clauses are also found in the NLRA and upheld by the U.S. Supreme Court in the following cases: Ford Motor Company v Huffman (1953), Syres v Oil Workers (1955) and Vaca v Sypes (1967).⁵

In the mid-1930's, some white collar workers were joining unions, but until the end of World War II, most collective bargaining was with "rank and file", typically described as "blue collar" workers. However, with the passage of the

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Taft-Hartley Act of 1947, the federal law began to recognize that professional employees could engage in collective bargaining and if the majority voted to do so, they had the right to exclude themselves from the larger bargaining unit containing non-professional workers.⁶ The Taft-Hartley Act was initiated in order to balance the power gained by labor unions in the NLRA. Commonly referred to as the Labor-Management Relations Bill, which is now a part of the NLRA, the Act prohibits the closed shop, allows employers to petition to the NLRB for elections among employees to determine their bargaining agent and allows management the right to sue unions for damages to property or violations of the collective bargaining contract. The Landrum-Griffin Act of 1959 or the Labor-Management Disclosure Act is part of the NLRA and requires unions to publish financial reports as well as names and salaries of officers.⁷

The National Labor Relations Board first set foot into higher education in 1951 when it was asked to certify the Council of Industrial Organizations (the CIO) union as the representative of clerical employees in the Columbia University libraries. The NLRB declined to assert its jurisdictional power in a non-profit educational institution because it is non-commercial and is concerned with charitable, educational activities.⁸ The landmark cases involved Syracuse University and Cornell University where the NLRB did assert jurisdiction over these two private educational institutions. The NLRB 's rationale for taking on these cases was that, as

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individual institutions and as institutions of higher education, they have a substantial impact upon interstate commerce, hence it is in the national interest to have uniform application of the national labor policy. The NLRB considered such things as the number of employees, student population and the size of the institution's operating budget when making its decision. The NLRB ruled that a higher education institution had to annually gross at least \$1 million for operating expenses to be considered. It is interesting to note that the wording of the decision suggests that only non-professional personnel in higher education would fall under the NLRB's jurisdiction.⁹ But two years later, the NLRB ruled that full-time faculty are essentially employees and not managers. The NLRB is only applicable for private sector bargaining.¹⁰

The right of federal employees to engage in limited unionization and collective bargaining was granted by President J.F. Kennedy in 1962 by Executive Order 10988. President R. Nixon furthered the policy with modifications in Executive Order 11491 in 1969. Collective bargaining by state and local government employees is governed by state law. In 1959, Wisconsin was the first state to enact a comprehensive public bargaining legislation.¹¹ Currently, there are about 40 states that have laws or statutes governing negotiations between public employers and employees.

In the first determination case in higher education, the NLRB concluded that part-time faculty at Long Island University were to be included in the same bargaining unit as

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full-time faculty because "the qualifications and chief function, teaching, of these part-time employees are identical with those of the full-time faculty".¹² The NLRB has also ruled to include all of an institution's professional employees, teaching and non-teaching, in the same bargaining unit. Non-teaching professionals would include librarians, counselors, athletic directors and researchers.

Collective bargaining among faculty members in higher education emerged as a serious possibility little more than two decades ago. The pioneer faculty group was at the City University of New York; their contract was signed in 1969.¹³ This action was soon followed by Southeastern Massachusetts University, Central Michigan University and St. John's University in 1970. One of the reasons for state collegiate institution's emergence into the faculty collective bargaining scene is that Kennedy's executive order gave way to state lawmaking regarding public employees, as in the case of Michigan and Massachusetts in 1965.¹⁴ Presently, there are 24 states that have laws which authorize employees in higher education to organize and bargain collectively. Three additional state and the District of Columbia, by action of the governing boards of higher education institutions, have authorized employees to organize and bargain collectively.¹⁵

The Carnegie Commission stated in its 1977 report that "state laws, where they do not now permit it, should provide faculty members in public institutions the opportunity to obtain collective bargaining rights."¹⁶ The Commission also

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suggested that faculty be cognizant of collective bargaining and its affects. It appears that the academic profession has taken heed of this advice. In higher education, 480 of the 2400 colleges and universities have voted to unionize, which equates to 133,000 of the 540,000 (25%) total faculty members across the nation.¹⁷ It is important to note that most unionized faculty are at community colleges. Likewise, the two strongholds of faculty unionism are in public multi-institutional systems and public institutions that have gone through major academic transformation or experienced major administrative abuses.¹⁸

In 1971, the NLRB had to decide if faculty members were management or labor. This issue transpired because college administrators asserted that faculty were management because of their involvement in decision-making in academic governance and therefore ineligible to organize and bargain collectively. The NLRB ruled that although faculty have a responsibility with management in the academic governance system, they are employees. The rationale is that they are not supervisors; they are professional employees within the meaning of Section 2:12 of the Act and are entitled to bargain. The key to determining if one is a supervisor is the presence or absence of individual license to effectively take action with a change of job status of another employee or can recommend such an action to a superior.¹⁹

Coupled with this ruling, the NLRB had to decide simultaneously if chairpersons should be included in the same

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bargaining unit as faculty members. The NLRB ruled inconsistently: in the Long Island University case, the NLRB ruled that the chairperson be excluded from the bargaining unit because chairpersons make recommendations about hires and discharges of faculty and non-professional employees. In the Fordham University case within the same year, the NLRB ruled that the chairperson be included in the unit because she/he does not exercise individual authority for faculty personnel decisions.²⁰ The dilemma is that the chairperson is often viewed by department colleagues as a faculty member who is their spokesperson to administration. At the same time, the chairperson is viewed by the administration as a first line supervisor.

In addition, there is the issue of strikes. There is a prohibition of public employee strikes as pronounced in federal statutes. However, there is a new empathy for the public employee as demonstrated in several state statutes where public employees are given a limited right to strike. With regard to faculty members, Pennsylvania, Hawaii, Minnesota and Alaska have granted public sector faculty a limited right to strike.²¹

A report issued by the Academic Collective Bargaining Information Service in 1977 gives a good summary on the scope of public sector bargaining in higher education. There is the greatest agreement among the states' laws on the following mandatory subjects of bargaining: wages, hours, grievance procedures, probation period of employment, promotion

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procedures, methods of teacher evaluation and methods of instructor removal. Those items which have been most uniformly assessed as management rights are: institutional mission and programs, level of funding, the hiring and discharge of employees, supervision, conditions of employment of non-unit members, determination of organization's work force size, standards of service, recruitment and job assignment. Those subjects of bargaining most disagreed about are: parity in wages, the school calendar, retirement benefits, class size, selection of textbooks, in-service education activities, the agency shop and recognition for preparation time.²²

Finally, in 1980, the U.S. Supreme Court held that full-time faculty at Yeshiva University are managerial employees excluded from coverage of the Taft-Hartley Act. The Court stated "The business of a university is education and its vitality ultimately must depend on academic policies that largely are formulated and generally are implemented by faculty governance decisions".²³ This ruling represents a serious hurdle to union efforts to organize faculty and to engage in collective bargaining with colleges and universities. As a consequence of this case decision, faculty in American higher education are defined as managerial and therefore outside the jurisdiction of the NLRB and the Act. The application of the Yeshiva decision is limited to private higher education institutions, those covered by the Act.

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The State of Michigan

There are three types of state legislation regarding the right of faculty members to negotiate. First, a state may have no statute or legislation regarding public employee bargaining. Second, there may be a "meet and confer" recognition that the public employee has the right to organize and meet and confer, but there is no requirement of the employer to bargain collectively or sign a negotiated agreement. Third, a state may have legislation conferring recognition and bargaining rights, requiring employers to recognize and bargain with labor unions representing public employees and to sign the negotiated contract. This arrangement provides for resolutions of impasse which the meet and confer model does not.²⁴

In 1965, Michigan and Delaware became the first states to grant collective bargaining rights by legislation to college faculties. The Michigan legislation, called the Hutchinson Act, grants the right to community college faculties to demand employers to meet and discuss wages, hours and other terms and conditions of employment. This Act, also known as the Public Act 379, also includes college governance as a term and condition of employment.²⁵ After 1966, collective bargaining appeared in four year public institutions in Michigan. Unlike the centralized system in such states as New York, Michigan's public institutions are independent of each other and have a great deal of autonomy. Thus, each institution can decide on collective bargaining. In 1969, the Central Michigan

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University faculty voted to unionize as did those of Wayne State University. Faculty at Oakland University organized in 1970 and at Saginaw Valley State University in 1972.²⁶ Both Michigan State University (MSU) and University of Michigan (U of M) faculties have declined to unionize. However, in 1974, U of M recognized and signed an agreement with the Interns/Residents Association of the medical center which covered wages, dues deductions, benefits and committee membership.²⁷

One of the hottest debates that ensued in Michigan higher education history was the role of faculty in public institutions. At Eastern Michigan University, three labor organizations sought designation as the bargaining unit. There was disagreement about the composition of the unit between the organizations as well as the governing board of the institution. The governing board argued that unlike typical employer/employee relationships, there is a community of interest and power with faculty in academe. The University argued that collective bargaining would in fact ruin the community of power upon which the university is based. The Michigan Employment Relations Commission (MERC) made its decision in 1972. It held that the faculty "are largely employees" and administration "is largely management".²⁸ MERC also ruled in a Central Michigan University case that the university was not required to negotiate with the faculty union before it adopted a new policy on evaluation of professors. The union argued that this was a change in the

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condition of employment and the administration argued it was fair because it was approved by the faculty senate system. MERC ruled "the documentation of teaching effectiveness is predominately a matter of educational policy and not mandatorily negotiable".²⁹

Historically, Michigan has had a healthy level of union activity. In both politics and the system of bargaining in higher education, there is encouragement for the growth of unions. Because Michigan institutions control their own negotiations to an unusual degree and finance their settlements out of a lump sum budget where each institution negotiates with the governor and lobbies through the legislature, the system seems vulnerable to union encroachment. The public institutions of higher education in Michigan have a greater degree of institutional independence in decision making than is typical in most states. That appears to be a positive attribute but it can also promote a narrow view, i.e., "it's your problem". Because each institution lobbies individually, the governor's office may be less empathic to greater wage costs than if it were a centralized system where the whole state would be effected.³⁰ Each public institution is a separate entity with separate policies.

In Michigan, the existing law stipulates that higher education employees are not state employees. State employees salaries are secured through negotiations by collective bargaining units for their members. There is, then, no state

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agency that exercises substantial control over higher education as a state activity. In addition, there is no state level executive agency to develop and implement a collective bargaining policy either for state employees as a whole or on the individual institutional level.³¹

The State of Michigan finances higher education public institutions. The budgetary process is a source of potential control, even though individual institutions have made an effort to assert constitutional independence. For example, Michigan State University, University of Michigan and Wayne State University filed a joint lawsuit involving the issue of the right of several governing boards to expand money appropriated by the legislature for their institutions at their discretion. In 1973, the court ruled in favor of the institutions.³² Higher education institutions in Michigan have the right to set their own tuition rates as well as to obtain endowments and extramural funds. Budgets are prepared by each institution separately and submitted to the executive branch. The governor passes his/her recommendations along to the legislature which then holds hearings for each institution's budgets. Salary increases are built into the budget; the increase proposed for state employees has been an important reference point for such increases.

Usually, collective bargaining negotiations are in progress at the same time as the final stage of the budgetary process. In general, the increase granted to faculty in negotiations have exceeded the budgeted salary increase

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approved by the legislature.³³ Where unionization exists in the faculty, there has been increased faculty lobbying through the union, a practice that has been criticized by the legislature. Relatively high faculty salary settlements in the past have impeded the flexibility of the budgets of the institutions. It has been suggested that tuition increases to accommodate faculty salary increases, but this has not been supported since tuition increases whether or not the faculty are unionized or not.³⁴ However, internal budget adjustments may need to be made to meet negotiated salary increases. In such an instance, administration shifts monies from other areas to support the wage and benefit package.

In reviewing the higher educational institutions in Michigan, the unionized faculty are as follows: out of the three research universities (Michigan State University, University of Michigan and Wayne State University), Wayne State is organized and represented by the American Association of University Professors (AAUP). Of the regional universities, Central Michigan University is organized by the National Education Association (NEA) and Northern Michigan University, Western Michigan University, Eastern Michigan University and Oakland University are organized by AAUP. Ferris State University and Saginaw State University are represented by the NEA, while Grand Valley State University and Lake Superior State University are not organized. In summary, then, 8 out of the 13 four year institutions are organized, 5 by the AAUP and 3 by NEA.³⁵ Those institutions

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that have been bargaining longest have been receiving 7-9% salary increases.³⁶ It is also interesting to note that there is little coordination among the various unions regarding negotiation issues and strategies. The multi-campus issue which demands great coordination between the institutions does not exist in Michigan because of the independence each institution has from each other. Several researchers and the Carnegie Commission find the Michigan model of higher education (de-centralized), funding (individual budgets) and collective bargaining (independent) as the preferable model for American higher education.³⁷

There has been considerable debate about the appropriate bargaining unit in faculty unionization within the state. With regard to the part-time faculty member being included, MERC has been inconsistent in its decisions. The Michigan Employment Relations Commission (MERC) decided that part-time faculty should be included because they share similar employment concerns as full-time faculty. However, in the 1972 Wayne State case, MERC decided that faculty with a 50% or more appointment should be included and "fractional/adjunct" faculty should be excluded.³⁸

MERC has also ruled on the inclusion of non-teaching professionals in the faculty bargaining unit. MERC decided to include non-teaching professionals on both Wayne State and Eastern Michigan faculty unit based on the reasoning that there is an integration of interests with all these education professionals having similar goals.³⁹

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The issue of faculty fragmentation was "nipped in the bud" when the NEA attempted to be certified by only using faculty from the Undergraduate University Division at Michigan State. The labor board found that if all faculty were to be in the bargaining unit, the union must seek authorization from the entire university faculty. However, MERC did rule that graduate and professional faculty could join a more broadly defined bargaining unit as noted in the Wayne State medical faculty case of 1972. MERC's rationale was that a unit should include a community with similar interests, although graduate or professional school faculty may have distinct needs and interest apart from "regular" faculty.⁴⁰

As the NLRB has struggled over department chairpersons being included or excluded in the faculty unit, so has MERC. Typically, MERC excluded supervisors from general employee bargaining units, but permits them to organize separate supervisory units. This has been done at community colleges, but not at four year institutions like Central Michigan University and Oakland University where chairpersons are included. Conversely, in 1972, MERC ruled that chairpersons should be excluded in the Wayne State and Eastern Michigan cases because MERC viewed chairpersons as having and exercising authority beyond the status of spokespersons. The last issue regarding the make-up of the bargaining unit deals with faculty committees. It has been questioned if grievance and tenure committees make faculty management. The NLRB has ruled that supervisors exercise their authority individually

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whereas these faculty committees do so as a group and therefore faculty are not management. There is no mention of MERC's position on whether faculty serving on such committees should or should not be in the faculty bargaining unit.⁴¹

FACTORS RELATED TO FACULTY UNIONIZATION

Reasons Why Faculty Unionize

There are very compelling reasons why faculty choose to bargain collectively. The three primary reasons are: salaries and other economic conditions, job security/tenure and participation in academic governance. There is an overall feeling within the faculty group that there are inadequate mechanisms for representing such needs and interests of the academic profession.⁴²

Historically, university administrators have learned that faculty insist on being heavily involved in running the institution. In addition, faculty have always exercised decision-making authority throughout the history of American higher education. Participation in governance makes the higher education system quite different from other employment relationships. Because of this difference, legislation must provide for this demand for involvement when establishing a system of collective bargaining for academic professionals. In general, as found in business and commerce, the employer had the authority to adopt managerial policy and work rules as well as the ability to decide what action to take when

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implementing these employment policies. When collective bargaining was introduced into the work place, it modified managerial power. That is, management decides what is to be done, how and who will do the work. But when faced with a collective bargaining agreement, protests can be made in response to managerial action through negotiation of a contract or the grievance procedure provided by that contract.

Higher education is contrary to this business model. Faculty play a large role in the formulation and implementation of educational policy and decisions regarding selection and retention of faculty. Hence, decisions on academic program offerings, student admissions, recruitment and retention of instructors and curriculum changes or abolishments are not exclusively management prerogative as found elsewhere. In higher education, faculty make those decisions or are consulted regarding them.⁴³ There are very good reasons for such faculty participation. There is a need for their professional expertise; those in the academic disciplines are most familiar with their field and should be included in the decision-making affecting their area. Also, successful conduct in academic enterprises require active cooperation of the faculty and faculty typically do not regard single handed administrative decisions as legitimate. As a consequence, lack of involvement on the part of faculty negatively affects morale which has a debilitating affect on the academic mission and quality of service. Participation of faculty is one safeguard to academic freedom as well. To an

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extent, academic freedom protects the faculty member's role in governance.⁴⁴ In fact, faculty participation in governance has been recognized by the U.S. Supreme Court in 1980.⁴⁵

Garbarino, Kemerer and Baldridge and others believe that unionization has occurred in response to environmental changes both in higher education as a whole and in the structure and function of individual institutions or multi-campus systems.⁴⁶ First, it is suggested that enabling legislation has promoted collective bargaining among faculty.⁴⁷ Second, higher education experienced a steady period of growth during the 1970's followed by harder economic times.⁴⁸ Third, restructuring in higher education systems on individual campuses and sizable growth in community colleges left faculty feeling insecure.⁴⁹ Fourth, faculty felt the need to halt abuses in administrative power demonstrated by arbitrary and capricious actions, especially where academic freedom, tenure/job security and governance were concerned.⁵⁰ Fifth, several special interest groups, including minority groups and women, saw unionization as a way to improve their status on campus.⁵¹

The conflict between collective bargaining and college faculty is embedded in campus realities and faculty needs. On the one hand, there is greater pressure for higher level performance qualitatively and quantitatively coupled with an incongruence in the reward system. There is greater need for accountability as funding and financial sources are constrained. Student demographics are changing so that the

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clientele is more complicated and difficult to please. Faculty renewal is low and there is little resource to support it. Greater long range planning must take place in order to finance the institution. On the other hand, faculty demand a high level of participation because they have a mutuality of interest and investment in the institution. As Rhodes and Smith note, faculty are more highly trained and have always been more involved in the decision-making process than their industrial counterparts. Faculty have had greater autonomy than most any other employee group. And faculty have demanded a hand in the management role in their work place.⁵²

It is apparent that there are real bread and butter issues for faculty, quite similar to those of interest to blue collar workers. The difference between these two groups is that, in general, white collar workers see themselves as "retained" more than "employed" for their services. White collar workers, including faculty, have greater autonomy and desire more participation in decision-making in the end product.⁵³ This is consistent with faculty needs. They desire academic freedom (autonomy) and involvement in academic governance (participation in decisions and the end product).

There are some interesting statistics about higher education professionals. There are 16 million professionals in all professions; 29% are involved in collective bargaining. If one subtracts those professionals who have not attempted to unionize, such as judges and the self-employed, then 40% of all professionals in the United States are organized. When

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comparing this 40% to professionals in higher education, 36-40% of the professionals in public institutions are engaged in collective bargaining.⁵⁴ Gains within the faculty group are seen in slight salary increases.⁵⁵ Ladd and Lipset in 1973 as well as Kemerer and Baldrige in 1975 have shown that faculty at private college and universities are less sympathetic towards unionism than their public school counterparts.⁵⁶

Birnbaum, Ng and Garbarino, Feller and Finkin concluded that collective bargaining and higher education faculty are incompatible and if pursued, would lead to the demise of the academic governance system. However, this is not necessarily so. Although faculty perform "management functions", they are primarily employees. In the absence of collective bargaining, there is no representative voice for non-academic matters such as salary, benefits, work conditions and time off. Based on five years of studies, empirical evidence suggest that given a conducive environment and sometimes even in the absence of that environment, collective bargaining and academic governance can co-exist by having two separate tracks, one for academic issues and one for non-academic collective bargaining concerns.⁵⁷

Problems with Faculty Unionization

As noted above, there are problems associated with collective bargaining among college faculty. First, it is important to question the effect collective bargaining has on the governance of an institution. Second, the composition of

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the bargaining unit must be determined. Third, a definition of "supervisor" must be provided. Fourth, it must be decided whether there will be state bargaining or individual institution bargaining. Fifth, the scope of bargaining is unclear in higher education. Sixth, the effects on the tenure system and academic freedom must be strongly considered. Seventh, it is unclear if work stoppage is a legitimate activity for faculty and if so, how would strike activity would affect the institution.⁵⁸

Collective bargaining in higher education is problematic because the faculty member is a practitioner of a profession, an employee of an organization and a manager who assists in creating and administering organizational programs and policies. Collective bargaining can promote an adversarial relationship where, instead of promoting mutually agreed upon work conditions, an "us/they" mentality arises.⁵⁹

Collective bargaining can have a negative effect on the professional status of faculty as well. Faculty value individuality, which appears to be congruent with academic freedom and their teaching/research assignments. Faculty may view collective bargaining as incompatible with their individuality. They also may see unionism as controlling what they previously controlled, i.e., governance. These two faculty viewpoints alone could damage their reputation as they see it should be.⁶⁰

In addition, the goals of higher education institutions are ambiguous and often in conflict (cost v. excellence).

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Collective bargaining is a vehicle to point out such inherent problems but, in turn, unionism may not be a panacea for solving those problems. A good example of this is higher education's goal of excellence within a restricted budget. It costs a great deal to provide excellent academic services; the university raises all the money it can, spend all the money it raises and, as a consequence, there are always greater expenditures.⁶¹

Another problem mentioned in the literature is that faculty are in part managers and, in part, employees as well as professional colleagues. Some functions of faculty fall under "employee", thus the university cannot interfere as an employer if an employee group seeks representation. On the other hand, to the extent that faculty perform management duties such as recommending hires or tenure, it could be argued that faculty are management personnel.⁶²

As Julius and Rhodes and Smith note, the composition of the bargaining unit is another critical issue to faculty unionism. Within the private sector, the NLRB has ruled that those to be included are those who share a "community of interest". In the public sector, community of interest is used as is similar work conditions, the desire of the employee group, similar skill and similar duties. The only stipulation under federal and state statutes is that supervisors/management types are not included in the same bargaining unit.⁶³ How does one decide if the academic manager, the chairperson, is a part of the management staff or

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a collegial peer? To complicate the issue of the chairperson, most are not equipped to handle unionized employees.⁶⁴ So if the chairpersons are not included in the same bargaining unit, which is sensible because there may be a conflict of interest, then as supervisors, chairpersons are not prepared to manage a unionized workforce.

It is also unclear if there is reason for excluding committee members from the same bargaining unit from which they review faculty members. Generally, committee members are included in the same bargaining unit if the decisions or recommendations are made collectively.⁶⁵

The effect collective bargaining among faculty upon academic freedom and the tenure system is questionable. Several researchers felt that the scope of bargaining in faculty unions will expand to include academic freedom and tenure. There is a concern that if this did indeed happen because of a grievance procedure in an agreement, decisions regarding such critical institutional issues could be decided by the courts.⁶⁶

Work stoppages by college faculty are difficult to imagine because of the autonomous nature of faculty work. However, a faculty strike could be a valid response to a college administration's managerial approach to the ideological, charitable goals of the institution.⁶⁷

In multi-institution systems, a decision must be made bargaining should be conducted at the state-wide or institutional level. It makes sense to centralize collective

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bargaining since there is a trend to centralize higher education. On the other hand, it is reasonable to bargain on the institutional level since each college knows its day to day operations, supervision needs, its tenure and academic governance systems and the implementation of work conditions. This was an issue each state or institution must wrestle with before faculty bargaining is present on campus.⁶⁸ The research also indicated that there is a correlation between faculty unionism and the quality of the institution. The data suggested that unionization has been concentrated in relatively low quality schools. As a consequence, there appears to be a relationship between unionism and the lack of professional standards.⁶⁹

Effects of Faculty Unionization

With faculty collective bargaining ending its second decade, it is possible to examine the effects of unionization. In general terms, the percentage of college faculty organized equals the percentage of unionized workers in the private sector.⁷⁰ The faculty union has exerted influence and power through political clout especially if unions are affiliates of national organizations. Administrative processes which include strategies on policy formation, decision making and management style have been profoundly effected by collective bargaining. This has occurred because faculty associations have applied pressure on administration using non-bargaining strategies to maintain their participation in the management

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As suggested by Julius, collective bargaining has brought compensation for weaknesses in present arrangements through contract implementation. The agreement on the contract, in turn, promotes "acceptability"; any contract is likely to have elements that are satisfactory and unsatisfactory to the parties. Refusal to ratify the tentative agreement is more likely to occur with faculty than with management because the membership finds insufficient clarity in the contract. If there is unacceptability of one item in the contract, it is critical for the union to reject the contract, otherwise the membership may lose faith in the faculty union. Once the contract is ratified, it forces the administration to be management and it presents faculty as employees represented by a labor organization.⁷²

One other effect collective bargaining has on higher education is that it formalizes procedures found in the institution. For instance, the grievance procedure, spelled out in the contract, formalizes the relationship faculty and administration have during that process and can serve as a catalyst for equal, positive relationships. Faculty unionism also formalizes professional standards and job expectations such as performance standards and job security.⁷³

Unions also tend to standardize salary increases among faculty. This is often thought to negatively affect merit reward systems found in higher education because of a leveling off effect. One researcher found that salaries had been

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improved at community colleges through unionization. The "irregular faculty" and non-teaching professional had benefitted most because they are paid lower relative to regular teaching faculty. In general, unionization of faculty is a response to a deficiency in wages.⁷⁴

Collective bargaining also formalized the cherished job security system in higher education. There is a more formalized evaluation process and criteria for tenure and has expanded the meaning of job security for academic employees who are not in tenure track positions.⁷⁵

Unionization can preserve and extend the economic benefits as well as job security. This is seen in providing junior faculty the same procedural protection that senior faculty receive. It has been suggested that economic security, which includes salary increases, better benefits and job security are more likely to occur with unionization than without unionization.⁷⁶

Increased cost may also be an outcome of collective bargaining among faculty. The fiscal implications include money needed for the negotiation process, wages and benefits as well as the hiring of labor relations experts. In addition, the organizational budget is effected because the change process takes longer through collective bargaining, which ultimately means it will take more money to do the same task. At the same time, the administration can expect greater productivity from faculty who receive greater benefits in the workplace. Faculty can expect greater costs as well. There

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are union dues to be paid and faculty may pay in relation to time because they will be expected to talk to union representatives prior to talking to their supervisor (the chairperson).⁷⁷

There is disagreement about the effect unionization has on governance. Kemerer and Baldrige, suggest that unionization broadens faculty's ability to participate in decision-making as well as preserving their role in the governance system where it is being challenged and in cases where faculty senates are weak.⁷⁸ Garbarino and Polishook assert that unionism has not expanded the area of decision-making but has reduced the role of the faculty senate system. These researchers and others see governance and collective bargaining as separate entities which should not be incorporated into one. Unions need to adapt to the governance structure and not erode faculty participation through its political manner.⁷⁹

An interesting effect faculty unionization has had is with institutional presidents. College presidents report that they feel more vulnerable, yet in actuality, the college CEO has received more administrative power after unionization because decisions are forced up from the departments to the central administrative structure.⁸⁰ Negotiations on the terms and conditions of employment occur between upper management of the university and union leaders as often seen in the first tier of the two tier bargaining model.

In summary, there are several findings on the effects of

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faculty unionization. Faculty have incorporated existing governance systems into the bargaining contract rather than replacing the governance system. Faculty unions did not put an end to probation periods, academic judgment in regard to tenure or merit pay. Unionized faculty view collective bargaining as a means for incorporating their traditional rights and protecting those rights, not necessarily as a way of winning new rights. The same group of management rights exist without a contract; the contract only explicitly states them. Faculty gains in areas such as long range planning and retrenchment were slight. Faculty associations seem best able to control decisions that are most important to faculty, i.e., tenure and promotion. There were no academic rights traditionally held by faculty that were given up to make economic gains. Faculty associations typically desire to monitor their members' performance as management typically has done. Greater cost is incurred when unionization is present because of new labor relation processes. Unionism has brought greater salary increases and in some cases the threat of unionization has produced a salary increase. Finally, once established, unionization is likely not to be abandoned.⁸¹

Recommendations for Faculty Unionization

It is apparent from the above description of faculty collective bargaining, that improvements can be made. Many researchers have drawn generalizations about faculty unionism from the industrial model. This model often focuses on

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seniority and union solidarity. For faculty unions, this is an insufficient depiction. Faculty associations include traditional professional values and rights in the contract. As the Carnegie Report asserts, "Collegial rights must be considered as well as the usual bargaining right and management rights".⁸² Several recommendations have been made regarding the uniqueness of the faculty bargaining unit. One of the single most important factors in adjusting faculty collective bargaining to higher education lies in the definition of the bargaining unit. First, selection of union representatives must be congruent with the existing system of faculty government. Second, the scope of bargaining should be broad to allow the bargaining agent to achieve accommodations within that particular institution's governing system. There must be statutes which stipulate that internal faculty governing bodies are not labor/employee organizations; they are separate and distinct from the faculty association. And if such a statute is provided, no additional provision is needed regarding the worth of academic governance.⁸³

In wrestling with the issue of the chairperson being included or excluded in the faculty bargaining unit, it is suggested that a realistic job description of the chairperson be made as well as a rationale provided for the inclusion or exclusion of the chairperson in the bargaining unit.⁸⁴

Chandler and Julius have suggested a model for faculty unionization. They believe this model that many of the barriers to faculty bargaining could be overcome if a new

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approach were taken. The model is based on the craft union. A craft union is a self-governing body that exercises labor market control over its activity and is responsible for the recruitment, selection, training, evaluation and promotion of its members. A craft sets its own work rules and defines its jurisdiction over the work of its own members. Members of the craft both manage and perform their work. Craft unions typically participate with management on committees resolving work related problems. Craftpersons work on project-type tasks and have a high degree of autonomy in their work. As professors do, craftpersons may work in an organization that presents problems. Craftpersons, like professors, have a conflict between autonomy and conformity. However, similarities exist between a craft and an organization with universal standards, specialization and evaluation of competence based on performance. The assertion of craft rights is a real catalyst for unionization. Economic issues are not typically the primary issue for crafts unions just as rights issues are imperative to faculty collective bargaining. If one accepts the crafts model as a good representation for faculty bargaining, the debate over professionalism versus unionization is moot. For the professorial craft group, tenure is a keystone of the craft experience. Throughout the tenure process, the traditional craft controls, as mentioned above, can be exercised. Without the tenure process, the professor may merely be an employee with a direct relation to administration. And, it is no accident that tenure receives

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the highest ratings among faculty in four year institutions.⁸⁵ It is interesting to consider that the whole approach to faculty collectively bargaining has been wrong.

FACULTY UNIONIZATION EFFORTS AT MICHIGAN STATE UNIVERSITY

The first time Michigan State University (MSU) faculty were involved in an unionization election was in 1972. The American Association of University Professors (AAUP) and the National Education Association-Faculty Associates (NEA-FA) sought a bid for representation with MSU's faculty. Each union has its own history. The AAUP was founded in 1915 to "advance the standards, ideals and welfare" of the teaching profession in higher education.⁸⁶ The AAUP exclusively represents employees in higher education institutions and has a dominant role in collective bargaining in United States colleges and universities. As an example, the AAUP represented 15 four year institutions within the U.S. in 1972. The Faculty Associates is a higher education subsidiary of the NEA and was established in the late 1960's. In Michigan, the NEA has a state group, The Michigan Education Association (MEA) which represents not only K-12 educators, but 2 year and 4 year college teaching professionals as well.⁸⁷

In 1972, MSU faculty were faced with making a decision on being represented by AAUP, NEA-FA or not being organized which was indicated on the ballot as "No Agent".⁸⁸ In order for a union to be placed on the ballot, the collective bargaining statute mandates that 30% of those who would be represented by

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the bargaining unit provide signatures on authorization cards. The second bargaining unit only needed 10% of the signatures from the potential group after the first bargaining unit received the required 30%. One of the major hurdles in obtaining formal bargaining unit status is determining the definition of the membership of the bargaining unit. In the case of the AAUP and the NEA-FA seeking bargaining unit status at Michigan State, the Michigan Employment Relations Commission (MERC) determined that the bargaining unit membership would include all full-time faculty rank employees which included professors, associate professors, assistant professors, lecturers, instructors, assistant instructors and specialists. Also included were half-time faculty with three or more terms of service as well as non-supervisory academic staff such as "librarians, non-supervisory directors of academic programs, artists in residence, counselors and academic advisors".⁸⁹ Graduate assistants, research associates, post-doctoral fellows, head coaches as well as assistant chairpersons, associate chairperson, department chairpersons and deans were excluded. This parameter regarding the bargaining unit membership was agreed upon by MSU and the two bargaining units. The process of determining the bargaining unit was long and arduous. Essentially, it was a struggle of power; the larger the bargaining unit, the greater clout it possesses. The unions desired to have the unit administrators included in the union organization membership. A power base of this magnitude would provide

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greater influence when political power was needed. Obviously, such a foothold was to the union's advantage. However, it was plausible that a conflict of interest existed since most unit administrators were managers functioning as supervisors of those faculty members. Typically, supervisors are not allowed to be in the same bargaining unit as their supervisees as found in Michigan's Public Employment Relations Act (PERA).⁹⁰ This conflict of interest was also a concern for the University because management saw the inclusion of administrators as a loss of power and influence.

This controversy over the inclusion of management/supervisory personnel was submitted to the Michigan Employment Relations Commission (MERC) in the 1971 faculty unionization effort. MERC began its hearing on this debate after the required signatures for a representative vote were obtained and it was not until March 1, 1972 that a decision was made. The decision was to exclude administrators from the bargaining unit. As a result, the election was delayed until the following Fall because of this important but lengthy process.⁹¹

It is important to consider the critical issues on MSU's campus during this time period. Salary rates during 1970-1971 year were eighth out of ten in the Big Ten institutions. However, this does not seem to have been the primary issue for MSU's faculty. First, there was faculty concern for participation in academic governance. Second, the faculty wanted more control over academic policies and procedures

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On October 23 and 24 of 1972, the MSU faculty voted against collective bargaining by selecting "No Agent" through the majority vote cast: no agent- 1213, NEA- 438 and AAUP- 280.⁹² It is interesting to contemplate why MSU faculty decided not to be unionized. It does not appear to be dissatisfaction with salary level. In fact, faculty received a 7.4% pay increase at the time when the two unions tried to organize.⁹³ This gesture made by the administration may have signaled to the faculty that they were truly concerned about their needs. Another theory on why MSU faculty rejected representation by a union may have been their perceptions of what unions symbolize. That is, it is possible that faculty saw unions as tools for the blue collar worker to equalize power in the work place and not a method of employment relations for a professional group.

There were two clear messages sent to MSU faculty as well. Often, there is a negative campaign by executive management in response to the possible threat of unionization. During the 1971-72 unionization effort, the president of MSU, Dr. Clifton Wharton, expressed his concern over the affects of an unionized faculty: "Therefore while the Board determines which colleges or departments will exist and thus which disciplines and professions will be taught, it is the faculty

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which decided how the field or subject matter will be taught and what the course content will be. There can be no question that this relationship must undergo profound changes if faculty choose unionization. The long run implications will be to eliminate or drastically alter the academic traditions which nurture any academically strong university". The president also suggested that the governance system that did exist at that time was better than what it could be, implying it might be worse.⁹⁴ There was also a faculty caucus called "concerned faculty" that evolved because of opposing sentiments to unionize. This anti-union faculty group held meetings on campus and distributed literature to publicize their protest of unionization. The message from Wharton and the protest efforts by faculty drove home the fear of the incompatibility between unionization and higher education teaching professionals.

Both the AAUP and NEA-FA suggested that they would seek official recognition again after the 1972 unsuccessful attempt. Based on the Michigan Public Employment Relations Act (PERA), a labor organization must wait one calendar year before petitioning to MERC for another election.

During the 1970's, there was a increase in unionization among faculty at four year institutions across the nation. In Michigan, the NEA-FA was the bargaining agent at Central Michigan University, Ferris State University and Saginaw State University. The AAUP represented Eastern Michigan University, Wayne State University, Western Michigan University, Northern

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Michigan University and Oakland University. At this time, non-union campuses were three community colleges, Michigan State University, University of Michigan, Michigan Technological University, Lake Superior State University and Grand Valley State University.⁹⁵

In January 1977, NEA-FA filed a petition to seek another election at Michigan State University. MERC ruled the NEA-FA ineligible because they did not have the required 30% "show of interest" signatures necessary to call an election. After re-petitioning MERC with more signed authorization cards, the definition or unit determination was needed. On March 11, 1977 the nature of the unit was decided. The unit population was similar to the 1972 group with the addition of half-time faculty that served six months, rather than three or more consecutive terms as determined previously. Once again the issue of including administrative/management faculty (chairpersons, associate chairpersons, assistant chairpersons) was argued between the NEA-FA and the University. As before, the union wanted to include that power block and the University wanted administrators on the management side because of the conflict of interest. In regard to the medical school faculty, the University wanted them included in the bargaining unit and NEA-FA felt it would be inappropriate if they were included. The decision was made that managerial/unit administrative personnel would be excluded and the medical faculty would be included. Again, the AAUP got the 10% additional authorization cards in order to be placed on

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the ballot. In the spring of 1978, the election was held.⁹⁶

There were two issues for faculty at this time. First, wages continued to lag behind comparable institutions, the Big Ten schools. Second, apprehension over growth of central administration control and less control for faculty was disconcerting. It does not appear that the grievance procedure was an issue, since the administration was implementing a new grievance procedure that was very progressive in comparison to other institutions.⁹⁷

During this election period, there was an anti-union organization of faculty lobbying for "No Agent" on the ballot. And again, a message came down from the president, Dr. Edgar Harden, the interim president during a presidential search. He presented a bi-partisan position encouraging faculty to vote stating that not voting is choosing to let others decide the outcome of unionization.⁹⁸ The unions gained only a small 3.9% more votes than in 1972 and the MSU faculty once again rejected unionization.⁹⁹

In 1980, a severe economic recession greatly affected higher education across Michigan. Dr. Mackey, who had recently come to MSU as president, had a very authoritarian/autocratic management style that was consistent with the need for downsizing the University. Mackey had to make major cuts to provide budgetary cost containment. Such drastic changes provoked feelings of anger and insecurity among the faculty. There was wide spread discouragement among the faculty regarding the administrations' decisions. An

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example of such decision-making was a 2.5 day layoff for all university employees. The negative effect from such administrative orders was poor morale. As a consequence, it does not seem unreasonable to describe the situation as "us/they", which was to the advantage of the union.¹⁰⁰

It was the AAUP that first sought a petition effort for recognition. In July 1981, the AAUP filed with MERC with over 30% authorization cards. However, the university submitted more faculty names, as they had done in 1978. MERC then denied the request for an election because these extra faculty member names resulted in AAUP not having the 30% minimum authorization cards of the proposed bargaining unit. By August 1981, AAUP had obtained the necessary number of signatures and refiled a new petition for a union election. The NEA-FA filed the additional 10%, so they too were on the election ballot.¹⁰¹

There was a rebuttal regarding unit determination between the University and AAUP. MERC finally intervened and began formal hearings in December 1981. By mid-May, MERC issued it's final decision in favor of the union's position that part-time faculty working 50% or more in a year would be included in the bargaining unit as well as counselors in the counseling center in the tenure system, coaches with tenure, IM sports faculty and instructional specialist. There was an intentional delay in this election on the part of the administration. It was not until May 1982 that MERC's hearings were completed and an election could continue. By

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the end of May, the University appealed MERC's decision to the Michigan Court of Appeals stating that extended membership "would dilute rather than enhance the special and essential role of tenure system faculty within the University. The University's position was consistent with a prior decision of the Court of Appeals with respect to the nature of faculty units".¹⁰² The University based its appeal on MERC's original ruling not to include this group as they had ruled in the other two elections and on the fact that the University did not include these employee categories in the tenure system any longer. The University's challenge threatened to delay elections again and the unions acted swiftly to set the election dates for November 17 and 18, 1982. It is important to note that one and a half years passed since the unionization process began.¹⁰³

It is apparent that the appeal to the high court did sway the election results. That is, with the unit description subject to potential change, it was possible that after the election, a reverse decision from the court would make another election necessary because some of the voters might be disqualified after the election. It seems reasonable to assume that at some level, the delay did have a direct effect on the votes.

It is also logical that the change in composition of the unit determination was viewed as negative even though these irregular faculty were in the tenure system. They were most likely viewed by regular teaching faculty as not cut from the

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The faculty issues existing around this election were threefold. Faculty perceived administration as insensitive; this perception was probably instigated by the layoff period and an effort to dismiss tenured faculty for financial reasons. Second, faculty were gravely concerned about their role in academic governance. Because of the dictatorial style of administration, faculty were concerned about their academic freedom rights. Third, salary concerns were still prevalent; MSU faculty salary rates were lower than University of Michigan, Wayne State University, Michigan Technological University and Oakland University. However, the University raised salaries 5% during the unionization efforts which probably bought out some of the threatened faculty.¹⁰⁴

Most MSU faculty who opposed unionization responded to salary/compensation issues because they believed that students would ultimately suffer through increased tuition rates. Some MSU faculty were consistent in their belief that their professional values made this method of employment relations incongruent with the ideology of higher education.

The faculty again received a message from the president of MSU, Dr. Mackey, urging them to vote "No Agent". The faculty did indeed vote down unionization a third time in 1982. It is interesting that when the environment at MSU was conducive for unionization, it was defeated. There are several viewpoints on this. The president of AAUP said that in the one and a half years between the time of the petition

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and the election : "... the Administration cleaned up it's act and there were no more layoffs. So people felt more secure. If the administration had continued to make cuts, we would have had collective bargaining".¹⁰⁵

A second viewpoint provided by the chairperson of the faculty group opposing unionization stated "...collective bargaining is not an appropriate means for dealing with the problems of Michigan State University. Given these adverse economic times and given an administration that is too often heavy handed, the majority of faculty view themselves as professionals in their respective fields of research and teaching and not as just employees".¹⁰⁶

Opinions ranged from "Lumping everyone together, judging everyone the same, would erode academic excellence", "Most faculty are quite independent, individualistic and see the current practice as a key to academic excellence. Simply put, faculty should be rewarded for what they alone do and not what everyone else does"¹⁰⁷ and "Unionization, however, isn't much of an issue at the more elite institutions. Such universities as Harvard, Amherest, Michigan and Johns Hopkins, with faculties co-governing their institutions, are not organized and probably never will be".¹⁰⁸

A significant statement was made by the AAUP, "The threats to this academic community are both direct and indirect. By ignoring or attempting to manipulate the academic governance system, the Administration has tried to reduce the faculty to impotence. By threatening the

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livelihood of faculty members, by attempting to reduce academic tenure from a right to a sometime privilege, the administration has directly attacked academic freedom and scholarship. A threatened faculty cannot be creative; neither can a powerless one".¹⁰⁹

If MSU faculty had unionized in 1982, they would have been the first faculty to organize in the Big Ten institutions.

Two studies of MSU faculty decisions about unionization suggest that attitude has a major role in the decision to support or reject unionization.¹¹⁰ Greater job satisfaction and greater acceptance of administrative actions had a negative correlation to collective bargaining. The authors of one study suggest that because of this negative correlation, collective bargaining would not be chosen by employees experiencing greater job satisfaction and satisfaction with management decisions. The single most important variable related to faculty attitudes toward collective bargaining was rank. The higher the level of rank a faculty member possessed, the greater job satisfaction was experienced and therefore the faculty member would not choose to organize.¹¹¹ In the second study, negative attitudes about unionization were essentially an instrumental one, that is, if all else being equal, faculty were not generally interested in unionization and their sense of the situation was that there would be few positive gains and more drawbacks from unionization.¹¹²

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"In the long run, the attitudes of administrators and members of the board of trustees towards the bargaining agent selected by a majority of the faculty will have a determinative affect on the nature of the relationship. If a bargaining agent is viewed as an aberration to be quashed or ignored, the introduction of bargaining relationships will be much more likely to disrupt the processes of higher education. Conversely, if the administrators accept the emergence of a bargaining relationship as an indication that serious problems of representation and policy exist, then the constructive contributions of new arrangements maybe maximized".

AAHE Report 1967

The lack of successful faculty unionization through these three attempts at Michigan State University offers distinct historical evidence to intellectually query the continued rejection of collective bargaining by research faculty. As revealed later in this study, this abstinence from unionization is not an aberration, but symptomatic of underlying causes that distract and deter AAU faculty in their work environment.

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CHAPTER THREE

AUTONOMY AND COLLECTIVE POWER OF AAU FACULTIES: A THEORY

Most of the literature on collective bargaining of college faculty revolves around the question "what factors persuade or dissuade college faculty to unionize?". Most often, researchers cite either monetary reasons for or attitudes toward faculty unionization. These factors appear to be insufficient to account for the refusal of AAU faculties to adopt collective bargaining. What is needed is a theory that describes the adversity toward unionization within AAU faculty.

The thesis of the theory is the claim that the institution of collective bargaining exists within a work environment whether or not a bargaining unit acts as its agency. Even though a bargaining unit is not present, there are bargaining mechanisms within the work environment. That is, the functions and the scope of bargaining exist in other procedures and simulate the process of collective bargaining. There are two main elements of this thesis. First, there is, on this view, a broader definition of collective bargaining that includes bargaining as a group that does not happen to be a union. Second, employees can bargain individually if they hold enough power and influence in their work environment to effectively bargain their desires.

Understanding the employment framework in which faculty work in AAU institutions is critical to deciphering their

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The tendency to unionize or not for white collar workers/college faculty is predicated on the nature of their work, both the environment and the job functions or tasks. Employment structures dictate the ways in which employees respond to their work lives and consequently, whether they opt to bargain collectively. There are two types of employment structures, other imposed and internally imposed, one at each end of a continuum. An external employment structure is other-imposed. The employer provides the structure in employees' work environment and in assembling their tasks. In higher education, community colleges and four year undergraduate colleges are good examples of such a structure. The task is clearly delineated: teach or train students. There are no choices in job function and little professional autonomy or decision-making to be exercised in the work environment. There is no need for time-effort distribution; there is one task to be done, given with a clear directive. There is limited professional autonomy. Faculty have little control over curriculum development or course content in this work environment.

Faculty employed at AAU colleges and universities experience a very different work life than their community college and four year undergraduate college counterparts. The work environment at community colleges and four year undergraduate colleges puts most of the effort and emphasis into undergraduate teaching. Conversely, it is typical for

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AAU faculty to be charged to perform three major functions: teaching, research and public service. Because there is a diversity of tasks, there is much autonomy provided so that individuals can juggle their work and fulfill all the various job responsibilities. Faculty are provided autonomy so that they structure their work and work environment through self-imposed schedules. Hence, they are responsible for a management function, that is, directing completion of tasks. Hence, the employment structure at AAU institutions is internally-imposed.

Autonomy is critical to understanding an employee's work environment. Autonomy and employment structure have an inverse relationship. The more autonomy provided in one's work environment, the less external structure is provided. The less autonomy present, the more external structure and control applied. The amount of autonomy provided is a logical, thoughtful management decision. The more complicated the job, i.e., the number of tasks required to perform the job satisfactorily, the greater autonomy provided by the employer. In the absence of multiple tasks, there is no need to provide professional autonomy.

There is a great deal of power with regard to the work environment when autonomy exists. Autonomy in one's work life is composed of the ability to organize and manage tasks, make decisions about the method for completion of the tasks and completion itself. Hence, if faculty members have a significant amount of autonomy in their work environment, they

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Faculty members in AAU institutions work in an environment that encourages and expects individual creativity and effort in performing job functions, preferably with a degree of excellence. This environment promotes individuality and non-conformity. It is very difficult to compare the work of one employee to another because of the variety of tasks, prioritizing those tasks and creativity in their completion. Hence, the nature of work and the work environment seems to demand a merit-based system of evaluation and reward rather than across the board awards. The reason for a merit-based system of evaluation is that the work environment expects individual effort and so the performance evaluation is of each individual employee. In AAU institutions, merit-based systems depend on the assumption that faculty are not equal and consequently compete against one another. The benefit of professional autonomy is apparent. The cost of autonomy in one's work life is the competition for a portion of a fixed pie. So the benefit is control over one's work life and work environment. The cost is competition for merit-based rewards.

Individual faculty members as employees are powerful when they exercise their autonomy. Faculty members possess influence when they have the ability to produce effects indirectly by means of their individual power. Influence among individual employees exists because there is autonomy that allows and perpetuates differences in the shape of work

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AAU faculty are in a stronger position of equality with "management" than their community college and four-year undergraduate college counterparts. Through the autonomy granted to an individual AAU faculty member, there is an inherent expectation of self-management. This expectation essentially shifts several management functions to the employee from the employer. This is a significant and unusual employment relations practice rarely found in other employment settings. Equality exists between an AAU faculty member and the administrators of the institution because the employer delegates supervision and other management rights to the employee. Some comparison of this can be drawn with other white collar groups. For instance, AAU faculty have a work environment more similar to engineers, lawyers and physicians who are contracted for their expert services than to their community college and undergraduate college associates.

To a substantial degree, AAU faculty members are similar to self-employed professionals. When AAU faculty exercise power and control over their work, they have a great deal of autonomy to direct, organize and complete their various job tasks. If a faculty member can exert his/her power and excel in his/her job, she/he can gain influence through that advanced performance, thereby controlling a portion of the market, just as new businesses do. In performing well, they are rewarded monetarily, which is directly associated with individual effort and merit. This is the nature of an AAU

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faculty members work and work environment. Given this delineation of the nature of the work of AAU faculty, it becomes increasingly interesting and apparent why the individual faculty member seems adverse to and rejects unionization. In summary, one attribute of unions is their ability to provide a greater balance of equality between management and labor. AAU faculty do not need to solicit the aid of a union to achieve this. An AAU faculty member has greater equity in his/her work place because of the nature of his/her work. Hence, the union brings nothing new to the employment relationship with regard to equality.

Another aspect of unions is the need for comparability of employees in the bargaining unit, a less than desirable trait for AAU faculty. Unions demand a horizontal, across the board approach to employees, not an individual approach. That is, unionization demands comparability of employees, not meritorious treatment. Unionization, as an institution, works for the common good of the bargaining unit. A union represents the group that entrusted them as the bargaining unit. A union, then, is legally responsible for representing individuals, as in the case of singular grievances, and group concerns and needs, as in the case of negotiating a labor contract. Unionization asserts a work environment that is based on uniformity and conformity. The nature of an AAU faculty's work life is directly and necessarily inconsistent with unionization. This incongruity stems from the amount of autonomy employees are given in their work environment. The

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degree of professional autonomy found in a faculty member's work life may be an important factor in determining the presence or absence of a bargaining unit.

Influence becomes the surrogate for bargaining power for the AAU faculty member. Influence is an effective negotiating device. When individuals possess influence, they are in the position to produce self-interested results by means of the exercise of power. An individual's influence is equivalent to the bargaining power found commonly in reputable unions and their leaders. An individual faculty member can bargain his/her needs and wants directly and be perceived as a serious "bargaining unit" because he/she is able to threaten the employment relationship as a union can. The powerful AAU faculty member can terminate the employment relationship and take his/her talents elsewhere where he/she can receive what he/she wants. Hence, the more influence one has, the greater the power he/she possess. This power, then, enables a person to directly effect the employment relationship through individual bargaining. The purpose of a union, then, becomes obsolete for the powerful AAU faculty member. Both the function and the scope of bargaining is achieved by the individual AAU faculty member's influence without the facilitation of a union. The role the bargaining unit can provide is replaced by individual bargaining. And, in an environment permeated by ideas of fairness, as any university is, the individual bargaining powers available to "powerful" individuals are, to some degree, available to all.

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Faculty, as an employee group, have bargaining attributes similar to those they possess as individuals. Faculty, as a group, possess a great deal of autonomy. As a body of employees, the faculty have the opportunity to exercise ultimate discretion on a variety of decisions. AAU faculty have the ability to shape their work environment through shared autonomy. Shared or group autonomy generates collective power. Faculty, then, have the opportunity to collectively lobby by exerting the power they possess as a group. This power is demonstrated through group decision-making in various arenas in the employment relationship and work environment. The collective power of faculty promotes the interests of the group. Through informal persuasive power, the faculty are able to accrue collective influence which can be used to shape management decisions. This group power is permitted and nurtured through the internal employment structure. Because the faculty are provided autonomy in their work environment, there is less management control of employee behavior and performance. This lack of management control shifts the power from management to the employee group, thereby allowing for potential employee influence on the group's work life and work environment. Examples of this power and influence within AAU faculty are control of curriculum development, selection of faculty, promotion and tenure decisions and screening and selection for appointments of administrators.

Faculty, as a group, then, bargain for economic and

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professional justice with management in their work environment through academic governance. This bargaining is accomplished through the use of demonstrated power, i.e., influence. Shared influence directs decision-making toward positive, desired results for the group. The greater the influence faculty as a group possess, the greater the response is to their employment requests and the greater the likelihood of those requests being rewarded affirmatively. An influential faculty group can collectively bargain for economic and professional benefits.

The consequence of this ability to influence as a group is that faculty as a labor group emerge as near equal or equal to management. One of the purposes and positive effects of a union is that it brings greater equality between labor and management. The collective "we" through the collective bargaining agreement and the threat of a strike balances the power between these two groups. AAU faculty have the ability to influence through their collective power, balancing the power between management and themselves, the employee group.

Hence, faculty, as a group, function like a union. The "collective interests" of the faculty at an institution are expressed as those of the membership of a collective bargaining unit. When AAU faculty bargain their collective interests, they behave like a union through bargaining mechanisms that are available in their work environment. These collective interests of the group are funneled through mechanisms that replicate or replace both the function and the

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subject matter that are typically provided in a collective bargaining agreement. The existence of an academic governance process that includes similar or identical provisions as a collective bargaining agreement works for the same reason that unionization works. It is based on good faith bargaining. This assimilation of a collective bargaining unit makes unionization moot. There are sufficient bargaining mechanisms within the work environment and employment relationship to make collective bargaining irrelevant and superfluous.

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CHAPTER FOUR

THE THEORY IN DETAIL

Individual and collective mechanisms for bargaining parallel the subject matter of a collective bargaining agreement. Though the function of bargaining is different, the scope of bargaining outside of a unionized setting is similar or identical.

There are four major functions embedded in a labor agreement that describe the terms and conditions of employment for bargaining unit members. Union security and management rights, wage and effort, individual rights procedures and administration cover most of the functions of a typical collective bargaining agreement. In this chapter the author delineated the scope of each of these functions and analyze how that subject matter is covered in non-union mechanisms in an AAU institution for faculty. Michigan State University (MSU) is used as a prototype in the analysis.

UNION SECURITY AND MANAGEMENT RIGHTS

The first function cites union security and management rights defining the rights and responsibilities of both the employer and the bargaining unit. The typical scope includes, but is not limited to, who speaks for whom, with what authority, for how long and with what exceptions and conditions. First, this clause stipulates recognition of the bargaining unit and in what form (closed shop, agency shop,

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modified union shop). Second, it also indicates time limits of the contract including duration and renewal of the agreement. Third, it delineates management rights and responsibilities with regard to human resource and existence of the firm.¹

Union security promotes and protects the welfare of the union and its members. The purpose of union security is to stabilize the employment relationship between the employer and the employees through a bargaining unit so that a balance of power may occur. Management rights includes limitations on employer discretion, rights specifically stipulated and undiscussed subject matter in the agreement on which the employer may act (reserved rights theory).

This delicate balance of power between management and the employee group is achieved for AAU faculty through the individual and collective mechanisms of academic governance, academic freedom and the tenure system.

Union security is obtained by AAU faculty (MSU) through both academic freedom and academic governance. Academic freedom is perpetuated in AAU institutions like MSU because it is defined as essential in attaining the goal of uninhibited search, acquisition and transmission of knowledge.² Academic freedom and responsibility are deferred to faculty because of the fundamental characteristics of university environment. Academic freedom and responsibility are the twins of integrity and quality of universities and that on which AAU institutions thrive. Michigan State University, like other higher

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education institutions, looks to its faculty to exercise their rights of academic freedom responsibly and to fulfill their obligations likewise.³ The acceptance of academic responsibility by faculty for students, colleagues, the community of scholars and the public explain why academic freedom is accepted and protected through academic tenure. Academic freedom is essentially the right to carry on teaching, research and public service as deemed appropriate by the faculty as long as it is intellectually sound and defensible. Academic responsibility, then is the corollary to academic freedom. Faculty are responsible for generating new knowledge through the integrity insured by the conditions and responsibilities with the concept of academic freedom. Because of academic freedom and responsibility, the faculty speak for and represent themselves as individuals and as a group. Autonomy is provided so that academic freedom occurs and the goals of the university are met. Academic freedom not only encourages, but demands work autonomy and independence among this employee group. Hand in hand, autonomy and academic freedom sustain the function of the independent work of faculty, teaching and research. Academic freedom allows for the right of faculty to speak about faculty matters as well as management and university affairs without retaliation.

Union security is also attained by academic governance. Academic governance provides a formal mechanism for recognizing the employee group. The academic governance process is timeless as opposed to having a lifehood as a

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contract has, but there are terms of service for representatives to all levels of the governance process.⁴ Academic governance representatives, then, are much like elected union representatives. Changes in the academic governance process occur as changes do in a labor agreement.⁵ Terms and conditions of the process may change through proper channels of authoritative lines which includes administration, faculty and, ultimately, the trustees. Most importantly, academic governance is predicated on the same principle as union security. Academic governance is a mechanism that promotes and protects faculty as an employee group. The governance process provides stabilization in the employment relationship. Again, it allows faculty to represent and speak for themselves. An extraordinary demonstration of faculty promoting their own security and welfare occurred at MSU in the early 1980's. In 1980 during a budget crisis, the administration at MSU bypassed the academic governance process by appointing a blue ribbon committee composed of senior faculty members. They developed a budget plan that included the elimination of several units and the termination of 200 tenured faculty. In addition to the external constituent groups such as the alumni, there was immediate response by the faculty through informal mechanisms. Academic governance was quickly involved and two major committees, University Committee on Faculty Tenure (UCFT) and University Committee of Faculty Affairs (UCFA) were especially active. UCFA provided an analysis of budget conditions and claimed that the

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administration had magnified the financial deficit picture. UCFT submitted a supporting document that stipulated that the University should not terminate tenured faculty unless certain conditions were met as described by the AAUP. The UCFT concluded that the financial situation was not grim enough to justify the termination of tenured faculty. Each committee repeatedly and steadfastly submitted proposals to calculate how the budget shortfall could be met without the firing of tenured faculty. These proposals were sent to and supported by the next body, Academic Council, a representative body of faculty, students and Deans. Academic Council did amend the proposals to include faculty lay-offs if it were absolutely necessary. This provision was referred to the highest body, the Academic Senate, consisting of all regular faculty. There the provision allowing dismissal of tenured faculty was rejected by an overwhelming majority of voting faculty. After this resounding and decisive response by the faculty, the administration accepted the UCFA proposals and there were no terminations of tenured faculty.⁶

The tenure system also promotes union security. The employer cannot dissolve the faculty because the tenure system protects this employee group's existence and their collective interest. The employer cannot "union bust" by eliminating the formal mechanisms, i.e. committees, or by eliminating the employee group itself. The tenure system guards the rights of the group.

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institutions, the Board of Trustees exercises final authority and responsibility for University governance within the parameters of the State Constitution. The Board, then, functions as the employer similarly to a board of directors of a corporation. In exercising this responsibility, the Board delegates to the president of MSU and, through the president, delegates to the faculty appropriate authority and jurisdiction over matters for which they are accountable to the Board as described in Article 7 of the Bylaws of the Board of Trustees. Control of the curriculum is the prime example of delegating management power to the employee group. The Bylaws of the Trustees defers this operational, management responsibilities to the faculty. The employer looks to the employee group for articulation , development, implementation and evaluation of all academic affairs including academic programs, policies and standards. This deferred role of management to the faculty is further evidenced by the academic freedom and academic governance.⁷

Academic freedom is the operational method allowed through autonomy that promotes achievement of the three goals in higher education organizations. It is important because of academic freedom that knowledge is transmitted (teaching), inventions are developed and intellectual discovery occurs (research) and is shared with the public (public service). The faculty as individuals and as a group both perform and oversee (manage) these work functions. The management functions faculty fulfill include setting direction,

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The participation found in academic governance provides a necessary service in reaching the goals of the University. To that end, academic governance is a mechanism that delegates management rights to the employee group for the benefit of the employer. Simply stated in Article 7 of the Bylaws of the Board of Trustees, the essence of the University's purpose, "the intellectual content and integrity, is defined by the faculty". This is accomplished through the academic governance process.

With other management functions, for instance with appointment, reappointment and promotion which involves the tenure system, the Board does not delegate, but expects faculty recommendation (like employee participation). With both levels of involvement, participation is primary with regard to academic matters, but also occurs with non-academic policy-making issues.⁸ The latitude and authority exercised by the faculty is a clear indication of traditional management rights being deferred to the employee group.

The tenure system defers certain significant management rights to the faculty. Although ultimate decisions on initial employment and the grant of tenure rest with the Board of Trustees, there are extensive mechanisms that guarantee broad faculty participation in those decisions.⁹ In actual practice it is quite unusual for anyone to be hired in the tenure system or to be granted tenure without the clear endorsement

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of the faculty at the department level. Furthermore, once a faculty member is granted tenure, she/he may only be dismissed for cause, as determined by the University Committee of Faculty Tenure.¹⁰ In this instance, the UCFT, on the grant of authority by the Board, has absolute power. No tenured faculty member may be dismissed except on the decision of the UCFT. It should be noted that a UCFT decision to dismiss may be reversed by the president or the Board. Thus, the UCFT has ultimate power to reject the administration's wish to dismiss a faculty member, but not, itself, to dismiss.

WAGE AND EFFORT

The second major function a collective bargaining agreement fulfills is the wage and effort understanding between the employer and the employees covered under the labor agreement. There are five major categories covered: pay for time worked, pay for time not worked, effort for satisfactory performance rating, premium pay and fringe benefits. These parameters are necessary work rules and expectations with due monetary and non-monetary rewards. The scope of this function includes but is not limited to working hours, pay rates(base rates and over time), work/performance standards, job evaluations and fixed and variable labor costs.¹¹

AAU faculty use the bargaining mechanisms of tenure and promotion, the academic calendar and academic personnel to individually and collectively negotiate the wage and effort function. At Michigan State University, the Board and the

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faculty approved a system of performance evaluation, i.e. tenure and promotion. Seniority and job security, also intertwined in the tenure and promotion system in academe, will be discussed next under the individual rights function of a labor agreement. Peer review as a factor in merit evaluations for salary serves as a method whereby employees are evaluated on their work performance which is passed through a hierarchical ranking procedure resulting in wage determinations. This system of work expectations, pay rate and evaluation is one in which faculty have a significant voice in determining the framework of evaluation and in applying that framework, to AAU faculty.¹²

The academic calendar, which AAU faculty also develop and implement, is a mechanism used by the employee group to control working hours, the work week and days off with and without pay. The employee group, participates in determining work time and legitimate separation from work including holidays.

Special initial fringe benefits such as office space is individually bargained for by the faculty member through the appropriate administrative offices. Traditional fringe benefits such as health insurance and compensation are reviewed with recommendations submitted by the faculty through the University Committee on Faculty Affairs (UCFA).

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INDIVIDUAL RIGHTS

The third function of a collective bargaining agreement is to clarify individual rights the employee has in the employment relationship. First, the grievance procedure protects the right to fair treatment through due process. Second, job rights, under the seniority clause of an agreement, describe an employee's relative claim to available work as a piece of property.¹³

The individual rights delineated in a labor agreement insure fair treatment of the employee by the employer through a system of justice. Both the grievance procedure and the seniority process insure a stabilization/balance of power between the employer and the employee with these two types of individual decisions. In both cases, each procedure is founded on the concept of job security.

AAU faculty individually and collectively have access to systems of due process and seniority in their unique work environment. Typically, as found true at MSU, there is a faculty grievance procedure available to individual faculty and the group. This grievance procedure classically mimics the customary grievance procedure housed in collective bargaining agreement as delineated below.¹⁴ The Anti-Discrimination Judicial Board at MSU is a special committee that deals with discrimination cases and may be utilized by the faculty.

Initiation of a grievance parallels step one of a labor agreement grievance procedure. The grievant is expected to

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initiate the complaint with both her/his employing unit and the Faculty Grievance Officer (FGO). As found in a collective bargaining agreement, there are timelines specified for each step of the grievance process. For the step one described, the grievant has 30 days to submit a written statement of the alleged violation with the FGO office. As expected with step one statements, the grievant is to indicate those policies or practices violated, a description of the relevant facts of the grievance, names of those being accused, the date of the alleged infraction and the remedy sought. In turn, the FGO has 10 days to forward the grievance statement to the administrator of the employing unit.

The next step, informal resolution, echoes step two language. The FGO investigates the grievance to determine its merit or for other just cause reasons. Within thirty days of the initiation of the grievance, all parties with the FGO are to attempt informal resolution of the grievance. At this phase, the FGO acts as an impartial mediator. If the FGO determines that resolution cannot be reached, he/she notifies each party. If the grievant decides to continue the grievance, a written request is to be made for a formal hearing within thirty days of such notice. If the grievant fails to submit such a request, such failure constitutes as a waiver of the grievant's right to pursue the grievance. After consultation with each party, the FGO determines the appropriate hearing level (department, college or University) and notifies the unit administrator at that level of the

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Step three, the formal hearing, is to occur within 14 days from the hearing request. The formal hearing is to comply with Article 6 of the Faculty Grievance Procedure which stipulates the composition of the hearing panel, the records to be maintained, the level of proof of evidence expected and the fair treatment expected for all parties. The FGO is involved in the establishment of the panel and is to be present at all hearings to enforce Article 6. The FGO functions as an impartial grievance administrator and mediator in this step. The hearing panel, much like union and management representatives at the step three process, forward their findings and recommendations in writing within 14 days of the completion of the hearing. When the FGO receives these comments, he/she forwards them to the grievant, the respondent and the unit administrator who is the immediate supervisor of the respondent. The administrator at the appropriate level provides written notification of his/her decision based on these findings and recommendations to the grievant, the respondent, the respondent's immediate supervisor and the FGO within 14 days of receipt of the panel's findings and recommendations. Failure to provide written notification results in an automatic appeal.

Step four, the appeal process, may be invoked by either party if there is a disagreement with the administrator's decision. The appeal is conducted one level higher than the step three hearing, for instance a department hearing occurs

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first, then a college appeal takes place. Once an appeal is filed, the decision of the administrator in response to the findings and recommendations of the initial hearing (step two) is suspended until a final decision is rendered. There is one exception to this four step process described above and that is grievances pertaining to non-reappointment of nontenured track faculty which is automatically taken to the university level. In this last grievance step before external sources become involved, the FGO functions as an impartial grievance administrator. An appeal must be filed with the FGO within fourteen days of receipt of the decision of the administrator. Findings and decisions of the appeal panels are forwarded to the FGO within 14 days of the completion of the hearing. The FGO forwards the appeal decision to the president of the University who renders a decision complying with final step grievance procedures. The president functions as the arbitrator, since there is no arbitration step embedded in this grievance procedure, a major departure from typical labor contracts.

Seniority, through the tenure and promotion system, is the second process that faculty as individuals or as a group utilize to advance individual rights for the employee group. The tenure system's purpose at MSU is to assure University faculty academic freedom and security and to protect the best interests of the University.

University policy at MSU stipulates that each unit must establish procedures so that faculty can advise the academic

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administrator regarding recommendations for various personnel actions. Procedures adopted by units should provide for peer review committees. The composition of the peer review committees at each level (department, school, college) are variable but within the guidelines set forth by the University.¹⁵ The peer evaluation and recommendation for reappointment and/or tenure, i.e., job security and/or promotion, i.e., seniority is forwarded to the unit administrator. The unit administrator is responsible for the recommendation made. The Dean of that unit's college reviews each recommendation and approves or disapproves those evaluations based on unit, college or university needs.

The ultimate personnel decision, reappointment or promotion with tenure, has a set of university guidelines to be followed by the peer review committee, the unit administrator and the Dean. Because reappointment or promotion with tenure carries both seniority and job security considerations, each academic rank possesses a weighed gradation of expectation. As an example, it is more difficult to go from associate professor to full professor, than from assistant professor to associate professor.

The tenure system, like academic freedom, is authorized by the Board in the interests of the university. The organization's objectives and goals are served by such a system. MSU's tenure system dictates that the criteria used for any personnel action must serve the objective of improving the academic quality and mission of the institution. Hence,

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allowing the employee group significant participation in personnel decisions occurs only because it is self-serving for the university. This mechanism allows the employee group to effectively bargain for their job rights without the presence of a collective bargaining contract.

Another mechanism faculty as an individual or as a group can use in either a case of a grievance or a job rights issue is the Civil Rights Act of 1964.¹⁶ During the 1980's, there was a greater utilization of the Civil Rights Act by American employees who are not covered under a collective bargaining agreement. It has become the national grievance procedure for employees who do not have a grievance procedure available to them through an agreement. This Act includes university faculty who are not covered under a labor agreement. In essence, the Civil Rights Act can be used by any employee that finds that she/he have been unduly treated, i.e., discriminated against. The exception of the rule may be white males from the ages of 19 to 40. This means that in cases where grievances cannot be settled internally or when seniority/job security concerns have not been satisfied between the employee and the employer, a non-unionized employee may file a formal complaint through the Civil Rights Commission or litigate her/his grievance through the courts. Although costly and time-consuming, this Act has provided a mechanism through which non-unionized employees may pursue their grievances in their employment relationship. AAU faculty, MSU faculty included, may access this avenue in place

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of and in addition to the grievance procedure and the tenure system available to them.

ADMINISTRATION

The fourth function of a collective bargaining agreement provides administration of the labor contract itself and the employment relationship through internal and external mechanisms. Internal administration includes labor and management representation with the subject matter through the life of the contract. Labor representation encompasses on the job representation through shop stewards who serve as employee advocates. Shop stewards typically are peers with seniority that are put in charge of partial administration of the contract. For instance, the shop steward would be the union contact person if a bargaining unit member had a grievance against management. A hierarchy is present in unionization as in any complex, political organization, so there are layers of union representatives which includes shop stewards and professional full-time union representatives. Shop stewards are first line contacts for employee grievances and contract adherence issues, whereas professional union representatives become involved in formal procedures such as contract negotiations, contract interpretation concerns and continued, advanced grievances. These internal mechanisms allow for balance of power in the employment relationship through shared responsibility of the administration of the labor agreement.¹⁷

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all appropriate internal mechanisms for administration of the contract have been exhausted. External administration of the contract is essentially defined as arbitration. Arbitration deals with contract interpretation, contract adherence and final step grievances. Arbitration decisions are legal and binding; both parties, employer and employee, must live with the arbitration ruling. These cases and decisions are outside the jurisdiction of the courts; litigation of civil or criminal suits are necessarily separate from the arbitration process.

When a collective bargaining agreement is not present in the workplace, mechanisms comparable to internal and external administration are accessed by employees when available to insure participation and equalization in the employment relationship. These mechanisms are available to Michigan State faculty as well.

Faculty at AAU institutions are able to internally administer and balance their employment relationship with their employer through academic governance.¹⁸ Similar to the shop steward/union representative model most often found in unionized settings, faculty elect peers as their representatives to advocate and lobby their needs, concerns and position. These senior, entrusted peers function as shop stewards advocating the terms and conditions of employment for the labor group as well as stabilizing the employer/employee relationship through the power and influence they possess. Faculty representatives on all levels of committees insure

that the subject matter of written policies and unwritten, past practice contract is fulfilled. Like unions, this employee participation system has a hierarchy of decision-making and implementation steps. An illustration of this hierarchical participation system is curricular changes through academic governance. Changes in courses or programs begin at the first tier level, departmental or school. After those changes are approved by a majority vote by the curriculum committee and the whole faculty at that level, they are passed on to the college level, the second tier. Once they are supported and approved by the college curriculum committee and the college faculty, the approved changes are then forwarded to the University Curriculum Committee. With approval from this third tier, the changes are referred to the Academic Council. If Academic Council, the fourth tier, approves curricular revisions, they are, in effect, enacted. It is possible, but rarely done, for Academic Council to refer curricular decisions to the Academic Senate.

The tenure and promotion system is another mechanism utilized by MSU faculty to stabilize the employment relationship and administer the unspoken contract. Labor representation, as found in the tenure system, provides for senior members advocating or not advocating for employees with regard to increased seniority and job security. This particular mechanism for labor representation promotes both representation on the subject matter and the life of the contract/employment relationship.

The faculty grievance procedure is the third mechanism available to this employee group that grants labor representation in the process. The Faculty Grievance Officer is a member of the faculty group who administers the grievance procedure and serves as an impartial mediator. In addition, as described earlier in this chapter, any faculty grievance review committee is composed of peers, which equates to labor representation. The grievance procedure simulates the tiered process found in a collective bargaining contract. The grievance procedure is available at Michigan State, but weakened by the sore absence of arbitration as the legal and binding final step. The president has the final ruling on grievances, an authority which subverts the balance of power.

External administration also occurs for the AAU faculty member. Although arbitration is seldom found as a viable alternative for the non-unionized employee, other mechanisms are available which substitute as effective employment relations enforcers. For faculty at public institutions like MSU, faculty can utilize an employment relations commission such as the Michigan Employment Relations Commission (MERC). Most often, an outside agency like MERC would be consulted by the employee, but not fully utilized until all internal mechanisms were accessed with no acceptable resolution. For instance, in the absence of arbitration, the grievance procedure is available but weaker than a labor contract grievance procedure since the president has the final authority. Once MERC is retained, its function is similar to

that of a union; the commission would serve as the employee's advocate in employment disputes. All three subjects, contract adherence, contract interpretation and final step grievances, forwarded to arbitration can be pursued through a public employment relations commission. In addition to public employee agencies, faculty at public institutions may file complaints with the Civil Rights Commission. The Civil Rights Commission typically handles discrimination allegations, however, non-unionized employees may search for conflict resolution on contract adherence and contract interpretation cases. AAU faculty at public institutions may also initiate litigation as an external mechanism, often the only mechanism left if both formal and informal mechanisms within the university organization are unsuccessful at reaching resolution.

There are additional bargaining mechanisms available to AAU faculty that do not parallel any subject matter found in a collective bargaining agreement. The bargaining power furnished by faculty influence applies to many informal individual and collective mechanisms.

An excellent illustration of individual informal mechanisms is the case of a grievance. Rather than have a lengthy, burdensome grievance take place with the real potential of the president overturning it, faculty can informally resolve their grievances. AAU faculty can use their individual influence to win and obtain grievance resolutions whereas laborers cannot because they do not

possess the autonomy, power and influence required to bargain their individual rights with management. Another example is that individual faculty can bargain for salary increases using their influence as leverage. There is no formal mechanism available, but faculty can express such desires informally and use influence to gain their wants and needs.

Faculty as a group can bargain informally as well. Influential faculty circles can persuasively convince decision makers of the correct desired outcome through their collective influence. Purchasing specific research equipment, the allocation of limited space or resolving a group grievance highlight the significant issues that can be influenced and directed by powerful faculty. Extensive informal consultation between administrators and faculty, particularly influential faculty, is commonplace at AAU universities both in order to allow for faculty initiatives and to assess the level of faculty support for administrative initiatives. This process of consultation is continuous, usually effective and an ingrained part of institutional culture, though sometimes ignored by administrators, usually to their eventual sorrow.

Through formal and informal mechanisms, AAU faculty, individually and collectively, use their power and influence to bargain their wants and needs. As delineated throughout this chapter, AAU faculty behave like a union, utilizing bargaining mechanisms in their work environment which covers the scope of bargaining and fulfills each function of a typical collective bargaining contract. The following charts

are provided to outline and incapsulate the uncanny parallel found between the four major functions in most labor agreements and the formal and informal mechanisms in the work lives and work environment of AAU faculty.

Degree of Autonomy

<u>Bargaining Unit Present</u> (with contract)	<u>No Union Present</u> (individual mechanisms)
Prior to unionization: minimal freedom	Always had a great deal of freedom
After unionization: the same degree of conformity in work behavior and environment remains the same	If unionized: would lose present degree of autonomy because unionization demands conformity and uniformity of work behavior
Diversity of tasks: minimal and as a consequence-less autonomy	Diversity of tasks: great and as a consequence-more autonomy
Individual power over work life: increases when there is low autonomy and then unionize. That is, amount of autonomy remains the same (low, but power increases by the collective unit). Example: autonomy in work life same but increases of power with terms and conditions of employment with regard to job security	Individual power over work life: since a great deal of autonomy would decrease because collective agreement (democratic 2/3 vote), unionization would conform and replace or restrict individual in work life and work environment
Control: because of power increase, control (exercise authority) over work life increases through contract	Control: to exercise authority over, direct, command. Hence, individual bargaining power exists.
Influence: no real change, slightly more maybe through threat of strike	Influence: the ability of a person or group to produce effects indirectly by means of power based on, for example, wealth and public status
Equality: greater through contract	Equality: exists individually and as a group

Figure 1.

Degree of Bargaining Power

<u>Bargaining Unit Present</u> (with contract)		<u>No Union Present</u> (collective mechanisms)
<u>Function</u>	<u>Scope</u>	<u>Function</u>
Union Security and Management Rights	Who speaks for whom with what authority for who except in what conditions. Recognition of bargaining unit representation.	Academic Freedom Control of Curriculum Academic Governance Committees Tenure & Promotion
The Wage & Effort	Pay rates & job evaluation standards. Hours & duration pay for time not worked (premium pay & vacation pay). Fringe benefits (leaves of absence, sick time, health pension plan).	Tenure & Promotion Calendar Academic Personnel
Individual Rights	Due process-the absolute right to fair treatment, the grievance procedure and discipline. Job rights-relative claim to work, seniority and discipline.	Faculty Grievance Tenure & Promotion Civil Rights Act 1964
Administration	Internal-on the job representation External-arbitration	Academic Governance Committees Academic Personnel If public institution-MERC type agency. If private institution-civil rights commission

Figure 2.

CHAPTER FIVE

SUMMARY AND DISCUSSION

SUMMARY

When a collective bargaining agreement is not present, employees seek alternative mechanisms to bargain their wants and concerns. The function and the scope of bargaining exists in other procedures thereby simulating the process of collective bargaining. Employees can bargain individually and as a group if they possess enough power and influence in their work environment to do so.

Unionization of a classification group of employees is dependent upon the nature of their work which includes both job tasks and work environment. The employment structure present in the work place shapes the way in which employees react to their work lives and, as a consequence, if they chose to join a collective bargaining unit. An external employment structure is other-imposed whereby the employer provides structure in employees work environment and organization of their tasks. Little autonomy is provided because there are no decisions to be made by the employee with regard to completion of tasks. Community colleges are good examples of such an employment structure. The mission is to teach or train students, hence a great deal of autonomy is not required for their faculty.

Conversely, AAU faculty are required to perform multiple tasks, i.e., teaching, research and service. Much autonomy is

provided so that this employee group can structure their work and work environment through self-management. Faculty, then, are responsible for the management function of directing the completion of tasks. This employment structure is internally-imposed. Autonomy and the employment structure have an inverse relationship. The more autonomy present in one's work environment, the less external structure is required. The less autonomy provided, the more external structure and control are present. Faculty members who have a significant amount of autonomy in their work environment possess individual power over their work life and work environment.

AAU faculty work in an environment that expects individual effort and excellence. This environment promotes individuality and non-conformity. Hence, the nature of work and the work environment seems to demand a merit based system of reward. AAU institutions' merit-based system assume that faculty are not equal and consequently compete against each other for rewards.

Faculty members as employees are powerful when they exercise their individual autonomy. This individual power produces influence when it is effective. This influence exists because there is autonomy which allows and cultivates difference and excellence.

Equality exists between an AAU faculty member and the administrators of the institution because the employer delegates supervision and other management rights to the employee. This parity exists because self-management is

required. AAU faculty have a great deal of autonomy to direct, organize and complete their work by exercising power over their work. If AAU faculty member effectively exert power, they can influence their employment relationship.

Given this understanding of the nature of work of AAU faculty, it becomes apparent why AAU faculty seem adverse to and most often reject unionization.

A benefit of unionization is a greater balance of equality between the employer and the employees. AAU faculty automatically have greater equity than most other employee groups in the work place because of the nature of their work. The presence of a union brings nothing new with regard to equality for AAU faculty.

Unions require comparability among its employees which is based on a horizontal approach to employees for the common good of the bargaining unit. Unionization, then, requires that the work environment allows and perpetuates uniformity and conformity. The nature of unionism is inconsistent with the nature of the AAU faculty's work life. This incongruity is embedded in the amount of autonomy employees are given in their work environment. Faculty would lose control and power over their work if they surrendered autonomy to a union, or at least to a conventionally operated union. A union would replace individual autonomy and power with uniformity and conformity for the benefit of the group.

Influence supplants the bargaining power of a union for the AAU faculty member. Influence is used as a negotiating

tool to achieve results through the power of an individual. This influence represents a "bargaining unit" because of its effectiveness to change or manipulate the employment relationship. Individual power, then, can directly affect the employment relationship through individual bargaining.

As an employee group, faculty have bargaining characteristics similar to those they possess as individuals. AAU faculty have the ability to affect their work environment through shared autonomy. This shared autonomy produces collective power which shifts some of the power from management to the employee group, thereby allowing potential influence to occur on the group's work life and work environment.

Faculty use such formal mechanisms as academic governance to bargain for economic and professional justice. Shared influence guides decision-making toward group goals. The result of this ability to influence outcomes is that faculty establish themselves as a labor group that is near equal to or equal to management. AAU faculty have the ability to influence through their collective power, thereby balancing the power between the employer and themselves.

Faculty as a group function as a union. When AAU faculty bargain their collective interests, they behave like a union through bargaining mechanisms that are available in their work environment. These collective interests are funneled through mechanisms that replicate or replace both the function and the subject matter that are typically covered in a collective

bargaining agreement. These mechanisms work for the same reason that collective bargaining works; it is based on good faith bargaining. This mimicry of a collective bargaining unit makes unionization moot because there are sufficient mechanisms in the work environment and the employment relationship to make collective bargaining superfluous.

Individual and collective mechanisms for bargaining parallel the subject matter of a collective bargaining agreement. Though the function of bargaining is different, the scope of bargaining outside a unionized environment is similar or identical.

There are four major functions of a collective bargaining agreement: union security and management rights, wage and effort, individual rights and administration. The scope and subject matter of each of these functions are covered in non-union mechanisms in AAU institutions for faculty.

The first function covers union security and managerial power delineating rights and responsibilities of the employer and the bargaining unit. Union security promotes and protects the welfare of the union and its members thereby stabilizing the balance of power in the employment relationship. Management rights include limitations and control for which the employer is responsible. This tenuous balance of power between management and the employee group is achieved through the individual and collective mechanisms of academic governance, academic freedom and the tenure system for AAU faculty.

Union security is obtained through both academic freedom, academic governance and the tenure system. Through academic freedom and responsibility, the faculty speak for and represent themselves as individuals and as a group. Academic freedom includes the right of faculty to speak about faculty matters, management concerns and university affairs without reprimand. In addition, academic governance provides a formal mechanism for recognizing the employee group. Academic governance is predicated on the same principle as union security; academic governance is a mechanism that promotes and protects faculty as an employee group. The governance process provides stabilization in the employment relationship. Again, it allows faculty to represent and speak for themselves. Finally, the tenure system promotes union security through its guardianship of the continuity and integrity of the employee group. The employer cannot dissolve the employee group because of the guiding principles of the tenure system.

Management rights are often delegated to the faculty through the governing board. Typical delegations include all levels academic affairs including academic programs, policies and standards. This deferred role of management to the faculty is further supported by academic freedom and academic governance. Academic freedom is the operational method allowed through autonomy that promotes the accomplishment of the three goals of higher education, teaching research and service. The faculty as individuals and as a group perform and manage these work functions. The management

responsibilities faculty fulfill are setting direction, initiation, supervision and evaluation of teaching research and public service. Academic governance is a mechanism that delegates management rights to the employee group for the benefit of the employer. The tenure system defers the right to hire, promote and decide job security to departmental faculty. With such management functions as hiring and promotion, the board relies heavily upon faculty recommendations. With both levels of involvement, the latitude and authority exercised by faculty is a clear indication of traditional management rights and responsibilities being deferred to the employee group.

The second major function of a collective bargaining agreement is to define the wage and effort understanding between the employer and the employee group. AAU faculty use bargaining mechanisms of tenure and promotion, the academic calendar and academic personnel to individually and collectively negotiate the wage and effort subject matter. The tenure and promotion system serves as a method whereby employees are evaluated on their work performance and which is passed through a hierarchical ranking procedure following required time lines of service for each rank. This system of work expectations, pay rate and evaluation is controlled and implemented by the faculty. Once again, these are management rights commonly delegated to AAU faculty. The academic calendar is a mechanism by which AAU faculty, the employee group, dictate work time and legitimate separation from work

including holidays rather than the employer. Traditional fringe benefits are negotiated and recommended by faculty through the academic governance process while special fringes are individually negotiated with the academic personnel office.

The third function of collective bargaining clarifies individual rights, the employee has in the employment relationship, mainly through the grievance procedure and job security (tenure). Both of these employee rights are founded on the principle of job security. AAU faculty individually and collectively have access to systems of due process and seniority in their unusual work environment. The faculty grievance procedure mimics the typical grievance procedure in steps and in language implemented in a collective bargaining agreement. Seniority for AAU faculty is achieved through the tenure and promotion system. Personnel actions included in the tenure system are reappointment, tenure and promotion which are aspects of seniority and job security. The tenure system is hierarchical, requiring peer review and recommendation thereby allowing the employee group significant participation in personnel decisions. This participation mechanism provides the employee group an effective way to bargain for their job rights without the presence of a labor agreement. The Civil Rights Act of 1964 as amended may also be used where grievances are not resolved or when seniority/job security concerns cannot be satisfied in the employment relationship. AAU faculty may utilize this avenue

in place of and in addition to the grievance procedure and the tenure system available to them for bargaining.

The fourth function of a collective bargaining regulates the administration of the labor agreement through internal and external mechanisms. Internal administration includes labor and management representation with the subject matter and through the life of the contract. External administration of the contract, arbitration, only occurs when all appropriate internal mechanisms have been exhausted. When a labor agreement is not present in the work place, mechanisms comparable to internal and external administration are sought by employees when available to insure participation and stabilization in the work place. AAU faculty are able to internally administer and balance their employment relationship through academic governance, the tenure system and the grievance procedure. Similar to the shop steward/union representative model often found in bargaining units, faculty elect peers as their representatives to advocate and lobby their needs and concerns. As found in unions, this employee participation system has a hierarchy of decision-making and implementation stages. With the tenure system, labor representation provides for senior members advocating or not for employees with regard to increased seniority and job security. This mechanism for labor representation promotes both representation on the subject matter and with the life of the employment relationship. The faculty grievance procedure grants labor representation in the

tiered review process of employee initiated employment disputes.

External administration also occurs, though seldom for AAU faculty. AAU faculty can turn to employment relations agencies where the agency serves as the employee's advocate in employment disputes. In addition, faculty may utilize the Civil Rights Commission which handles discriminations allegations. AAU faculty may also litigate which may be the only mechanism left when both informal and formal mechanisms have been exhausted.

There are additional bargaining mechanisms available to AAU faculty that do not parallel any subject matter typically found in a collective bargaining agreement. The bargaining power available through faculty influence applies to many informal individual and collective mechanisms. Faculty may informally mediate their grievances or negotiate salary increases by exerting their power and influence to achieve their goals. AAU faculty can use their individual and collective influence to obtain their desires whereas other workers cannot because they do not possess the autonomy, power and influence necessary to bargain with management.

DISCUSSION

There are several conclusions that may be drawn from this theory that could have significant ramifications for the work world.

For employers who hire white collar professionals,

special consideration to the employment relationship may be necessary. Professionals who have a set of distinctive skills may require more autonomy in their work lives. Specialists or experts such as physicians, lawyers, engineers, accountants and labor relations specialists are examples of white collar professionals who may require more autonomy than other white collar workers to perform and complete their job responsibilities. Employers may have to relinquish autonomy and control in order for these employees to accomplish their tasks fully and with the desired degree of excellence. If these employee groups are provided such autonomy, employers will have to defer to the collective judgment of that employee group.

This analysis also indicates that absent any change in circumstances, it is unlikely that AAU institutions will be hospitable to collective bargaining. A change in conditions of these higher education institutions could change the plausibility of unionization among the faculty. A deterioration of the tenure system or significant reduction in programs and/or personnel would likely offer an opportunity to collective bargaining for the purposes of regaining job security. Major erosion of academic freedom and academic governance would also provide the impetus for collective bargaining. Faculty might look to external representation to re-establish employee participation and a voice in the employment relationship. In all instances mentioned above, faculty would seek to restore the balance or near balance in

power and equality in the employer/employee relationship. In addition, significant successes of non-AAU unionized faculty competing and acquiring greater funding than their AAU counterparts could result in AAU faculty reconsidering the positive attributes of collective bargaining. Political pressure through lobbying tactics by unions may produce better funding for their members and their institutions. Bargaining successes by non-faculty employee unions and a consequent decrease of funds for faculty salaries might encourage faculty to reconsider unionization. Finally, there may be significance for unionization in the emerging issue of "administrative bloat".

Finally, there are still problems with this kind of employment relationship system. One must be mindful that AAU faculty are not a homogenous group of employees. Faculty and administrators should consider how different factions of the employee group are included or excluded. A non-unionized bargaining system serves two sub-groups of faculty well; those where research activities are externally funded and those with competitive external employers. Served poorly are those subcontracted for instruction on a temporary basis and those with no real external employment opportunities.

RECOMMENDATIONS FOR FURTHER RESEARCH

A possible explanation for the failure to organize blue and pink collar workers recently may be due to the autonomy provided in the work environment and the presence of

alternative mechanisms in the work place that enable those employee classification groups to bargain their individual and collective concerns. If one is researching blue collar unionization, it may be helpful to consider work autonomy and existence of or employee perceptions of alternative bargaining mechanisms. If there is a significant amount of autonomy provided by management to labor, unionization efforts may prove to be futile because employees may empower themselves through this autonomy. Consequently, employees can influence their own working conditions and have little need for a bargaining unit to promote and protect their employment interests. Secondly, the existence of alternative bargaining mechanisms or employees perceptions of alternative bargaining mechanisms may reduce the attractiveness of bargaining unit representation. Normally, employees will give up some of their individual independence to benefit from the common good of the union membership. If employee groups create and access alternate bargaining mechanisms, the need for unionization becomes superfluous. This theory may provide an analytical blueprint for general research on the ratification vote to approve or reject unionization. As well, this theory may assist employers in establishing a better employment relationship in a non-unionized shop as well as to enhance production, reduce absenteeism, increase employee satisfaction and encourage company loyalty in either a unionized or non-unionized setting.

The financial crisis of 1980-81 and its resolution at

Michigan State University, that was used as an example of bargaining power of the faculty to influence the decisions made and their final outcome in Chapter Four, is important enough to merit a full historical review and analysis. MSU faculty exercised their power, influencing administrative fiscal decisions to result in no tenure faculty lay offs and terminations when, originally, the administration wanted to permanently reduce tenured faculty by 200 members. This faculty accomplishment was initiated and mastered through the formal bargaining mechanism of the academic governance process. The use of academic governance provided faculty a bargaining mechanism to promote and protect their welfare as evidenced in this case. A detailed historical account might shed light on the individual bargaining, informal bargaining and other group bargaining mechanisms that were activated by the faculty to provide themselves union security, or group welfare.

Finally, a further, refined examination of academics as an employee group is needed. With subsets of employees within AAU faculty, it is important to investigate the types and roles of each sub-group including a separate and discriminating scrutiny of their experiences and successes in this employment relationship model. First, there are several groups of "near faculty" employees who have limited, if any, access to the bargaining procedures described here. The transient group of "temporary instructors" who are hired in increasing numbers in higher education as a form of

subcontracted teaching rarely benefit from the bargaining mechanisms available to regular faculty. Non-teaching faculty, such as academic specialists and low level administrators with academic credentials, perform many traditional faculty functions, but are often perceived and treated as technicians or non-credible faculty. Part-time faculty also step out of the mainstream of the faculty employee group. These sub-groups do not experience equality and they are often perceived as unequal to the full-time AAU teacher/researcher, based on small differences in actual work activities. Consequently, although these three sub-groups may possess similar amounts of individual autonomy as their teaching/research faculty counterparts, they are unable to exercise power and, in turn, influence their employment relationship because they are not perceived or considered a serious threat to the employment relationship. Unfortunately for these irregular faculty, the external labor market and the lack of competitive external employers suggests and perpetuates this unfair treatment by management and their regular faculty colleagues.

Second, the concept of autonomy and governance may be employed in developing a more fine-grained analysis of the professoriate. It is fairly obvious that specialization in both disciplines and faculty roles is producing a more fragmented and compartmentalized faculty, especially in major research universities. Salary structures increasingly reflect differences between funded researchers and those engaged in

work that has little importance outside the academy and between those with strong external employment competitors and those without. Increasingly, networks of relationships between universities and external corporations create "dual employment" situations that alter the character of professorial work. Pressure for objectivity and accountability in evaluation, arising importantly from the uses of "merit" systems of reward, produces a need to more carefully describe and define faculty work. It seems clear that changing conditions in academe make the ideal of the professoriate as a unitary group obsolete, just as the concept of the university seems to be in transition. If the apparent transformation of the university is to be understood, that understanding must include a careful analysis of the conditions within which faculty do their work.

FOOTNOTES

FOOTNOTES: CHAPTER ONE

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APPENDIX A

APPENDIX A

BYLAWS

BOARD OF
TRUSTEES

Bylaws

MICHIGAN STATE UNIVERSITY

Effective as of December sixteenth, Nineteen hundred and sixty-five
and revised October twenty-eighth, Nineteen hundred and seventy-seven

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Preamble

Michigan State University is the land-grant university for the State of Michigan, designated in 1863 by the Michigan Legislature to be the beneficiary of the endowment provided by the Morrill Act and supplemented by subsequent acts of the Congress of the United States.

As a land-grant university, it shares with its sister universities the legal responsibility to provide a liberal and practical education for the agricultural and industrial classes and all others, to prepare them for the various pursuits and professions of life.

This historic responsibility the Board of Trustees accepts, and to this obligation the Trustees pledge themselves, separately and collectively, and the material and human resources over which they have been given direction.

The Trustees interpret this mission as being one requiring the University to offer undergraduate and graduate education of the highest possible quality in all appropriate fields; to cherish the knowledge that is our legacy from the past; to preserve the best of our cultural, social, and political heritage; to encourage meaningful research and experimentation, both to develop new knowledge and to subject our society to a full and objective study so that it may be made more nearly perfect; to be ever responsive to the increasing needs of a dynamic and complex society, by developing and carrying on programs of public service; and to diffuse through all available media the knowledge and information that will contribute to the well-being and development of the people of our state, our nation, and the world.

The present Constitution of the State of Michigan, like every other one before it, declares it to be public policy to encourage forever schools and the means of education. The Legislature, having the power of appropriation, shares the primary responsibility for implementing this policy.

The Constitution confers upon the Board of Trustees the freedom, power, and responsibility to develop a free and distinguished university and to promote the welfare of mankind through teaching, research, and public service.

The Board of Trustees, elected by the voters of the State and responsible to all of the people of Michigan, exercises the final authority in the government of the University, within the limits fixed by the State Constitution. In exercising its responsibility, the Board delegates to the President of the University and through the President to the faculty, appropriate authority and jurisdiction over matters for which they are held accountable by the Board. These matters include educational policy and the development of a strong and efficient organization with which to accomplish the objectives of the University.

In making these delegations the Board declares its unequivocal support of the established rights and privileges of the academic profession and its intent to defend them steadfastly. These rights and privileges include academic freedom and tenure, compensation and other economic benefits as liberal as the resources of the University will allow, a viable faculty organization, and responsible faculty participation in the development of academic programs and policies.

With respect to non-academic employees, the Board declares that because they carry a correlative responsibility and because their roles are indispensable to the effective operation of the University, they are entitled to compensation and conditions of employment commensurate with their responsibilities.

With respect to students, the Board declares it to be its intention to provide the opportunity for each to realize the highest potential, to formulate and enforce reasonable rules governing student conduct, and to give due consideration to the opinions of students on matters related directly to their interest.

With respect to the alumni, the Board invokes their loyal support of the University and invites their advice and counsel, reminding them that the esteem of the University is constantly measured by their performance as educated men and women.

With respect to the people of Michigan, the Board willingly acknowledges that this University is in the final analysis *their* University. As a public institution, Michigan State University is obligated to serve the best interest of the people who support it as can be best determined. The Board invites the people of Michigan to support with it the time-tested principle that in the University's unceasing quest for truth and enlightenment it must encourage the timely discussion in open forum of a wide variety of issues, some of which are bound to be controversial because they are unsettled. This principle assumes that the views expressed in such discussion are subject to critical evaluation, and that any restraints on the freedom of expression at a university must be limited to measures to protect such free inquiry and to insure that they are consistent with the preservation of an organized society in which peaceful, democratic means for changes in the social structure are readily available.

Finally, the Board of Trustees holds as its special trust the historic mission of a university to create an intellectual climate that will challenge and encourage the vigorous development and courageous expression of the human mind and spirit. Specifically, the Trustees recognize that it is a primary responsibility to assure the University of the financial and other resources necessary to the successful performance of its mission. They believe that the best method of assuring that support is to interpret the University faithfully and continually to their fellow citizens, to the legislature and elected state officials, and to the federal government, and thus persuade them of the essential importance of the University's mission. To those tasks of interpretation and persuasion they are committed by their election to office, and to those tasks they pledge themselves without reservation.

In order to make effective the principles here declared, to achieve the stated objectives of Michigan State University, and to insure that the conduct of its own affairs will be in accord with the highest standards of educational administration, the Board of Trustees adopts these Bylaws:

ARTICLE 1 | *The Corporation*

The Trustees of Michigan State University and their successors in office are created by the people of Michigan through the Constitution as a body corporate known as the Board of Trustees of Michigan State University, with the power of general supervision over the institution and the control and direction of all expenditures from the institution's funds. The Board shall consist of eight members elected for eight-year terms as provided by law. Members shall hold office until their successors have been elected as provided by law. The governor shall fill Board vacancies by appointment.

Members of the Board shall serve without compensation, but shall receive the actual and necessary expenses incurred by them in the performance of the duties of their office.

ARTICLE 2 | *Meetings of the Board*

The Board shall meet monthly, except as otherwise provided by the Board. Meetings will ordinarily be held at Michigan State University in East Lansing, but may be held at such other times and places in Michigan as the Board may determine.

A majority of members shall constitute a quorum to do business, but a smaller number may meet and adjourn to some other time or until a quorum is obtained.

At all meetings it shall be valid to act on any subject within the power of the corporation, unless the call of the meeting is limited.

The business at each meeting shall be conducted under general parliamentary rules set forth in Robert's Rules of Order as modified by the Board.

Meetings of the Board shall be open to the public as provided by law.

ARTICLE 3 | *Voting Procedures*

Votes on all matters coming before the Board or any of its committees shall be taken and recorded in the manner prescribed by the Board.

ARTICLE 4 | *Officers and Organization of the Board*

Chairperson. At the January meeting following each biennial fall election, the Board shall elect one of its own members to be its chairperson who shall hold office for two years. Interim appointments to fill vacancies in the office of chairperson shall be for the unexpired term. The chairperson shall perform such duties as may be prescribed by law or by the regulations of the Board.

Vice Chairperson. At the January meeting following each biennial fall election, the Board shall elect one of its own members to be its vice chairperson who shall hold office for two years. The vice chairperson shall perform such duties as may be prescribed by the Board and shall assume the duties of the chairperson during the latter's absence.

President. The Board shall, as often as necessary, elect a president of the University who shall serve at the pleasure of the Board. The President shall be, *ex officio*, a member of the Board without the right to vote, and be its sole administrative officer. The President shall preside at meetings of the Board, shall have the authority and shall perform the duties usually attached to the office as presiding officer.

The President, as the principal executive officer of the University, shall exercise such powers as are inherent in the position in promoting, supporting, or protecting the interests of the University and in managing and directing all of its affairs; may issue directives and executive orders not in contravention of existing Board policies; shall be responsible for all business policies as heretofore enacted or modified or hereafter established subject to the general policies established by the Board; shall instruct the proper administrative officers to prepare an annual budget which upon approval, shall be recommended to the Board; shall be responsible for the preparation of the annual reports of the Board; shall exercise such other powers, duties, and responsibilities as are delegated or required by the Board of Trustees.

In case of a vacancy in the office of the President, under conditions other than those specified in Article 14, the Board at the time of the announcement that the President is leaving shall elect immediately an Acting President for the interim period who shall exercise the functions of the President as stated in these Bylaws while serving as Acting President.

Provost of the University. The Provost of the University shall be appointed by the Board upon the recommendation of the President, shall serve at the pleasure of the Board, and shall give bond satisfactory to said Board to secure the faithful performance of the duties of the office. Subject to the President and the Board, the Provost:

Shall be the principal academic officer of the University and administer the various colleges, special units and academic support facilities.

Shall be responsible for assembling and administering the academic budget.

Shall be responsible for faculty personnel administration including procedures for faculty appointments and terminations, salaries and promotions, working conditions, and tenure.

Shall be responsible, with advice from the faculty, for development of new academic programs and for keeping existing programs updated and in conformity with University educational policies.

Shall be responsible for insuring that administrative procedures preserve academic freedom and insure academic responsibility.

Shall be responsible for supervising procedures and policies related to the admission of students, and liaison with high schools and community colleges.

Shall be responsible for supervising the registration process and for the orientation of new students, including initial arrangements for financial aids, where necessary.

Shall be responsible for administering academic facilities and units such as Libraries, Computer Laboratory, Instructional Development, Telecommunication Services, and the Museum.

Shall be responsible for Institutional Research and initiating development of a management information system.

Shall be responsible for liaison with the State Department of Education.

Executive Vice President of the University. The Executive Vice President of the University shall be appointed by the Board upon the recommendation of the President, shall serve at the pleasure of the Board, and shall give bond satisfactory to said Board to secure the faithful performance of the duties of the office. Subject to the President and the Board, the Executive Vice President:

Shall be the principal liaison officer and official contact between the University or any of its component parts and the State Legislature for all presentations made to the Legislature, or to any individual legislator on behalf of any projects of the University. All presentations on behalf of such projects shall be cleared with the Executive Vice President prior to their presentation.

Shall be responsible for the administration of personnel and employee relations policies and procedures related to the clerical, technical, administrative and professional personnel who are not Board appointed. For these personnel the Executive Vice President shall administer such rules, regulations, and procedures pertaining to the classification, evaluation, employment, absences, leaves, vacations, promotions, and terminations of employment which may be established from time to time by the Board of Trustees.

Shall be the representative of the University in its relations with labor unions organized among its nonacademic employees.

Shall perform such other duties as may be required of the Executive Vice President by the President and the Board of Trustees.

The Vice President for Business and Finance and Treasurer. The Vice President for Business and Finance and Treasurer shall be appointed by the Board upon the recommendation of the President of the University. Subject to the President and the Board of Trustees, the Vice President and Treasurer:

Shall be responsible for the collection and custody of, and accounting for all moneys due the University.

Shall pay all obligations of the University in accordance with budgets, contracts, grants, and policies established by the Board of Trustees.

Shall exercise general control over the regular accounting service through the controller who may refuse expenditures not authorized by such budget rules as the Board may adopt, as well as expenditures that would incur an overdraft in any fund or item in the annual budget or in special projects.

Shall have supervision over and custody of all deeds, contracts, agreements, trust indentures, etc., of which the University is a part.

Shall be a University officer authorized to sign formal applications for grants of funds for research, extension, or other University purposes as directed by the Board.

Shall have general administrative supervision over the Physical Plant Division, Housing and Food Services, and General University Services departments.

Shall prepare an annual financial report at the close of each fiscal year and such other interim reports as the President and the Board of Trustees may request.

May act to execute contracts on behalf of the Board of Trustees as authorized by the Trustees.

Shall give bond satisfactory to the Board for the faithful performance of his duties.

Shall perform such other duties as may be required by the President and the Board of Trustees.

Secretary of the Board. The Secretary of the Board shall be appointed by the Board upon recommendation of the President, shall serve at the pleasure of the Board, and shall give bond satisfactory to said Board to secure the faithful performance of the duties of the office. Subject to the President and the Board, the Secretary:

Shall keep a record of all the transactions of the Board which shall be open to public inspection; shall have custody of such books, papers, documents, records, and other property deposited in the Secretary's office, and shall be the custodian of the corporate seal and shall cause its imprint to be placed wherever appropriate.

University Attorney and Legal Counsel. The University Attorney and associate attorneys shall be appointed upon the recommendation of the President and approval of the Board. The University Attorney shall attend meetings of the Board and render such professional services as are required by it and the officers of the University. The University Attorney shall have authority to execute all legal documents including those required for purposes of litigation and/or court proceedings.

Ineligibility. No member of the Board shall be eligible to appointment as secretary or treasurer or to any paid employment in the University.

ARTICLE 5 | *Committees*

The Board may appoint committees and prescribe their duties and functions. The President or a presidential designee shall be a member of all such committees. All committees shall keep a record of their proceedings and shall report to the Board as required. The delegation of any authority of the Board to any committee shall not operate to relieve the Board or any member thereof of any responsibility imposed by law or the State Constitution.

All resolutions and all committee reports offered which involve matters for record in the minutes shall be made in writing.

ARTICLE 6 | *University Organization*

For purposes of administration, basic educational and administrative units may be established within the University upon recommendation of the President and the approval by the Board. The alteration or abolition of such

units shall be approved in a like manner. The basic organization of the educational units shall include departments, schools, institutes, centers, colleges, and the graduate school. The President is authorized to determine the organizational pattern of the several educational and administrative units subject to a report to the Board.

ARTICLE 7

Relation of Board and the University Faculty, Staff, and Employees

Regular Faculty Appointments. Appointments to the regular faculty, the salaries, tenure, leaves of absence, and changes of status therefor, shall be acted upon by the Board upon the recommendation of the President of the University.

Communications. All communications to the Board from the officers and faculty of the University and the officers of any affiliated organizations of the Board of Trustees shall be transmitted through the President of the University. This provision does not preclude a right of approach with members of the Board.

All communications from the Board or any of its committees addressed to any officer, professor or instructor, or other employee of the University shall be transmitted through the office of the President of the University. This provision does not preclude individual members of the Board from contacting any person within the University community.

Employee Relations. The Board of Trustees shall deal with all employees uniformly without reference to their race, color, sex, national origin, or religious belief. The Board will permit deduction of union dues from wages upon written request submitted by employees of the University.

It is the policy of the Board that the President shall develop a program structured along the fundamentals of basic due process, for the hearing and resolving of important, significant, and serious employee complaints.

Outside Employment. A full-time member of the faculty or staff may not be employed for remuneration by agencies other than the University except under the established rules of the Board and with the approval of the appropriate University authorities. In all cases there shall be no conflict of interest between the activity of the faculty or staff member and the University function. Any proceeds realized from such activity may be proportioned between the University and the faculty member where institutional time and/or facilities are involved.

Rights and Responsibilities of the Faculty. The Board of Trustees, the administration, and the faculty carry out their respective responsibilities not as isolated entities, but as major and primary constituents of a total University organization and structure which remain mutually interdependent and must be supportive of each others' purposes, functions, and obligations. It is within this context that the rights and responsibilities of the faculty are to be construed.

The Constitutional authority lodged in the Board of Trustees for the administration of the University makes possible the creation of an organizational autonomy to protect faculty in the exercise of the rights of academic freedom, the most treasured values of the academic community. Upon these rights rest the unfettered pursuit and transmission of truth by the faculty who serve as the guardians, interpreters, and transmitters of a great intellectual heritage; the further enrichment of this heritage constitutes both obligation and aspiration of the academic profession.

Responsibilities adhere to rights of academic freedom with which they are closely interwoven and at times indistinguishable. They exist for faculty as members of a department or other academic unit, as members of a college, as members of the University, and as members of professional societies with which the respective disciplines are associated. Exercise of rights of academic freedom entails the restraints of intellectual integrity and of responsible action to safeguard its exercise against abuse, disrespect, or destruction. It entails tolerance for freedom of expression by others and full deliberation of issues and problems; it entails forthrightness in recognizing and in indicating when one speaks professionally as a scholar in a field of special competence and when one speaks as a private citizen; it entails mindfulness that membership in the academic community ineluctably involves identification and association with the University and that the University is adjudged by the actions, performance, good taste, and expressions of its faculty.

Rights and responsibilities of faculty include the transmission and creation of knowledge, the cultivation in the student of the highest reaches of the mind and a capacity for abstract reasoning, the cultivation of a vigorous and continuing pursuit of an understanding of the universe and the encouragement of introspection of man's relation to it. To awaken in students penetrating questions on a fully examined life, on the morality inherent in the choice of values and on finding a meaningful and responsible relation to society calls for the finest talents of the faculty as teachers, scholars, and counselors. Talents and dedication of faculty are also asked for understanding and appreciation of the mores and standards by which a society seeks to sustain itself and for explorations of how, through personal example and intellectual effort, both students and faculty may assist mankind to fulfill its noblest aspirations and highest potential.

Innovation, planning, and the rendering of many recommendations and decisions required for the effective functioning of departments, colleges, and the University as a whole represent further necessary faculty contributions. The institution looks to the faculty for recommendations on faculty recruitment, promotions, and tenure; on the development of new academic programs and modification or discontinuance of old; on academic standards for admission to the several teaching and research programs; and on the articulation of needs and requirements for space, equipment, and personnel.

Contributions assumed traditionally by faculty also include the cultivation of an exciting intellectual life; the preparation of professional competencies; evaluation of a student's academic performance; active participation in professional meetings; the determination of membership in the respective academic profession; and the development of teaching and research programs in many fields of knowledge of concern to the University, including the pursuit of

advances in the arts and letters, the physical and biological sciences, government, and social and economic behavior.

The primacy of the faculty's role, functions, and responsibilities and its essentiality are further reflected in participation in the governing entities established for the several levels of faculty organization, in serving as needed on department, college, and University committees, and in rendering indispensable services associated with the University's many commitments and requirements within the academic community, within the state, the nation, and the world. The core of the University's purpose, its intellectual content and integrity, is expressed by the faculty.

In concert with the administration and accountable through the President to the Board of Trustees, the faculty are responsible for the continuous development of a University dedicated to the highest academic goals and responsive to the needs of society.

Nothing in these Bylaws, or regulations issued pursuant thereto, shall prevent the Board of Trustees taking prompt action on urgent financial and personnel matters necessary to the best interests of the University.

ARTICLE 8 | *The Board and Student Relations*

The Board encourages and supports the faculty in the development of educational and other programs within available resources, designed to secure the realization of the highest potential of every student.

Upon the recommendation of the President the Board may determine and establish the qualifications of students for admission at any level, or readmission to the University, and fix the amount of fees to be charged for attendance at the University.

It shall be the policy of the Board to provide equal educational opportunity to all qualified students from the State of Michigan and, insofar as facilities, faculty, and accommodations permit, a reasonable number from other states and other countries. There shall be no discrimination based on race, color, sex, or creed. No discrimination shall be allowed in University housing or in the University-supervised off-campus housing. No fraternity, sorority, student organization or club may exist on any campus of Michigan State University if it operates under a constitution that discriminates against potential members on the basis of race, color, national origin or ancestry.

The Board may make or may delegate through the President to the faculty the authority to make reasonable rules and regulations for the purpose of maintaining the health, safety, good order, harmony, and discipline of students, which are not purely arbitrary or in violation of any common rights, and may require students to agree to abide by them as the condition of admission to and retention in the University. Students who fail to comply with these regulations may be disciplined in such a manner as may be deemed appropriate.

It is the policy of the Board that the President shall develop a program, structured along the fundamentals of basic due process, for the hearing and resolving of important, significant, and serious student complaints.

ARTICLE 9 | *Courses of Instruction and Degrees*

The Board delegates to the President and through the President to the faculty authority to establish and regulate courses of instruction and programs of research and service, subject to a report and accountability to the Board for information, discussion, and appropriate action. Students who complete prescribed courses of study may be granted such baccalaureate and graduate and professional degrees and diplomas as are appropriate.

Honorary degrees may be awarded in recognition of distinguished accomplishment and service within the scope of the arts and letters, sciences and the professions, and public service recognized and promoted by the University. No honorary degree may be granted except upon the recommendation of the President and faculty, or an agency representing it. Generally such honorary degrees may not be granted in absentia. No person shall be recommended for an honorary degree while an officer, faculty member, or other employee of the University.

ARTICLE 10 | *Financial Responsibility*

The Board of Trustees, being constitutionally vested with the general supervision of Michigan State University and the control and direction of all its funds, recognizes a vital and crucial institutional responsibility to those with whom it has financial transactions. Accordingly, it is the policy of the Board to maintain adequate income and reserves to assure payment of principal and interest on the due date of its obligations. To the end that the financial integrity of the University shall always remain inviolate, the Board of Trustees pledges that it will maintain constant vigil over its funds through regular review and periodic reports, and such adjustments in income and reserves as shall guarantee the probity of its obligations. Funds earmarked for payment of bonded self-liquidating projects and term loan agreements are duly pledged for the specific pledge of the indenture. No intrusion upon this commitment, from any source or for any reason, will be tolerated.

The Board of Trustees is concerned that maximum value be obtained for funds expended to procure goods and services. Whenever possible, competitive quotations will be secured from two or more suppliers and purchase orders will be awarded on the basis of lowest cost consistent with acceptable quality.

ARTICLE 11 | *Property and Facilities*

Real and Other Property. The acquisition of all real estate and other property for University purposes and the sale, disposition, or transfer thereof shall

first be approved by the Board of Trustees. The Board is authorized to prescribe rules governing the use of all University property by the faculty, staff, employees, students, and the general public and the conduct of all entering upon said property, or in attendance at the University.

Securities. An Administrative Investment Committee, consisting of the President, Vice President for Business and Finance, and one other Officer designated by the President, shall be authorized, upon approval of any two of the three Trustee members of the Board Investment Committee, to buy and sell stocks, bonds, evidences of indebtedness, other securities and investment assets. If the members of the Board Investment Committee cannot be contacted within two business days from the date of the Administrative Investment Committee's recommendation, the Vice President for Business and Finance may exercise discretion in carrying out the recommendations of the Administrative Investment Committee without further approval. All such transactions, specifying the three Trustees granting authority therefor or indicating the unavailability of the Trustees during the two business days from the date of recommendation, shall be reported to the Board at its next regularly scheduled meeting.

Contracts. The President, Secretary, and Treasurer, or any two of them, are authorized to execute contracts on behalf of the Board of Trustees. In the absence or unavailability of two of the officers of the University, the University Attorney, plus one of the named officers is authorized to execute contracts on behalf of the Board of Trustees.

Buildings. The selection and employment of architects for all buildings of the University and the awarding of contracts for their construction shall be by the Board of Trustees. The location of new buildings shall be made upon recommendation of the President and approval of the Board.

Alterations. Alterations in existing University buildings may be made without approval of the Board if the cost of such alterations does not exceed the limits set by the Board. Such alterations must be reported to it subsequently.

Naming New Buildings. University buildings shall be named by the Board in accordance with its adopted policies.

ARTICLE 12

Extension Centers

Extension Centers. Extension Centers of Michigan State University may be established at locations to be specifically designated where study for credit can be carried on under conditions which provide appropriate instructional resources. Centers may not be established unless adequate classrooms and/or laboratory space are provided by local enterprise; adequate library facilities are available locally in all fields of advanced study in which courses are offered at that location; adequate concentration of population exists from which classes of satisfactory size may be drawn; competent instructors are available, and in the event that classes cannot be taught by members of the regular Michigan State University faculty, adequate opportunity exists for the

supervision of their work by Michigan State faculty; and adequate communication exists between the Center and Michigan State University. All credit courses conducted off campus will be given the same value as credit courses on campus.

ARTICLE 13

Collective Authority and Action

The authority of the Trustees is conferred upon them as a Board, and they can bind the corporation and the University only by acting together as a Board.

No individual member shall commit the Board to any policy, declaration, or action without prior approval of the Board.

ARTICLE 14

University Operation in Special Emergencies

In the event of an emergency resulting from disaster occurring in this state caused by an enemy attack upon the United States, by which the incumbents of the Board and administrative offices of Michigan State University may become unavailable for exercising the powers and discharging the duties of such offices, the Board of Trustees declares that it shall be the policy of the University to operate in accordance with the provisions of the Emergency Interim Executive Succession Act of the State of Michigan.

In the event of the death or incompetency of the President, the Chairperson of the Board of Trustees shall convene the available members to take appropriate action to assure continuity in the affairs of the University until the Board will make arrangements for an Acting President.

In order to anticipate responsibly the consequences of any disaster befalling the President of Michigan State University, rendering the President incapable of exercising the duties and functions of the office, it shall be the continuing responsibility of the Board of Trustees of said University to provide for the designation of an Acting President who shall carry out the duties and responsibilities of the Office of President until such time as the Board shall appoint a permanent president under these Bylaws.

ARTICLE 15

Corporate and University Seals

The corporate seal of the Board of Trustees shall contain in its center a monogram, MSU, being the initials of Michigan State University, and around the outer circle the words • Board of Trustees • Michigan State University.

The seal of the University shall contain in its center an illustration depicting "Old College Hall" and in the outer circle the inscription, Michigan State University.

ARTICLE 16 | *Emeritus Title*

The additional title of Emeritus may be added to that of any member of the faculty or staff upon his retirement. The title of Trustee Emeritus shall be bestowed upon all persons upon the close of service of such persons as members of the Board of Trustees of Michigan State University.

ARTICLE 17 | *Amendments*

These Bylaws may be amended or repealed at any meeting of the Board by an affirmative vote of a majority of the Board, provided that copies of such amendments or notices of repeal are submitted in writing to each member in advance of such meeting.

ARTICLE 18 | *Repeal*

All Bylaws, acts or resolutions, or any parts thereof, which are inconsistent with these Bylaws are hereby repealed.

**Amendments to the Board of Trustees Bylaws approved
January 25-26, 1979.**

ARTICLE 4 | *Officers and Organization
of the Board*

The Vice President for Business and Finance and Treasurer.

ADDITION—LAST PARAGRAPH:

Shall continuously monitor and review the actions of the investment manager and the status of the University's investment portfolio.

ARTICLE 11 | *Property and Facilities*

REVISION:

Securities. The investment manager(s), appointed by the Board of Trustees, shall be authorized to invest, buy and sell stocks, bonds, evidences of indebtedness, other securities and investment assets in accordance with policies and objectives established by the Board of Trustees. All such transactions shall be reported at the next regularly scheduled meeting of the Trustee Investment Committee.

The Vice President for Business and Finance and Treasurer.

REVISION-PARAGRAPH 1:

The Vice President for Finance and Operations and Treasurer. The Vice President for Finance and Operations and Treasurer shall be appointed by the Board upon the recommendation of the President of the University. Subject to the President and the Board of Trustees, the Vice President and Treasurer:

REVISION-PARAGRAPH 11:

Shall give bond satisfactory to the Board for the faithful performance of the duties of the office.

University Attorney and Legal Counsel.

REVISION:

General Counsel. The General Counsel and Associate General Counsel shall be appointed upon the recommendation of the President and approval of the Board. The General Counsel shall attend meetings of the Board and render such professional services as are required by it and the officers of the University. The General Counsel shall have authority to execute all legal documents including those required for purposes of litigation and/or court proceedings.

ARTICLE 11 | *Property and
Facilities*

REVISIONS:

Securities. The investment manager(s), appointed by the Board of Trustees, shall be authorized to invest, buy and sell stocks, bonds, evidences of indebtedness, other securities and investment assets in accordance with policies and objectives established by the Board of Trustees. All such transactions shall be reported at the next regularly scheduled meeting of the Trustee Investment Committee.

Contracts. The President and officers designated by the President are authorized to execute contracts on behalf of the Board of Trustees.

**Amendments to the Board of Trustees Bylaws approved
January 25-26, 1979 and January 24-25, 1980.**

ARTICLE 4 | *Officers and Organization
of the Board*

Provost of the University.

REVISION-PARAGRAPH 8:

Shall be responsible for supervising the registration process and for the orientation of new students.

DELETE-PARAGRAPH 10

The Vice President for Business and Finance and Treasurer.

ADDITION-LAST PARAGRAPH:

Shall continuously monitor and review the actions of the investment manager and the status of the University's investment portfolio.

Executive Vice President of the University.

REVISION:

Vice President for Administration and Public Affairs. The Vice President for Administration and Public Affairs shall be appointed by the Board upon the recommendation of the President, shall serve at the pleasure of the Board, and shall give bond satisfactory to said Board to secure the faithful performance of the duties of the office. Subject to the President and the Board, the Vice President for Administration and Public Affairs:

Shall be the principal liaison officer and official contact between the University or any of its component parts and the State Legislature for all presentations made to the Legislature, or to any individual legislator on behalf of any projects of the University. All presentations on behalf of such projects shall be cleared with the Vice President for Administration and Public Affairs prior to their presentation.

Shall be responsible for the administration of personnel and employee relations policies and procedures related to the clerical, technical, administrative and professional personnel who are not Board appointed. For these personnel the Vice President for Administration and Public Affairs shall administer such rules, regulations, and procedures pertaining to the classification, evaluation, employment, absences, leaves, vacations, promotions, and terminations of employment which may be established from time to time by the Board of Trustees.

Shall be representative of the University in its relations with labor unions organized among its nonacademic employees.

Shall perform such other duties as may be required by the President and the Board of Trustees.

**Amendments to the Board of Trustees Bylaws approved
January 25-26, 1979.**

ARTICLE 4 | *Officers and Organization
of the Board*

The Vice President for Business and Finance and Treasurer.

ADDITION—LAST PARAGRAPH:

Shall continuously monitor and review the actions of the investment manager and the status of the University's investment portfolio.

ARTICLE 11 | *Property and Facilities*

REVISION:

Securities. The investment manager(s), appointed by the Board of Trustees, shall be authorized to invest, buy and sell stocks, bonds, evidences of indebtedness, other securities and investment assets in accordance with policies and objectives established by the Board of Trustees. All such transactions shall be reported at the next regularly scheduled meeting of the Trustee Investment Committee.

July 20, 1990

- G. The Committee also received an information item on the Brody Dining Hall regarding asbestos abatement in crawl space.
 - H. Vice President Wilkinson provided the Committee with an update on the status of University actions related to support for child care services.
12. Mr. Owen presented the Trustee Policy Committee reports and recommendations as follows:
- A. On a motion by Mr. Owen, supported by Mr. Weiss, THE BOARD VOTED to approve an amendment of the Board of Trustees Bylaws, Articles 7 and 8.
- Revised Article 7 - Under the paragraph entitled Employee Relations, delete the first sentence and substitute the following: The Board of Trustees is committed to the objectives of diversity and pluralism and to the principles of equal opportunity, non-discrimination and affirmative action as reflected in various federal and state laws, orders and regulations, as well as in various University policies and regulations and will treat its employees in a non-discriminatory manner in accordance with the law and its own internal policies and regulations. Approved: 7/20/90
- Revised Article 8 - From the third paragraph delete material following the first sentence and substitute the following: The Board of Trustees is committed to the objectives of diversity and pluralism and to the principles of equal opportunity, non-discrimination, and affirmative action as reflected in various federal and state laws, orders and regulations, as well as in various University policies and regulations and will treat students and student organizations in a non-discriminatory manner in accordance with the law and its own internal policies and regulations. Approved: 7/20/90
- B. On a motion by Mr. Owen, supported by Mr. Weiss, THE BOARD VOTED to approve the evaluation criteria for the Director of Intercollegiate Athletics. A copy of the guidelines is included with the Board Agenda in the Office of the Secretary of the Board of Trustees.
13. The report of the Chairperson and Trustees included the following:
- A. On a motion by Mr. Owen, supported by Mr. Weiss, THE BOARD VOTED to approve a resolution honoring Dr. John E. Cantlon, Vice President for Research and Graduate Studies. A copy of the resolution is on file in the Office of the Secretary of the Board of Trustees.

APPENDIX B

APPENDIX B

BYLAWS FOR ACADEMIC GOVERNANCE

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Michigan State University

JANUARY, 1991

Issued by the Secretary for Academic Governance

MSU is an Affirmative Action/Equal Opportunity Institution

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PREAMBLE

The Constitution of the State of Michigan confers on the Board of Trustees the responsibility to develop a free and distinguished university and to promote the welfare of mankind through teaching, research, and public service. The Board of Trustees exercises final authority and responsibility for University governance within the bounds fixed by the State Constitution.

In exercising its responsibility the Board delegates to the President and through him or her to the faculty appropriate authority and jurisdiction over matters for which they are accountable to the Board. In other cases, for example, faculty recruitment, promotions, and tenure, the Board does not delegate but instead looks to the faculty for recommendations. The specific powers delegated to the faculty are detailed in the Bylaws of the Board of Trustees.

The Board also has declared its intention to give due consideration to the opinions of students on matters directly related to their interest when they are expressed in a responsible manner.

It is important to specify the manner and process by which the faculty and students develop and communicate their views to the President and the Board. These Bylaws for Academic Governance are designed to provide an effective system for the participation of faculty and students in the development of policy on academic matters.

1 Definitions

1.1. THE FACULTY

1.1.1. Composition of the Faculty

1.1.1.1. The regular faculty of Michigan State University shall consist of all persons appointed under the rules of tenure and holding the rank of professor, associate professor, assistant professor, or instructor, and persons appointed as librarians. In addition, the principal administrative officer of each major educational and research unit of the University shall be a member of the regular faculty.

1.1.1.2. The temporary faculty of Michigan State University shall consist of all persons holding the rank of professor, associate professor, assistant professor, or instructor, but not appointed under the rules of tenure.

1.1.1.3. Visiting Professors and Professors Emeritus shall be honorary faculty (1.1.2.2., 3.1.1.1.).

1.1.1.4. The foregoing provisions do not preclude Presidential action to bestow certain "faculty privileges" upon employees of the University who are not members of the faculty.

1.1.2. Faculty Voting Rights

1.1.2.1. The voting faculty in the election of University councils and committees shall be all regular faculty engaged in the academic activities of the University on a regular basis.

1.1.2.2. The voting faculty in the election of department, school, or college councils and committees and in elections pertaining to department, school, or college policies and decisions shall include all regular faculty engaged in the academic activities of that unit on a regular basis and may be extended by unit bylaws to include temporary faculty, honorary faculty, specialists, lecturers, research associates, assistant instructors, and adjunct faculty.

1.1.2.3. A faculty member jointly appointed to two or more units may vote only once in a given election. In elections voted upon by

two or more units the faculty member shall vote in that unit which has primary responsibility for initiating personnel action.

1.1.2.4. A faculty member may be elected to an academic governance body as a representative of any unit in which the person holds regular faculty status.

1.2. THE STUDENTS

1.2.1. Student Constituency of the University

1.2.1.1. The student constituency shall consist of all persons officially enrolled as students in the University except those who are also defined as faculty in 1.1.1. A person who has enrolled for three consecutive terms may retain student status for one term when not enrolled, if the person has not been awarded a degree or enrolled as a degree candidate at another college or university, or been withdrawn or recessed by the University.

1.2.1.2. Those students who are enrolled in graduate non-degree programs, as candidates for graduate degrees, or as candidates for graduate-professional degrees shall be deemed graduate students.

1.2.1.3. All other students shall be deemed undergraduate students.

1.2.2. Student Constituency of an Academic Unit

1.2.2.1. The student constituency of a unit for the purpose of selecting student representatives from that unit to serve on higher unit committees shall be all students who have declared with the Registrar a major or major preference (in the case of lower-division students) in an academic program in the unit.

1.2.2.2. The student constituency for purposes other than that specified above (1.2.2.1.) shall be all students who have declared a major or major preference in an academic program in the unit and may include other students as specified in the bylaws of the unit.

1.2.3. Student Participation in Academic Governance

1.2.3.1. Student participation in an academic governance body shall in all cases be in the

same mode as faculty participation, except as reserved. The matters reserved to the faculty are:

1.2.3.1.1. Policy concerning salary, leaves, insurance, retirement, and fringe benefits of faculty.

1.2.3.1.2. Decisions concerning the appointment, salary, reappointment, promotion, tenure, or dismissal of individual faculty members.

1.2.3.1.2.1. Evidence from students regarding the teaching performance of faculty shall be considered in decisions concerning the above matters.

1.2.3.1.3. Matters affecting the professional responsibility of the faculty to establish and maintain the intellectual authority of the University.

1.3. MODES OF PARTICIPATION

There are four modes of faculty and student participation identified for use in Academic Governance.

1.3.1. Consultation

A body of faculty and/or students who discuss with and inform the administrator with authority and responsibility for decision. Such a committee is not a deliberative body; there is no vote. Rather, the members express their views to inform an administrator's decision.

1.3.2. Advisory

A deliberative body of faculty and/or students recommends policies to an administrator who is authorized to make decisions. The administrator is not bound by the recommendation and accepts responsibility for the decision.

1.3.3. Shared Responsibility

A deliberative body of faculty and/or students makes recommendations to an administrator authorized to make decisions. If the administrator and deliberative body cannot agree and action must be taken, the recommendations of the administrator and the deliberative body will be submitted in writing

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to the next higher administrative level for resolution.

1.3.4. Delegated Authority

A deliberative body of faculty and/or students is authorized to make decisions on specified matters. Such decisions are subject to administrative review, but will be altered only in exceptional circumstances.

2 Academic Governance in Schools, Colleges, and Other Academic Units

2.1. UNIT ACADEMIC ADMINISTRATORS

2.1.1. Academic units are those departments, schools, colleges, and other administrative units whose primary function is education, research, or creative endeavor.

2.1.2. An academic administrator is a faculty member who has authority and responsibility delegated by the President and the Board of Trustees for the administration of a unit.

2.1.2.1. A department chairperson or school director serves as the chief representative of his or her department or school within the University. He or she is responsible for educational, research, and service programs, budgetary matters, physical facilities, and personnel matters in his or her jurisdiction, taking into account the advisory procedures of the unit. The chairperson or director has a special obligation to build a department or school strong in scholarship, teaching capacity, and public service.

2.1.2.2. Deans and directors of other academic units separately reporting to the Provost are responsible for educational, research, and service programs of the respective college or separately reporting unit. This responsibility includes budgetary matters, physical facilities, and personnel matters in his or her jurisdiction taking into account the advisory procedures of the college or separately reporting unit.

2.1.3. Faculty and students shall advise or consult in the appointment of unit academic administrators.

2.1.3.1. The voting faculty of each department or school shall have shared responsibility with its dean to determine procedures for the selection of chairpersons and directors to be nominated to the Provost.

2.1.3.2. The voting faculty of each college shall have shared responsibility with the Provost to determine procedures for the selection of deans to be nominated by the Provost.

2.1.3.3. The selection of assistant and associate administrators to be nominated to the Provost shall be the responsibility of the

academic administrator to whom they directly report (2.1.5.2.).

2.1.4. Chairpersons, directors, and deans shall be subject to regular review at intervals not to exceed five years.

2.1.4.1. The College Advisory Council of each college shall have shared responsibility with the Provost to determine procedures for the review of deans.

2.1.4.2. At intervals of not to exceed five years the dean shall review the reappointment of a chairperson or school director.

2.1.4.3. A department or school faculty shall have shared responsibility with their dean on procedures for review of a chairperson or school director.

2.1.4.4. There is no limit, other than the limit imposed by the University rules on retirement from administrative positions, on the number of times an individual may be continued in the position of dean, chairperson, or school director. The same principle applies to deans and directors of separately reporting units.

2.1.4.5. At any time during the term of office, the appointment of a dean, chairperson, or director, as dean, chairperson, or director may be terminated either by resignation or by action of the Board of Trustees upon recommendation of the President and the Provost.

2.1.5. Academic administrators shall participate in academic governance as part of their administrative responsibility.

2.1.5.1. They shall inform faculty and students of administration policies through the academic governance system as well as other channels they deem appropriate.

2.1.5.2. They shall receive the views of faculty and students through the academic governance system, as well as other channels they deem appropriate, in determining policies and in advising other administrators of the University.

2.1.5.3. They shall comply with these Bylaws and the bylaws of their academic unit.

2.1.5.4. They shall assist and encourage the efficient and effective operation of academic governance.

2.2. UNIT ACADEMIC GOVERNANCE

- 2.2.1. The voting faculty of each academic unit shall have shared responsibility with the administrator to adopt and publish bylaws, provided they are in conformity with these Bylaws for Academic Governance (4.4.4.).
- 2.2.2. Academic unit bylaws shall be reviewed at intervals not to exceed five years.
 - 2.2.2.1. Bylaws of schools and departments shall be reviewed by appropriate college committees. The decisions of such committees can be appealed to the Committee on Academic Governance.
 - 2.2.2.2. The bylaws of colleges and other academic units which are not part of a college shall be reviewed by the Committee on Academic Governance. Decisions of the committee can be appealed to Academic Council.
- 2.2.3. The bylaws of academic units with responsibilities for undergraduate or graduate education shall specify procedures for the participation of students in the decision-making processes by which policy is formed.
 - 2.2.3.1. The students in each unit who have declared a major or major preference in an academic program in the unit shall be responsible for selecting, according to procedures of their own choice, their representatives to councils and committees as specified in unit bylaws (1.2.2.2.).
 - 2.2.3.2. Each unit's bylaws shall specify the student constituency of that unit (1.2.2.1. and 1.2.2.2.).
- 2.2.4. Unit bylaws shall provide that the unit administrator, or a designee, shall generally be present at meetings of an academic governance body.
- 2.2.5. The bylaws of colleges shall provide for a College Advisory Council of faculty and students or separate College Advisory Councils to serve as a means of participation by faculty and students in the policymaking of the college. The composition of College

Advisory Councils shall ensure representation of the diverse academic interests of the college.

2.2.5.1. Each College Advisory Council shall select from among the college representatives to the Academic Council one person to serve as an ex officio member, without vote, of the College Advisory Council.

2.2.5.2. Each College Advisory Council shall elect its own chairperson.

2.2.5.3. Each College Advisory Council shall publish minutes of its meetings.

2.2.6. The jurisdiction of unit academic governance shall include matters within the jurisdiction of University-level academic governance as specified in the ascription of functions to Academic Council Standing Committees, provided that the matters are within the administrative authority of the academic unit.

2.2.7. Unit academic governance shall have jurisdiction over other matters as provided in other University policy and legislation, e.g., Academic Freedom for Students at Michigan State University, Graduate Students Rights and Responsibilities, Interim Faculty Grievance Procedure, and Faculty Handbook.

2.2.8. Academic unit bylaws shall specify the modes of participation (1.3.) for matters within the jurisdiction of unit academic governance. The modes of participation specified at the University level shall be the model that guides but does not necessarily determine the modes of participation at the academic unit level.

3 University Academic Governance

3.1. THE ACADEMIC SENATE

3.1.1. Composition of the Academic Senate

3.1.1.1. The voting membership of the Senate shall be the regular faculty (1.1.1.1.) except for the President and Provost. Honorary faculty (1.1.1.3.) shall be members with voice but without vote. The presiding officer may vote to break a tie.

3.1.1.2. The President or, in his or her absence, the Provost shall preside at meetings of the Senate. The Secretary for Academic Governance shall be the secretary of the Senate.

3.1.2. Functions of the Academic Senate

3.1.2.1. The Senate shall act on amendments to the Bylaws for Academic Governance referred to it by Academic Council (3.1.3.2.).

3.1.2.2. Actions of Academic Council may be referred to the Senate for action by a majority vote of Academic Council, by a petition of 40 percent of the Faculty Council or by petition of 20 percent of the voting membership of the Academic Senate.

3.1.2.3. Actions of the Faculty Council on matters reserved to the Faculty (1.2.3.1.) may be referred to the Senate for action by a majority vote of the Faculty Council or by petition of 20 percent of the voting membership of the Academic Senate.

3.1.2.4. The Senate shall also serve as a forum for the dissemination and exchange of ideas and information between the faculty and the administration. No quorum is required for such meetings.

3.1.3. Procedures of the Academic Senate

3.1.3.1. Meetings of the Senate shall be called by the President or the faculty members of the Steering Committee (3.3.2.2.).

3.1.3.2. On any recommendation brought before the Senate, action by the Senate is restricted

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to approval of the recommendation or referral back to the originating council for further deliberation.

3.1.3.3. The Senate shall establish its own rules and procedures.

3.1.3.4. A quorum of 10 percent of the Senate membership is required for any Senate action. Failure to achieve a quorum shall constitute approval of the action of the Academic Council or the Faculty Council.

3.1.3.5. Minutes shall be distributed to all members of the Academic Senate and Academic Council.

3.2. THE ACADEMIC COUNCIL

3.2.1. Composition of the Academic Council

3.2.1.1. The Academic Council shall be composed of the Faculty Council, the Appointed Council, the Student Council, designated members of Academic Council Standing Committees, the Steering Committee, the President, the Provost, and designated ex officio members.

3.2.1.1.1. The Faculty Council shall be composed of the faculty representatives from the colleges, faculty representatives from the non-college faculty, the faculty members of the Steering Committee, faculty chairpersons of Academic Council Standing Committees, the President, and the Provost.

3.2.1.1.2. The Appointed Council shall be composed of all deans of academic programs, the directors of the Honors College and Library, director of the National Superconducting Cyclotron Laboratory, the President, and the Provost.

3.2.1.1.3. The Student Council shall be composed of the student representatives, the student members of the Steering Committee, student chairpersons of Academic Council Standing Committees, the President, the Provost, the Vice President for Student Affairs and Services, and the chairperson of Student

Council.

3.2.1.1.4. One additional member each from the Committee on Academic Policy, the Graduate Council, and the Committee on Curriculum shall be members of Academic Council.

3.2.1.1.5. The Academic Council shall have the following ~~ex officio~~ members: Vice President for Student Affairs and Services, Vice President for Research and Graduate Studies, Vice Provost for Agriculture and Natural Resources, Vice Provost for Human Health Programs, Associate Provost, Assistant Provost and Assistant Vice President for Academic Human Resources, Assistant Provost for Academic Services, Assistant Provost for Academic Computing and Technology, Assistant Provost for Graduate Education, Assistant Provost for Undergraduate Education, Assistant Provost for Lifelong Education, Faculty Grievance Official, and Ombudsman.

3.2.2. Voting Members of the Academic Council

3.2.2.1. The voting members of Academic Council shall be the faculty representatives, student representatives, designated members of Academic Council Standing Committees, Steering Committee members, deans of academic programs, Dean of the Graduate School, Dean of International Studies and Programs, and the directors of the Honors College and Libraries.

3.2.2.2. The voting members of the Faculty Council shall be the elected faculty representatives, the faculty members of the Steering Committee, and faculty chairpersons of Academic Council Standing Committees.

3.2.2.3. The voting members of the Student Council shall be the student representatives, the student members of the Steering Committee, and student chairpersons of Academic Council Standing Committees. The chairperson of Student Council shall vote only to break a tie.

3.2.3. Elected Faculty Representatives

3.2.3.1. Each college shall have at least two

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representatives. Each college shall have one additional representative for every fifty voting faculty in excess of fifty. Each college with three or more representatives shall have at least one non-tenured faculty member among its representatives.

3.2.3.2. For purposes of determining the number of elected representatives on the Faculty Council to which a college is entitled, the number of voting faculty shall be the number of regular faculty in the college for which a unit of the college has primary responsibility for initiating personnel actions.

3.2.3.3. Each college's faculty representatives shall be elected at-large during the spring term by mailed ballot supervised by the College Advisory Council (2.2.5.). A department or school may not have more than one representative unless the college's departments are so few that such a limitation would reduce the college's representatives to the Council as determined by 3.2.3.1. Nomination procedures shall be specified in college bylaws.

3.2.3.4. All regular faculty members of the University who are not represented through colleges (non-college faculty) or who are not otherwise named in the membership of the Faculty Council shall have representation as specified for colleges in 3.2.3.1. and 3.2.3.2. The Secretary for Academic Governance shall supervise nomination procedures.

3.2.3.5. The methods of election of representatives for non-college faculty and those colleges which are not departmentally organized shall be similar to those prescribed for departmentally organized colleges and shall assure representation of the diverse academic interests.

3.2.3.6. The term of office of an elected faculty representative shall be two years and shall begin September 1. No individual may serve more than two consecutive terms from the same constituency. Representatives of each college shall serve staggered terms.

3.2.3.7. If for any reason an elected faculty representative is unable to serve for a period

of one academic term or more, a replacement shall be named by the College Advisory Council as provided by college bylaws. The non-college faculty shall establish procedures for this purpose in cooperation with the Secretary for Academic Governance.

3.2.4. Student Representatives

3.2.4.1. Undergraduate Student Representatives: Each college shall have at least one representative. Each college with more than 2,000 undergraduate students shall have an additional representative. With the exception of the Colleges of Human Medicine, Osteopathic Medicine, and Veterinary Medicine, these representatives shall be undergraduates. The representatives of the Colleges of Human Medicine, Osteopathic Medicine, and Veterinary Medicine shall be either undergraduates or students working toward graduate-professional degrees.

3.2.4.1.1. Representatives shall be chosen according to procedures established by a vote of the student constituency of the college (1.2.2.1.).

3.2.4.2. Graduate Student Representatives: The Council of Graduate Students shall select six graduate students. No more than one representative may be from one department, with consideration being given to University-wide representation insofar as possible.

3.2.4.3. Student Representatives-at-Large: Four students on the Student Council shall be students elected at-large from the total student constituency. At least one of these representatives shall be a non-white student and at least one shall be a woman.

3.2.4.3.1. A slate of candidates for the at-large representatives shall be prepared by the Secretary for Academic Governance. The slate shall name at least two candidates for each position to be filled.

3.2.4.3.2. The nomination and election procedures shall be approved by the Committee on Academic Governance and the Student Council.

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3.2.4.3.3. The Secretary for Academic Governance shall entertain nominations from individual students and from non-white student groups and women student groups.

3.2.4.3.4. Elections for at-large representatives shall be held during spring term registration.

3.2.4.4. Six Minority/Protected Class Representatives: One African-American representative appointed by the Black Student Alliance, One Asian-Pacific American, appointed by A.P.A.S.O., One Hispanic appointed by C.H.I.S.P.A., One Native American appointed by N.A.I.S.O., One Handicapper appointed by Handicapper Council and One Lesbian/Gay appointed by the Lesbian/Gay Council.

3.2.4.5. ASMSU Student Representatives: Three ASMSU student representatives to be appointed by ASMSU Student Board.

3.2.4.6. Student representatives shall be selected during spring term and the term of office shall be one year and shall begin September 1. No individual may serve more than two consecutive terms from the same constituency.

3.2.4.6.1. Election of college representatives shall be completed by mid term of spring term.

3.2.4.7. If for any reason an elected student representative is unable to serve for a period of one academic term or more, a replacement for the remainder of the term of office shall be named.

3.2.4.7.1. If the student represents a college, the replacement shall be made according to procedures determined by the student constituency of the college (1.2.2.1.), for either the period in question, or the remainder of the term of office, at the option of the college.

3.2.4.7.2. If the student was selected by the Council of Graduate Students, the replacement shall be made by the Council of Graduate Students.

3.2.4.7.3. If the student is an at-large representative, the replacement shall be made by procedures in accordance with section 3.2.4.3.1.

3.2.4.7.4. If the student is a minority/protected representative, the replacement shall be made by the designated representative group.

3.2.4.7.5. If the student is a ASMSU student representative, the replacement shall be made by ASMSU Student Board.

3.2.4.8. The newly-elected Student Council shall meet during spring term to elect student members to the Steering Committee and Standing Committees of the Academic Council as specified in 3.3.1.10. and 4.2.1.11.

3.2.4.9. Chairperson of Student Council

3.2.4.9.1. The Student Council shall be chaired by a student.

3.2.4.9.2. The chairperson's responsibilities shall be to:

3.2.4.9.2.1. Chair all meetings of Student Council.

3.2.4.9.2.2. Serve as ex officio on the Student Council Agenda Committee.

3.2.4.9.2.3. Serve as Student Council's representative on the Student Liaison Group to the Board of Trustees representing the academic interests of the student body.

3.2.4.9.3. Any full-time student currently enrolled and in good academic standing may run for the position of chairperson. The election for chairperson should be held no later than the second Tuesday in May for a term beginning September 1. The currently serving Student Council shall elect the chairperson for the forthcoming academic year.

3.2.5. Functions of Academic Council

3.2.5.1. The Academic Council shall consider and act upon all matters within its purview brought before it by the Steering Committee, shall consider and act upon all matters brought before it by the President or Provost, and shall provide a forum for the dissemination of information and exchange of views regarding University policy.

3.2.5.2. The Academic Council shall participate in all major issues relating to educational policy. The mode of participation shall be that which is specified on the matter in the ascription of functions to Academic Council Standing Committees (4.3. - 4.11.).

3.2.5.3. The Academic Council may consult on any other matter pertaining to the general welfare of the University.

3.2.5.4. The Academic Council shall develop procedures acceptable to the Board of Trustees for the participation of faculty and students in the selection of the President.

3.2.5.5. The Academic Council shall develop procedures acceptable to the President for the participation of faculty and students in the selection of administrators of University level units which determine policies significantly affecting the academic programs of the University.

3.2.5.5.1. This shall include the Provost, the Vice President for Research and Graduate Studies, the Vice President for Student Affairs and Services, the Dean of The Graduate School, the Dean of International Studies and Programs, the Dean of Lifelong Education Programs, the Director of Libraries, and the Director of the Honors College.

3.2.5.6. Within the constraints of the constitutional authority of the Board of Trustees, Academic Council shall be the final authority with regard to the interpretation of these Bylaws (4.4.4.).

3.2.6. Procedures of Academic Council, Faculty Council, and Student Council

3.2.6.1. The President or, in his or her absence, the Provost shall preside at meetings of Academic Council. The Secretary for Academic Governance shall be secretary of Academic Council.

3.2.6.2. The Academic Council shall meet at least once each month during the academic year and more often at the call of the President or the Steering Committee (3.3.2.2.). The agenda shall be prepared by the Steering Committee. The meetings of Academic Council shall be open. Observers shall be seated separately.

3.2.6.3. On all recommendations concerning major academic policies, a standing committee report or a brief summary thereof as compiled by the committee chairperson, shall be published in the MSU News-Bulletin at the time it is submitted to Academic Council for information.

3.2.6.4. The President or, in his or her absence, the Provost shall preside at meetings of the Faculty Council. The Secretary for Academic Governance shall be the secretary of the Faculty Council.

3.2.6.5. The Faculty Council shall meet at regular intervals. Meetings shall be called by the President or the Provost in consultation with the faculty members of the Steering Committee. The agenda shall be prepared by faculty members of the Steering Committee.

3.2.6.6. The Student Council shall meet at regular intervals. Meetings shall be called by the President, the Provost, the Vice President for Student Affairs and Services, or the chairperson of Student Council in consultation with the Agenda Committee of the Student Council. The agenda for meetings shall be prepared by the Agenda Committee of the Student Council. This committee shall consist of the student members of the Steering Committee and three members of the Student Council, one to be an undergraduate representative from a college, one to be a graduate student, one to be an at-large representative, and the vice chairperson of Student Council. The chairperson of Student Council shall serve as ex-officio without vote. The Agenda Committee shall be elected by the Student Council for a term of one year and

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shall elect its own chairperson. The Agenda Committee shall act on behalf of Student Council on occasions when action is needed before Student Council can be called in session. Actions shall be subject to review by Student Council at its next meeting.

3.2.6.7. The Student Council chairperson shall preside at meetings of the Student Council. The Secretary for Academic Governance shall be the secretary of the Student Council.

3.2.6.8. The Faculty Council, the Appointed Council, or the Student Council may by a majority vote of those present and voting refer matters to the Academic Council. Such recommendations shall be placed on the agenda of Academic Council by the Steering Committee.

3.2.6.9. The Faculty Council, the Student Council, and the Academic Council shall establish their own rules and procedures. Minutes of each of these Councils shall be distributed to all members of Academic Council and to all academic unit offices. Individual faculty may receive copies of such minutes on a regular basis upon written request to the Secretary for Academic Governance.

3.2.7. Functions of the Faculty Council

3.2.7.1. The Faculty Council shall approve all recommendations regarding faculty rights and responsibilities and grievance procedures and any amendment of 2.1.4.9 and 2.2 of Academic Freedom for Students at Michigan State University prior to their consideration by Academic Council and shall consider and act upon all matters brought before it by the President or Provost.

3.2.7.2. On any matter brought before the Faculty Council the mode of participation shall be that which is specified on the matter in the ascription of functions to Academic Council Standing Committees (4.3. - 4.11.).

3.2.8. Functions of the Student Council

3.2.8.1. The Student Council shall consider and act upon all recommendations regarding student academic rights and responsibilities and judicial procedures and any amendment or revision of Academic Freedom for Students at

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Michigan State University and General Student Regulations prior to their consideration by Academic Council and on all matters brought before it by the President, the Provost, or Vice President for Student Affairs and Services.

3.2.8.2. On any matter brought before the Student Council the mode of participation shall be that which is specified on the matter in the ascription of functions to Academic Council Standing Committees (4.3. - 4.11.).

3.3. THE STEERING COMMITTEE OF ACADEMIC COUNCIL

3.3.1. Composition and Election of the Steering Committee

3.3.1.1. The Steering Committee shall be composed of five faculty, one undergraduate student, and one graduate student.

3.3.1.2. The Steering Committee shall elect its own chairperson who shall also serve as the chairperson of the Executive Committee (3.5.) and the Coordination Committee (3.4.).

3.3.1.3. Faculty members of the Steering Committee shall be designated as members of the Faculty Council but may not serve concurrently as college representatives or as members of any Academic Council Standing Committee.

3.3.1.4. The term of office for faculty members of the Steering Committee shall be two years and shall begin on September 1. No individual may serve more than two consecutive terms. Either two or three faculty members shall complete their terms each year.

3.3.1.5. The faculty of the Committee on Academic Governance shall nominate not less than two nor more than four faculty for each position to be filled. Faculty of the University shall have the opportunity to suggest nominees.

3.3.1.6. The Secretary for Academic Governance shall prepare a vita for each nominee and shall request each nominee to submit a short statement. Both shall be distributed with the ballot.

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3.3.1.7. Faculty members of the Steering Committee shall be elected at-large by the voting faculty of the University in an election supervised by the Secretary for Academic Governance annually in the spring term. Election shall be by a plurality of votes.

3.3.1.8. If for any reason a faculty member of the Steering Committee is unable to serve for a period of one academic term or more, a replacement for the remainder of the term of office shall be appointed by the Faculty Council upon nomination by the faculty of the Committee on Academic Governance.

3.3.1.9. The term of office for student members of the Steering Committee shall be for one year and shall begin on September 1. No student may serve more than two consecutive terms on the Steering Committee.

3.3.1.10. The newly-elected Student Council shall meet during the spring term to elect the student members of the Steering Committee for the next year.

3.3.1.11. A student may not serve concurrently as a member of the Steering Committee and as a college, Council of Graduate Students, at-large representative, or chairperson of an Academic Council Standing Committee.

3.3.1.12. If for any reason a student member of the Steering Committee is unable to serve for a period of one academic term or more, a replacement for the remainder of the term of office shall be appointed by the Student Council upon nomination by the students of the Committee on Academic Governance.

3.3.1.13. Vacancies created in the Student Council by the election of student members of the Steering Committee shall be filled in the manner provided in 3.2.4.5.

3.3.2. Functions and Procedures of the Steering Committee

3.3.2.1. The Steering Committee shall act as an agency through which individual faculty or students, or faculty or student groups and organizations, may initiate action in academic governance. The Steering Committee shall refer such matters to the appropriate council or

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committee.

3.3.2.2. The Steering Committee, in consultation with the President or the Provost, shall prepare the agenda for meetings of the Academic Senate and Academic Council. Before each regularly-scheduled meeting of the Academic Senate or Academic Council, the Steering Committee shall hold a duly-announced public meeting open to any member of the faculty or student body at which suggestions for agenda items will be heard.

3.3.2.3. The faculty members of the Steering Committee shall prepare the agenda of the Faculty Council.

3.3.2.4. The Steering Committee shall report to Academic Council.

3.4. THE COORDINATION COMMITTEE OF ACADEMIC COUNCIL

3.4.1. Composition of the Coordination Committee

3.4.1.1. The Coordination Committee shall be composed of the chairpersons of the Academic Council Standing Committees and the chairperson of the Steering Committee.

3.4.1.2. The chairperson of the Steering Committee shall be chairperson of the Coordination Committee.

3.4.2. Functions and Procedures of the Coordination Committee

3.4.2.1. The Coordination Committee shall meet periodically to coordinate the activities of Academic Council Standing Committees. Appropriate administrators shall be invited to participate in these meetings.

3.4.2.2. The Coordination Committee shall report to the Steering Committee.

3.5. THE EXECUTIVE COMMITTEE OF ACADEMIC COUNCIL

3.5.1. Composition of the Executive Committee

3.5.1.1. The Executive Committee shall be composed of the Steering Committee and the Coordination Committee.

3.5.1.2. The chairperson of the Steering

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Committee shall be the chairperson of the Executive Committee except when it is acting on behalf of the Academic Council (3.5.2.2.).

3.5.2. Functions and Procedures of the Executive Committee

3.5.2.1. The Executive Committee shall meet periodically with the President and Provost for an exchange of information and views on University policy.

3.5.2.2. The Executive Committee shall act on behalf of Academic Council on occasions when action is needed before Academic Council can be called in session. Such sessions shall be chaired by the President or, in his or her absence, by the Provost. Actions shall be subject to review by Academic Council at its next meeting. These meetings shall be called by the President in consultation with the Steering Committee.

3.5.2.2.1. The faculty members of the Executive Committee of Academic Council shall act on the behalf of Faculty Council on occasions when action is needed before Faculty Council can be called or when a quorum is not present. Such sessions shall be chaired by the President, or in his or her absence by the Provost. This meeting shall be called by the Steering Committee of Faculty Council or by the President, or in his or her absence by the Provost in consultation with the Faculty members of the Steering Committee who constitute the Steering Committee of Faculty Council. Actions shall be subject to approval by Faculty Council at its next meeting at which a quorum is present.

3.5.2.3. The Executive Committee of Academic Council shall advise the Provost regarding the appropriate faculty governance bodies and academic governance bodies, if any, to consult on proposals for creation, merger, or abolition of basic academic units to include departments, schools, centers, institutes, colleges, and the Graduate School.

3.5.2.4. The Executive Committee shall report to Academic Council.

3.6. THE SECRETARY FOR ACADEMIC GOVERNANCE

- 3.6.1. The Secretary for Academic Governance shall be appointed by the President in consultation with the Executive Committee and they shall review the appointment at periods not to exceed five years.
- 3.6.2. The Secretary for Academic Governance shall be secretary to the Academic Senate, Academic Council, Faculty Council, and Student Council. The Secretary shall provide staff support to the Steering Committee, Executive Committee, Academic Council, Faculty Council, Student Council, and the Standing Committees of the Academic Council. The Secretary shall supervise elections to the Academic Council, Student Council, and Steering Committee, with review by the Committee on Academic Governance.

4 The Standing Committees of Academic Council

4.1. ESTABLISHMENT OF STANDING COMMITTEES

4.1.1. There shall be the following Standing Committees of Academic Council:

University Committee on Academic Environment
University Committee on Academic Governance
University Committee on Academic Policy
University Committee on Curriculum
University Committee on Faculty Affairs
University Committee on Faculty Tenure
University Graduate Council
University Committee on Student Affairs

4.2. GENERAL RULES GOVERNING STANDING COMMITTEES

4.2.1. Composition of Standing Committees

4.2.1.1. The composition of each Standing Committee is specified in the description of each committee (4.3 - 4.10.).

4.2.1.2. Unless otherwise provided, no college shall have more than one faculty representative on a committee.

4.2.1.3. The term of office for faculty members shall be two years. Provisions shall be made to stagger elections. Terms of office shall begin September 1.

4.2.1.4. The term of office for student members shall be one year. Terms of office shall begin on September 1.

4.2.1.5. No individual may serve more than two consecutive terms on the same committee from the same constituency.

4.2.1.6. No individual may serve concurrently as voting member of more than one Academic Council Standing Committee.

4.2.1.7. Election and appointment to committees shall take place in the spring of each year.

4.2.1.8. If for any reason an individual is unable to serve for a period of one or more academic terms, a replacement shall be named for that term or terms in a manner compatible

with the regular selection of the member unable to serve.

4.2.1.9. Where faculty members of a Standing Committee are selected from the elected faculty on Academic Council, they shall be elected by the Faculty Council upon nomination by the faculty of the Committee on Academic Governance of a slate of at least one and one-half nominees per position to be filled.

4.2.1.10. Where faculty members of a committee are elected in college elections, nominating procedures shall be specified in college bylaws.

4.2.1.11. Unless otherwise provided, student members of Standing Committees shall be elected by the newly-elected Student Council upon nomination by the students currently members of the Committee on Academic Governance of a slate of at least two nominees per position to be filled. Election shall be held prior to the end of spring term.

4.2.1.12. Elections to all committees shall be completed prior to May 15.

4.2.2. General Procedures of Standing Committees

4.2.2.1. After committees for the next year have been constituted in the spring, each new committee shall meet and elect its chairperson and, if applicable, an additional representative to Academic Council.

4.2.2.2. The chairperson of each Standing Committee shall prepare each month a summary of the activities of the preceding month and a list of prospective agenda items for the coming month. The Secretary for Academic Governance shall distribute these with the agenda or minutes for Academic Council and shall make them available to all other interested parties.

4.2.2.3. The chairperson of each committee shall submit an annual report to the Executive Committee by August 31. Summaries of these reports shall be distributed with Academic Council minutes. Each chairperson shall regularly report to the Executive

Committee on the work of the committee.

4.2.2.4. Committees are encouraged to call on faculty, students, and administrators who have special expertise on matters under consideration, including minorities and women for the perspective which they may bring to the consideration of many issues. Such individuals are asked to render whatever services are reasonably requested.

4.2.2.5. Committees shall establish their own rules and procedures.

4.2.2.6. Subcommittees or ad hoc committees shall exist at the discretion of the parent committees. The advisability of their continuance shall be raised annually.

4.2.3. General Functions of Standing Committees

4.2.3.1. Committee members shall represent the interests of the total University.

4.2.3.2. Committees shall initiate recommendations to and communicate with Academic Council. Subject to the review of Academic Council, committees may make recommendations to the Provost and other administrators, as indicated in these Bylaws, on matters within the purview of the committee.

4.2.3.3. Committees shall respond to reasonable requests for consultation or advice by administrators who initiate requests for such participation on matters within the purview of the committee.

4.2.3.4. Committees shall regularly review their composition, procedures, and functions and recommend appropriate Bylaw revisions to the Committee on Academic Governance.

4.2.4. Meetings of Standing Committees

4.2.4.1. The administrator(s), or a designee, being advised by a committee shall be present at meetings of the committee except when otherwise stipulated by mutual agreement of the administrator(s) and committee.

4.2.4.2. Each committee shall schedule its

own meetings.

4.2.4.3. Committee meetings shall ordinarily be open, but any committee may formulate procedures for closing some of its meetings for stated reasons.

4.2.4.4. Each committee shall determine its own agenda. Administrators, faculty, and students may suggest items for a committee's agenda.

4.3. UNIVERSITY COMMITTEE ON ACADEMIC ENVIRONMENT

4.3.1. The Committee on Academic Environment shall have eight faculty members selected from the faculty on Academic Council. The committee shall have two undergraduate student members and one graduate student member selected so that one student is a member of the Student Council. Non-academic administrators and a designee of the Provost shall serve ex officio without vote. The chairperson shall invite those appropriate to the agenda.

4.3.2. The Committee on Academic Environment shall consult with and advise non-academic administrators on existing and proposed policies and procedures that appear to the Committee to affect academic achievement. The Committee shall study business office policies and procedures, University policies and plans for public safety, buildings and lands, traffic and transportation facilities, and all other matters that affect the academic environment of the University.

4.4. UNIVERSITY COMMITTEE ON ACADEMIC GOVERNANCE

4.4.1. The Committee on Academic Governance shall have seven faculty members to be selected from the elected faculty on Academic Council. The committee shall have five undergraduate student members and two graduate student members selected so that one student is an undergraduate member of the Student Council.

4.4.2. The Committee on Academic Governance shall nominate to the Academic Council appointments to Academic Council Standing Committees, Steering Committee, Advisory-Consultative Committees, and other committees as requested by Academic Council.

4.4.2.1. Nomination of faculty members shall be by the faculty of the committee.

4.4.2.2. The Student Council shall solicit nominations from the entire undergraduate student population for the undergraduate vacancies. The Council of Graduate Students shall appoint graduate professional students to graduate vacancies on Standing Committees.

4.4.2.3. The Secretary for Academic Governance shall provide staff assistance to the committee in developing nominations.

4.4.3. The Committee on Academic Governance shall conduct a continuing review of the Bylaws for Academic Governance and shall be responsible for recommending amendments to Academic Council.

4.4.4. The Committee on Academic Governance shall interpret the Bylaws for Academic Governance subject to review by Academic Council.

4.4.5. The Committee on Academic Governance shall review college bylaws for consistency with the Bylaws for Academic Governance. Each college's bylaws shall be reviewed at least once every five years.

4.4.6. The Committee on Academic Governance shall consider appeals of reviews of department bylaws by college committees.

4.4.7. Decisions of the Committee on Academic Governance on college and department bylaws are subject to review by Academic Council.

4.4.8. The Committee on Academic Governance shall provide guidelines for elections to Academic Council and to the Steering Committee, review challenged elections, and recommend appropriate action to Academic Council.

4.5. UNIVERSITY COMMITTEE ON ACADEMIC POLICY

4.5.1. Each college, including the non-college faculty, shall select one faculty member. The committee shall have four undergraduate student members and two graduate student members, selected so that one student is an undergraduate member of the Student Council. The Provost or a designee shall be a member with voice but no vote.

- 4.5.2. The chairperson and one other member of the committee shall be designated as voting members of Academic Council.
 - 4.5.3. The Committee on Academic Policy shall exercise the faculty's delegated authority on grading policy for undergraduate and graduate-professional students.
 - 4.5.4. The Committee on Academic Policy shall consult with the Provost on the establishment, disbandment, or merger of undergraduate and professional academic programs and shall advise the Provost on policy pertaining to curriculum revision, methods of instruction, evaluation of instruction, and advising and counseling for undergraduate and graduate-professional students and programs.
 - 4.5.5. The Committee on Academic Policy shall consult with the Provost on policy pertaining to admissions and retention, financial aid, and the use and distribution of educational and research resources for undergraduate and graduate-professional students and programs.
 - 4.5.6. The Committee on Academic Policy shall advise and consult with the Provost on all other matters of academic policy affecting the University.
 - 4.5.7. The Committee on Academic Policy shall advise and consult with the Provost and Vice President for Research and Graduate Studies on policy relating to research development.
 - 4.5.8. The Committee on Academic Policy shall coordinate its activities with those of the Committee on Curriculum, the Graduate Council, and other appropriate Academic Council Standing Committees through the Coordination Committee.
- 4.6. UNIVERSITY COMMITTEE ON CURRICULUM
- 4.6.1. The Committee on Curriculum shall have a faculty member from each college and one representative from each of the Centers for Integrative Studies for two years or until such time as the restructuring of the Academic Governance System occurs. The committee shall have five undergraduate

student members and two graduate student members selected so that one student is an undergraduate member of the Student Council. The Provost or a designee shall be a member with voice but no vote. The Provost shall also name an executive secretary to serve ex officio without vote.

- 4.6.2. The chairperson and one other member of the committee shall be designated as voting members of Academic Council.
- 4.6.3. The Committee on Curriculum shall exercise the faculty's delegated authority to review and approve or reject all changes in undergraduate courses, curricula, and degree requirements proposed by academic units, and shall have delegated authority to approve or reject changes in graduate and graduate-professional courses recommended by the Graduate Council.
- 4.6.4. The Committee on Curriculum shall advise the Provost on criteria for the establishment and deletion of courses and curricula.
- 4.6.5. The Committee on Curriculum shall coordinate its activities with those of the Committee on Academic Policy, the Graduate Council, and other appropriate Academic Council Standing Committees through the Coordination Committee.

4.7. UNIVERSITY COMMITTEE ON FACULTY AFFAIRS

- 4.7.1. Each college, including the non-college faculty, shall select one member. The committee shall have at least three non-tenured faculty in its membership. Each year the Committee on Academic Governance shall designate which colleges, or college groupings, shall select non-tenured faculty. The Provost or a designee shall be a member with voice but no vote.
- 4.7.2. The chairperson shall be designated as a voting member of Academic Council.
- 4.7.3. The Committee on Faculty Affairs shall have shared responsibility with the Provost on the formulation of grievance procedures for obtaining an equitable adjudication of faculty grievances and on the rights and

responsibilities of faculty.

- 4.7.4. The Committee on Faculty Affairs shall advise the Provost on personnel policies relating to faculty (excluding tenure) such as appointment, reappointment, promotion, leaves, retirement, and assignment to teaching, research, and administration.
- 4.7.5. The Committee on Faculty Affairs shall consult with and/or advise the Provost during the formulation of the University's annual budget request to the State of Michigan.
- 4.7.6. The Committee on Faculty Affairs shall annually report to a meeting of the Faculty Council on academic budget allocations and adjustments in salary and other forms of economic benefits. This report is in addition to the annual report to Academic Council required of all Standing Committees.
- 4.7.7. All recommendations regarding faculty rights and responsibilities and grievance procedures must be approved by the Faculty Council prior to submission to the Academic Council.

4.8. UNIVERSITY COMMITTEE ON FACULTY TENURE

- 4.8.1. Each college, including the non-college faculty, shall select one member. The committee shall have at least three non-tenured faculty in its membership. Each year the Committee on Academic Governance shall designate which colleges, or college groupings, shall select non-tenured faculty. The committee shall have two undergraduate student members and one graduate student member selected so that one student is a member of the Student Council. The Provost or a designee shall be a member with voice but no vote.
- 4.8.2. The chairperson shall be designated as a voting member of Academic Council.
- 4.8.3. The Committee on Faculty Tenure shall advise the Provost on the formal and procedural rules on tenure and dismissal and on the substantive policies on tenure and shall recommend changes to the Faculty Council and the Academic Council.
- 4.8.4. The Committee on Faculty Tenure shall be the

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judicial and investigatory agency for all tenure actions, shall interpret tenure rules, act on all cases of deviation from the rules, and shall hear all cases for exception to the rules.

- 4.8.5. Decisions by the Committee on Faculty Tenure on matters involving interpretation of tenure rules and in cases involving deviation from tenure rules shall be binding on the administration and on the faculty member concerned.
- 4.8.6. The Committee on Faculty Tenure shall report promptly to the Faculty Council in any case in which the administration acts contrary to the committee's decision on a question involving tenure.

4.9. UNIVERSITY GRADUATE COUNCIL

- 4.9.1. The Graduate Council shall have a faculty member from each college with a graduate degree program plus one additional member from the Colleges of Agriculture and Natural Resources, Arts and Letters, Business, Education, Natural Science, and Social Science. The committee shall have five graduate student members selected by the Council of Graduate Students so that one is a member of the Student Council. No more than one student may be from any one department, with consideration being given to University-wide representation, insofar as possible. The Dean of the Graduate School or a designee shall be a member with voice but no vote.
- 4.9.2. The chairperson and one additional member shall be designated as voting members of Academic Council.
- 4.9.3. The Graduate Council shall exercise the faculty's delegated authority on grading policy for graduate students and shall review all changes in graduate and graduate-professional courses proposed by academic units and recommend their approval or rejection to the University Committee on Curriculum.
- 4.9.4. The Graduate Council shall have shared responsibility with the Dean of The Graduate School to consult with the Provost on the establishment, disbandment, and merger of

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graduate programs, on policy pertaining to methods of instruction, evaluation of instruction, advising and counseling, admissions and retention of graduate students, and on other policy pertaining to administration of graduate programs.

- 4.9.5. The Graduate Council shall have shared responsibility with the Dean of The Graduate School to advise the Provost on the coordination of graduate programs.
- 4.9.6. The Graduate Council shall have shared responsibility with the Dean of The Graduate School to consult with the Provost on policy pertaining to financial aid and employment of graduate students and on the use and distribution of educational and research resources for graduate programs and graduate students.
- 4.9.7. The Graduate Council shall advise and consult with the Dean of The Graduate School and the Vice President for Research and Graduate Studies on policy relating to research development as it pertains to graduate education.
- 4.9.8. The Graduate Council shall maintain liaison with academic units offering graduate programs.
- 4.9.9. The Graduate Council shall maintain liaison with the Council of Graduate Students.
- 4.9.10. The Graduate Council shall coordinate its activities with those of the Committee on Curriculum, Committee on Academic Policy, or other appropriate Academic Council Standing Committees through the Coordination Committee.

4.10. UNIVERSITY COMMITTEE ON STUDENT AFFAIRS

- 4.10.1. The Committee on Student Affairs shall have four faculty members selected by the Faculty Council. The committee shall have seven student members appointed as follows: three ASMSU appointees, viz. the President of ASMSU or a designee, an appointee of the Office of Black Affairs with the approval of the Student Board and a female appointee; two COGS appointees; and two Student Council appointees, viz. a Student Council college

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representative and a non-white at-large representative. The Vice President for Student Affairs and Services or a designee shall be a member with voice but no vote.

- 4.10.2. The chairperson shall be designated as a voting member of Academic Council.
- 4.10.3. The Committee on Student Affairs shall advise the Vice President for Student Affairs and Services and the Dean of Students on all policies of the office of the Vice President for Student Affairs and Services and other University policies as they affect academic achievement of students in the University.
- 4.10.4. The Committee on Student Affairs shall initiate and review proposed amendments to Academic Freedom for Students at Michigan State University, General Student Regulations, and policies relating to the academic rights and responsibilities of students.
 - 4.10.4.1. Any amendment affecting the professional rights and responsibilities of the faculty (as the Faculty Council interprets these rights and responsibilities) must be approved by the Faculty Council before consideration by Academic Council. The Academic Council shall not approve any amendment or revision of Sections 2.1.4.9 and 2.2 of Academic Freedom for Students at Michigan State University without prior review by the Committee on Faculty Affairs and the approval of the Faculty Council.
- 4.10.5. The Committee on Student Affairs shall assume the duties of the Committee on Academic Rights and Responsibilities described in Section 2.3 of Academic Freedom for Students at Michigan State University.

5 Other Academic Council Committees

5.1. ACADEMIC COUNCIL ADVISORY-CONSULTATIVE COMMITTEES

- 5.1.1. Academic Council may establish Advisory-Consultative Committees for academic administrators of University-wide programs which do not have students and/or faculty regularly attached, or where the advisory processes established in Article 2 do not provide a sufficiently broad base for the University-wide program.
- 5.1.2. Academic Council shall establish the functions and the general procedures of Advisory-Consultative Committees, taking account of the recommendations of the administrator to be advised.
- 5.1.3. The composition of Advisory-Consultative Committees shall be established by the Academic Council. Membership shall be determined according to procedures specified in 4.4.2. except as noted in 5.1.3.1. The term of office shall be two years for faculty and one year for students. No member may serve for more than two consecutive terms.
 - 5.1.3.1. When an Advisory Consultative Committee's bylaws specify one faculty member from each of the colleges and one from among non-college faculty, each College Advisory Council shall select one member and the appropriate representative body for the non-college faculty shall select one.
- 5.1.4. Advisory-Consultative Committees shall advise and consult with appropriate administrators. The committees shall recommend to the Academic Council, through the Steering Committee or an appropriate Standing Committee, needed changes in University policies and procedures. An annual report shall be made to the Executive Committee for summary and distribution with the Academic Council minutes. Minutes of all meetings shall be sent to the Executive Committee.
- 5.1.5. The Committee on Academic Governance shall review each Advisory-Consultative Committee at intervals not to exceed five years and recommend appropriate action, if any, to Academic Council.

5.2. ATHLETIC COUNCIL

- 5.2.1. There shall be an Athletic Council with composition and bylaws subject to approval by the Academic Council. The Athletic Council shall function as the faculty control of the intercollegiate athletic program in conformance with the University's membership in the Intercollegiate Conference of Faculty Representatives.
- 5.2.2. Faculty members of the Athletic Council shall be selected by the President from a slate of nominees (two for each vacancy) prepared by the faculty of the Committee on Academic Governance and approved by the Faculty Council.
- 5.2.3. The Athletic Council shall submit an annual report to the Academic Council for discussion and distribution with Academic Council minutes.

5.3. AD HOC COMMITTEES OF THE ACADEMIC COUNCIL

- 5.3.1. Ad hoc committees shall be kept to a minimum. Before establishing an ad hoc committee, Academic Council shall consult with the Steering Committee to determine whether the commission might appropriately be referred to one or more Standing Committees.
- 5.3.2. The Steering Committee shall recommend to Academic Council the composition, method of selecting members, functions, and procedures of ad hoc committees.

6 University Student-Faculty Judiciaries

6.1. STUDENT-FACULTY JUDICIARY

- 6.1.1. The composition and jurisdiction of this body are set forth in Academic Freedom for Students at Michigan State University.
- 6.1.2. Faculty members of the Student-Faculty Judiciary shall be appointed by the President from a list of nominees of twice the number of positions to be filled supplied by the faculty of the Committee on Academic Governance.
- 6.1.3. The term of office of faculty members of the Student-Faculty Judiciary shall be three years. Provisions shall be made to stagger appointments to assure continuity. Terms of office shall begin September 1. No member may serve more than two consecutive terms.
- 6.1.4. No faculty member of Academic Council or any committee appointed or nominated by Academic Council shall be eligible to serve concurrently on the Student-Faculty Judiciary.

6.2. UNIVERSITY GRADUATE JUDICIARY

- 6.2.1. The composition and jurisdiction of this body are set forth in Graduate Students Rights and Responsibilities, 1984.

6.3. UNIVERSITY ACADEMIC INTEGRITY REVIEW BOARD

- 6.3.1. The composition and jurisdiction of this body are set forth in Academic Freedom for Students at Michigan State University.
- 6.3.2. Faculty members of the University Academic Integrity Review Board shall be appointed by the President from a list of nominees of twice the number of positions to be filled supplied by the faculty of the University Committee on Academic Governance.
- 6.3.3. The term of Office of faculty members to the University Academic Integrity Review Board shall be three years. Provisions shall be made to stagger appointments to assure continuity. Terms of office shall begin September 1. No member shall serve more than two consecutive terms.
- 6.3.4. No faculty members of Academic Council or any committee appointed or nominated by Academic Council or Faculty Council shall be eligible

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to serve concurrently on the University
Academic Integrity Review Board.

6.4. UNIVERSITY STUDENT APPEALS BOARD

- 6.4.1. The composition and jurisdiction of this body are set forth in Academic Freedom for Students at Michigan State University.
- 6.4.2. Faculty members of the University Student Appeals Board shall be appointed by the President from a list of nominees of twice the number of positions to be filled supplied by the faculty of the University Committee on Academic Governance.
- 6.4.3. The term of office of faculty members to the University Student Appeals Board shall be three years. Provisions shall be made to stagger appointments to assure continuity. Terms of office shall begin September 1. No member shall serve more than two consecutive terms.
- 6.4.4. No faculty members of Academic Council or any committee appointed or nominated by Academic Council or Faculty Council shall be eligible to serve concurrently on the University Student Appeals Board.

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7 Administrative Support of Academic Governance

- 7.1. The Administrator of an academic unit shall render necessary support, clerical and otherwise, to academic governance at the level of the administrative unit. At the University level this responsibility falls on the Provost and the Vice President for Student Affairs and Services.
- 7.2. Academic Administrators shall recognize faculty member's participation in academic governance as an important and integral part of the individual's work load. Teaching schedules or other work assignments should be made consistent with regular committee or council meetings insofar as is reasonably possible.

8 Interpretation and Amendment

- 8.1. Robert's Rules of Order, Revised shall be followed by academic governance bodies unless otherwise specified in accordance with these Bylaws.
- 8.2. Within the constraints of the constitutional authority of the Board of Trustees, the Academic Council shall be the final authority with regard to the interpretation of these Bylaws.
- 8.3. Amendments
 - 8.3.1. Proposed amendments shall be submitted initially to the Committee on Academic Governance and subsequently may be introduced to Academic Council by the Committee on Academic Governance or any member of Academic Council. Final actions on amendments shall be in accordance with Section 3.1.2.1.
 - 8.3.2. Following approval by the Academic Senate, the Steering Committee shall forward the proposed amendment to the President.
 - 8.3.2.1. If the President concurs with the proposed amendment, the President shall notify the Steering Committee and place the proposed amendment on the agenda for action by the Board of Trustees within 90 days (excluding the time between the end of spring term and the start of fall term).
 - 8.3.2.2. If the President does not concur with the proposed amendment, it shall be returned to the Steering Committee with the President's written objections and recommendations within 30 days (subject to the exclusion noted in 8.3.2.1.). The Steering Committee shall submit the proposed amendment and the President's comments to the Academic Council for reconsideration.
 - 8.3.2.2.1. If the Academic Council declines reconsideration, or if reconsideration results in no change to the proposed amendment, the Steering Committee shall return the proposed amendment to the President who in turn shall place it on the agenda for action by the Board of Trustees within 60 days (subject to the exclusion noted in 8.3.2.1.).

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8.3.2.2.2. In the event that reconsideration leads to modification of the proposed amendment, the amended version of the proposal may be referred to the President by Academic Council. Amendments acted upon by Academic Senate shall be forwarded to the President according to the provisions of 8.3.2.

- 8.4. The Bylaws for Academic Governance, 1986, the Bylaws for Academic Governance, 1984, replace the Bylaws for Academic Governance, 1978, the Bylaws for Academic Governance, 1975, the Bylaws for Academic Governance, 1971, the Bylaws of the Faculty, Michigan State University, 1968, the Bylaws of the Faculty Organization, 1961, and all revisions of same.

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APPENDIX C

APPENDIX C

FACULTY HANDBOOK



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II. ORGANIZATION

BOARD OF TRUSTEES

The Constitution of the State of Michigan provides that the Board of Trustees shall have general supervision and direction of the University. The eight members are elected from the state at large for a term of eight years, two being elected each even-numbered year. The president of the University is appointed by the Board and by constitutional provision is the presiding officer of the Board.

Generally, the Board meets approximately six times a year. As provided by Michigan law, the Board establishes an annual calendar for its regular meetings; meetings are open to the public except for limited closed sessions. Items requiring Board action are due in the President's or Provost's office about three weeks before each Board meeting.

In addition to the president the following University officers are present at Board meetings: Provost, Vice President for Finance and Operations and Treasurer, Vice President for Research and Graduate Studies, Vice President for Student Affairs and Services, Vice President for University Development, Vice President for Governmental Affairs, General Counsel and Vice President for Legal Affairs, and Secretary of the Board. Five faculty members and four students selected by their respective constituencies also attend Board meetings.

ADMINISTRATIVE/ACADEMIC ORGANIZATION

The Organization of Michigan State University is updated annually and included in the *Faculty and Staff Directory*. (See the Foreword, for source of *Directory*.)

ACADEMIC GOVERNANCE

Preamble

The Constitution of the State of Michigan confers on the Board of Trustees the responsibility to develop a free and distinguished university and to promote the welfare of mankind through teaching, research and public service. The Board of Trustees exercises final authority and responsibility for University governance within the bounds fixed by the State Constitution.

In exercising its responsibility the Board delegates to the president, and through that person to the faculty, appropriate authority and jurisdiction over matters for which they are accountable to the Board. In other cases, for example, appointment, reappointment or promotion which involve the award of tenure, the Board does not delegate but instead looks to the faculty for recommendations. The specific powers delegated to the faculty are detailed in the *Bylaws of the Board of Trustees*.

The Board also has declared its intention to give due consideration to the opinions of students on matters directly related to their interest when they are expressed in a responsible manner.

It is important to specify the manner and process by which the faculty and students develop and communicate their views to the President and the Board. The *Bylaws for Academic Governance*

are designed to provide an effective system for the participation of faculty and students in the development of policy on academic matters.*

The Faculty

The faculty of the University is defined in the *Bylaws of Academic Governance* as follows:

The "regular faculty" of Michigan State University shall consist of all persons appointed under the rules of tenure and holding the rank of professor, associate professor, assistant professor, or instructor, and persons appointed as librarians. In addition, the principal administrative officer of each major educational and research unit of the University shall be a member of the "regular faculty".

*The "temporary faculty" of Michigan State University shall consist of all persons holding the rank of professor, associate professor, assistant professor, or instructor, but not appointed under the rules of tenure.***

The faculty of the University is organized into units--most commonly departments but also schools, institutes, etc. Each department and unit is attached organizationally to at least one college; however, organizational attachment of units to two or more colleges is very common at MSU. The faculty of each college and unit has jurisdiction over its own internal academic affairs within University policy. Each college has an elective Advisory Council and each unit has an advisory committee. "Regular" faculty members holding appointments with the academic rank of professor, associate professor, assistant professor, or instructor constitute the voting faculty on internal matters in both the college and the department, and voting rights may be extended by unit bylaws to include temporary faculty, honorary faculty, specialists, lecturers, research associates, assistant instructors or adjunct faculty. Non-college faculty also participate in the governance system with a similar set of rights and responsibilities.

Student Participation in Academic Governance

The *Bylaws of the Faculty, 1968* provided for both undergraduate and graduate student participation in the Academic Council and certain faculty standing committees. In September, 1978, the Board of Trustees approved the *Bylaws for Academic Governance, 1978*, to replace the *Bylaws of the Faculty, 1968* and the *Bylaws for Academic Governance, 1975*. The 1978 Bylaws provided for student participation in academic governance and this involvement continues in the current Bylaws.

Each department, school, center, and institute that has academic responsibilities or whose work concerns either undergraduate or graduate students, and all colleges are charged to develop patterns for the significant involvement of its students in the decision making processes by which policy is formed. Each group is also required to define the extent of its student constituency. The students of such a constituency are responsible for selecting, according to patterns of their own choice, their representatives in the councils and committees to which they are party.

* *Bylaws for Academic Governance*, Michigan State University, May 1990, page 5.

***Bylaws for Academic Governance*, Michigan State University, May 1990, paragraphs 1.1.1.1. and 1.1.1.2

Academic Senate

The voting membership of the Academic Senate is composed of the regular faculty except for the president and the provost. Honorary faculty (visiting professors and emeriti professors) are members with voice but without vote. The Academic Senate acts on revisions to the *Bylaws for Academic Governance*, issues raised by the Academic Council, issues raised by the faculty, or other significantly important educational issues the Senate itself wishes to consider. The Academic Senate also serves as a forum for dissemination of ideas and information between the faculty and the administration. The Academic Senate meets by call of the president or by call of the faculty members of the Steering Committee. The agenda for Senate meetings is prepared by the Steering Committee in consultation with the president and the provost.*

Additionally, a convocation of University faculty is held each winter term on a date announced annually, to receive from the president a message on the state of the University.

Academic Council

The Academic Council is composed of the Faculty Council, the Appointed Council, the Student Council, designated members of the Academic Council standing committees, the Steering Committee, the president, the provost, and designated ex-officio members. Ex-officio members are the Associate Provost, Vice President for Student Affairs and Services, the Vice President for Research and Graduate Studies, the Assistant Provost for Undergraduate Education, the Assistant Provost for Academic Services, the Assistant Provost and Assistant Vice President for Academic Human Resources, the Vice Provost for Computing and Technology, the Assistant Provost for Graduate Education, the Vice Provost for University Outreach, the Vice Provost for Agriculture and Natural Resources, the Vice Provost for Human Health Programs, the Faculty Grievance Official, and the Ombudsman.

There are three sub-groups in the Academic Council. The Faculty Council is composed of the faculty representatives from the colleges, faculty representatives from the non-college faculty, the faculty members of the Steering Committee, faculty chairpersons of Academic Council standing committees, the president and the provost. The Appointed Council is composed of all deans of academic programs, the directors of the Honors College and Library, the president and the provost. The Student Council is composed of the student representatives, the student members of the Steering Committee, student chairpersons of the Academic Council standing committees, the president, the Vice President for Student Affairs and Services, the provost, and the chairperson of Student Council.*

The functions of the Academic Council are to consider and act upon all matters brought before the group by the Steering Committee, the president, and the provost, and to provide a forum for the dissemination of information and exchange of views regarding University policy. Consultation upon matters related to the general welfare of the University is provided by the

*The Secretary for Academic Governance is secretary to the Academic Senate, the Academic Council, the Faculty Council and the Student Council. The Office of the Secretary provides staff support to the Academic Council and its committees, supervises elections to the Academic Council and its committees, and provides assistance to colleges and departments in the preparation and interpretation of unit bylaws for academic governance. The Office of the Secretary is located in Room 308 Olds Hall (355-2337)

Academic Council. The president, or in the president's absence, the provost, presides at meetings of the Academic Council. The Secretary for Academic Governance is the secretary of the Academic Council. The Academic Council must meet at least once each month during the academic year and more often at the call of the president or Steering Committee. The agenda is prepared by the Steering Committee, in consultation with the president or the provost. Before each regularly scheduled meeting of the Academic Senate or the Academic Council, the Steering Committee holds a public meeting open to any member of the faculty or student body at which suggestions for agenda items are heard, thereby providing the vehicle through which individual faculty members, students or faculty-student groups and other organizations may initiate action. The Steering Committee announces this meeting in the State News and the MSU Faculty News-Bulletin.

Most of the issues debated by the Academic Council are considered by its various standing committees: The University Committees on Academic Environment, Academic Governance, Academic Policy, Curriculum, Faculty Affairs, Faculty Tenure, Student Affairs and the University Graduate Council. For information about composition, procedures and functions of the various standing committees see Section 4 of the *Bylaws for Academic Governance*. Faculty and student members of the standing committees of the Academic Council are selected in accordance with the procedures specified in the *Bylaws for Academic Governance*.

Bylaws are an integral component of the governance system adopted in each academic unit. These documents describe faculty consultation and advisement in the units and normally describe reappointment, tenure and promotion procedures.

III. UNIVERSITY POLICIES

EQUAL OPPORTUNITY AND NON-DISCRIMINATION

Michigan State University is committed to the principles of equal opportunity, non-discrimination and affirmative action. University programs, activities and facilities are available to all without regard to race, color, sex, religion, creed, national origin, political persuasion, sexual preference, marital status, handicap or age. The University is an Affirmative Action, Equal Opportunity Employer.

In carrying out this commitment, the University is guided by the policies adopted by the Board of Trustees and by applicable federal and state laws and regulations. Among these are:

- Executive Orders 11246 and 11375 prohibiting discrimination on the basis of race, color, religion, national origin or gender by institutions with federal contracts of over \$10,000.
- Title IX of the Higher Education Amendments of 1972 prohibiting discrimination against students and employees on the basis of gender.
- Titles VI and VII of the Civil Rights Act of 1964 (as amended) prohibiting discrimination in the provision of services and employment on the basis of race, color, religion, national origin or gender.
- Age Discrimination Act of 1975 prohibiting discrimination on the basis of age in programs or activities receiving federal financial assistance.
- Age Discrimination in Employment Act of 1967 prohibiting discrimination in employment on the basis of age.
- Equal Pay Act of 1963 (as amended) prohibiting discrimination in salaries on the basis of gender.
- Titles VII and VIII of the Public Health Service Act prohibiting discrimination in the admission of students in health personnel training programs on the basis of gender.
- Sections 503 and 504 of the Rehabilitation Act of 1973 prohibiting discrimination on the basis of handicap in any program or activity receiving federal financial assistance and requiring affirmative action in the employment of the handicapped.
- Section 402 of the Vietnam Era Veterans Readjustment Act of 1974 requiring affirmative action in the employment of disabled and Vietnam-era veterans.
- Retirement Equity Act of 1984 providing greater pension equity for women and for all workers, their spouses and dependents.
- Elliott-Larson (Michigan) Civil Rights Act of 1976 prohibiting discriminatory practices, policies and customs.
- Michigan Handicappers' Civil Rights Act of 1976 prohibiting discriminatory practices, policies, and customs.

The Board of Trustees has directed the establishment of the Anti-Discrimination Judicial Board to serve as its internal mechanism for the receipt, consideration, and resolution of complaints of alleged acts of discrimination against individuals occurring within the University.

A booklet, "Human Rights, The University's Commitment" has been prepared to provide background, to list in detail the Board of Trustees' policies regarding equal opportunity and to answer many questions relating to human rights. It is available from the Department of Human Relations. Individuals who believe their rights have been abridged or that they have been discriminated against in violation of any applicable law or regulation may contact the Department

of Human Relations, telephone 353-3922.

The responsibility for overall coordination, monitoring and information dissemination about the University's program of equal opportunity, non-discrimination and affirmative action is assigned to the Department of Human Relations, telephone 353-3922.

ACADEMIC FREEDOM

Michigan State University adheres to the principles of academic freedom with correlative responsibilities as stated by the American Association of University Professors, the Association of American Colleges and other organizations:

1. The teacher* is entitled to full freedom in research and in the publication of the results, subject to the adequate performance of other academic duties; but research for pecuniary return should be based upon an understanding with the authorities of the institution.
2. The teacher is entitled to freedom in the classroom in discussing his or her subject, but should be careful not to introduce into teaching controversial matter which has no relation to the subject. Limitations of academic freedom because of religious or other aims of the institution should be clearly stated in writing at the time of the appointment.
3. The college or university teacher is a citizen, a member of a learned profession, and an officer of an educational institution. When speaking or writing as a citizen, the teacher should be free from institutional censorship or discipline, but this special position in the community imposes special obligations. As a person of learning and an educational officer, the teacher should remember that the public may judge one's profession and institution by one's utterances. Hence, the teacher should at all times be accurate, should exercise appropriate restraint, should show respect for the opinions of others, and should make every effort to indicate that he or she is not an institutional spokesperson.**

HOLIDAYS

The University observes six legal holidays by closing offices and dismissing classes. They are: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving and Christmas Day. In addition, the Friday following Thanksgiving Day, and as stipulated by the University based on the calendar, the working days preceding or following Christmas Day and New Year's Day are granted as holidays.

*The word "teacher" as used in this document is understood to include the investigator who is attached to an academic institution without teaching duties.

***Academic Freedom and Tenure – 1940 Statement of Principles and Interpretive Comments," AAUP Bulletin, Summer 1974, pp. 269-272.

IV. ACADEMIC PERSONNEL POLICIES

APPOINTMENT BASIS

The following policy was approved by the Board of Trustees on February 17, 1944.

All academic personnel are appointed on either an academic year (AY) or annual year (AN) basis. An academic year appointment covers a full twelve month period with a nine-month assignment of duties and responsibilities, including related departmental meetings before registration in the fall and commencement and grade-reporting in the spring. The assignment period will normally be from September 16 through June 15 of the following calendar year.

An annual appointment is for a full-year assignment of duties and responsibilities including periods of annual leave and paid holidays.

In either case, salary is paid in twelve equal installments on the last working day of each month.

ACADEMIC PERSONNEL SYSTEM APPOINTMENTS: BASIC EMPLOYMENT COMMITMENT ON AN ACADEMIC YEAR BASIS

The following policy applies exclusively to individuals appointed or changed to AN basis on or after January 1, 1982.

All appointments, including those on an annual year (AN) basis, in the tenure system, the specialist job security system, and the librarian continuous appointment system, at Michigan State University involve the University making a continuing basic employment commitment to academic year (AY) appointments only. This policy is to ensure that any individual employment commitment to an annual appointment (AN) basis is justified by current unit missions, programmatic needs, and the related responsibilities of individual faculty and academic staff members. If unit missions and programmatic needs change, the annual appointment basis may no longer be appropriate and, consequently, the individual would then change to academic year basis, which is the basic employment commitment for the academic personnel systems designated above.

Subject to prior agreement between the Provost and relevant dean(s) or separately reporting director(s), there may be exceptions to this policy for specific colleges, departments, other units, and individuals. These exceptions will be approved by the Provost prior to appointment via the regular procedure authorizing academic positions. Justification for such exceptions will be reviewed periodically based on the missions and programmatic requirements of colleges, departments, other units, and the specific responsibilities of individuals.

In some cases, because of unit requirements, a faculty or academic staff member may serve his/her entire career at Michigan State University on an annual appointment basis. In other cases, an individual may be shifted from an AY to AN or an AN to AY appointment basis recurrently in recognition of periodic changes in unit missions and programmatic requirements. Some units may staff year-round mission and programmatic responsibilities (either part-time or full-time) by appointing individuals to summer quarter teaching, research, and service appointments on a repetitive basis rather than appointing a faculty or academic staff member on

an AN basis. The provision of these assignment options requires Office of the Provost approval and are to be subjected to periodic reviews.

Individuals who are recruited into administrative positions at Michigan State University, and who are appointed also in the tenure system, specialist job security system, librarian continuous appointment system, e.g., deans, chairpersons, directors and coordinators, will be appointed with a continuing employment commitment to an academic year appointment only. However, annual appointment basis may be provided in recognition of administrative responsibilities and, in addition, there may be an administrative salary increment related to the administrative role. When such administrative responsibilities cease, these faculty and academic staff members will revert to the basic academic year appointment basis unless an AN appointment is specified by unit missions and programmatic requirements (see paragraph two, above) and any administrative increment in salary will cease. (For more information relating to faculty members with administrative duties, see policy entitled "Salary, Appointment, and Faculty Status of Faculty Members Who Assume Administrative Responsibilities.")

Commitment to an AN appointment basis, if approved by the Provost, may be without a specific ending date, for a specified period, subject to renewal or on a "rolling" basis, e.g., initially for a 3- or 4- or 5-year period, with automatic annual renewal for additional 3- or 4- or 5-year periods unless notice is provided otherwise. Such commitments must be approved by the appropriate chairperson(s), director(s), and dean(s) and the Provost and must be communicated in writing to the faculty or academic staff member prior to initial appointment on an AN basis. In accordance with normal procedures, shifts from an AN to AY appointment, or vice versa, will occur only on January 1 or September 1.

In view of the fact that changes in unit missions, programmatic needs and individual responsibilities may, on occasion, result in shifts from an annual to an academic year appointment basis, all individuals appointed on an annual basis will be informed on the occasion of annual salary increases of the applicable salary for both an annual and academic year appointment basis. The AY salary is determined by deducting the administrative increment, if any, from the annual salary and computing an amount equal to 80 percent of the residual annual salary. Deans and separately reporting directors have the responsibility to ensure that unit administrators communicate this information to faculty and academic staff members. Such an arrangement will provide affected individuals a clear understanding of their salary status in the event of a shift from AN to AY appointments and/or a shift from an administrative assignment.

All letters of offer should indicate the University's basic employment commitment to appointments in the tenure system, specialist job security system, and librarian continuous appointment system is on an academic year basis only. If prior agreement is reached with the Provost and an annual appointment basis is appropriate, each individual should be informed (1) that his/her initial appointment basis is justified by specific unit missions and programmatic responsibilities and the faculty or academic staff member's related duties, and (2) that if unit mission and programmatic needs and the faculty or academic staff member's responsibilities change, then the annual appointment would change to an academic year basis which is the basic employment commitment to individuals appointed in the designated academic personnel system.

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TEMPORARY APPOINTMENT

Visiting and temporary faculty members are appointed outside the tenure system on an academic year or annual basis with nine- or twelve-month duty assignments or for shorter periods. The Office of the Provost will endorse appointment recommendations to appoint individuals on a temporary basis (with ending date) with the rank of instructor, assistant professor, associate professor, and professor only in instances in which the primary recommending unit is an academic department (a department in a college or colleges) and/or a school and/or a college. (Faculty Status: Reserved for Appointments in Primary Academic Units of the University, effective January 11, 1980.) The titles of specialist, research associate, librarian, lecturer, and assistant instructor may be used for temporary academic staff appointments of one year or less.

Individuals appointed with the title of postdoctoral fellow or research associate must have a doctoral degree (Ph.D., Ed.D., M.D., D.O., D.V.M.) or its equivalent. A copy of the individual's diploma or transcript or a letter indicating receipt of the degree from the Dean of the Graduate School or other appropriate University official must be submitted with the initial appointment as a postdoctoral fellow or research associate.

All temporary appointments have a specific termination date. The University has no obligation to provide reappointment or extension of a temporary appointment beyond the ending date. If reappointment is made, negotiation of the conditions of reappointment must originate with the basic administrative unit (department, school, institute, residential college, or other comparable academic unit.)

SUMMER SESSION

Faculty members appointed on an academic year basis may be assigned teaching, research or public service duties for the summer term in addition to fall, winter and spring terms. If so, they are compensated additionally at the rate of three percent of their previous year's salary for each week of full-time teaching for a maximum of ten weeks. (No benefit premiums or base retirement contributions are made on this pay.) Faculty members appointed on an academic year basis may teach the summer quarter in exchange for one of the other quarters providing:

1. The summer teaching is done before the term off;
2. The teaching and academic advising program of the department is not disadvantaged and
3. A Memorandum of Understanding is completed and signed in advance by the faculty member, chairperson, dean, and Provost.
4. Requests to exchange summer term duties for an assignment during the regular academic year must be agreed reasonably in advance of the summer term in which exchange duties are to commence.
5. Exchange duties may involve teaching, research, and public service responsibilities.
6. Exchange duties may involve a period of one year or longer periods subject to a memorandum signed in advance by the faculty member, chairperson, dean, and Provost.

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Such agreements must have an ending date, but additional arrangements providing for exchange duties may be renegotiated subject to approval of the relevant parties.

Faculty members serving on the Academic Council or on standing committees of the Academic Council are expected to be available fall, winter and spring terms unless specific alternative arrangements have been approved.

ADJUNCT AND CLINICAL APPOINTMENTS

The following statement was issued by the Office of the Provost in 1975 and was revised and reissued on March 23, 1984.

These are appointments of persons whose primary responsibility and income is outside the unit in which the appointment is made. Primary responsibility or source of income may be in another unit of the university or may be outside the university. The appointments are usually without salary and are made on an annual or less than annual basis. Reappointment is at the discretion of the administrative unit. Successive reappointments do not confer tenure or other continuing employment status.

Adjunct and clinical appointments may be made at any level from instructor to professor and also are applicable to other titles such as librarian, specialist, lecturer, etc. Persons holding such appointments are expected to have the educational background and/or experience required for the rank, and they must be interested in providing some degree of service to the unit even though they are not available for a regular appointment. Appointments are usually made on an "adjunct" basis unless the appointee holds a professional medical degree, in which case a "clinical" appointment is used.

The number of adjunct and/or clinical positions in each college will be recommended by the dean and established by the Provost. Permission to use the "clinical" title for individuals who do not hold a medical degree may be requested of the Provost by units if this title is more appropriate than the "adjunct" title in terms of the functions performed. The proposal to use the "clinical" titles rather than the "adjunct" titles must be made through regular administrative channels prior to any offers to individual appointees.

Certain benefits and activities are extended to individuals appointed as adjunct or clinical faculty members. Most of these privileges require an MSU Identification Card. Further information and assistance can be obtained from the appointing department.

1. Areas in which the adjunct or clinical appointment carries faculty status:

- Library privileges*
- Privilege of attending departmental, college and university faculty meetings
- Use of intramural facilities and Forest Akers Golf Courses*
- Purchase of athletic tickets at faculty rates*
- MSU Identification Card
- Eligibility for travel accident coverage when authorized to travel on University business

*MSU Identification Card required.

- Eligibility for faculty membership in University Club
 - Parking privileges (may purchase standard permit or, for limited use, may purchase guest permit)*
 - Professional liability insurance coverage while acting for the University in accordance with the requirements of University policy (see 5, below, applicable to clinical faculty in the Colleges of Human Medicine and Osteopathic Medicine.)
 - These appointments are "covered" by Unemployment Compensation; because little or no remuneration is involved, it is very unlikely that adjunct or clinical appointees would become eligible for compensation benefits.
2. Areas in which the adjunct or clinical appointment does not carry faculty status:
- Any insurance benefit or program offered by the University other than those listed under (1) above
 - Tenure
 - Voting in University elections
 - Election to University committees
3. Arrangements which are to be made on an individual basis at the unit level:
- Amount of time to be spent in the unit
 - Service on unit committees
 - Service on graduate committees
 - Voting at the unit level
 - Office space to be provided by the unit
 - Laboratory facilities to be provided
 - Secretarial help or graduate assistant help to be provided
 - Authority to teach, do research, or advise students for the unit
 - Authority to publish as a member of the unit
 - Authority to propose, receive and implement research grants
4. Emeritus status for adjunct or clinical appointments
- Individuals who meet the following criteria may be recommended for emeritus status:
 - a. Be 62 years of age and have served as a clinical/adjunct faculty member for fifteen years, or
 - b. Have served as a clinical/adjunct faculty member for twenty-five years at any age

Based on an appropriate record of contribution as a clinical/adjunct faculty member, an individual may be recommended for emeritus status by the appropriate chairperson/director and dean to the Office of the Provost for final approval. The emeritus status is appended to the highest clinical/adjunct rank achieved by the faculty member, e.g., associate adjunct professor emeritus.

*MSU Identification Card required.

Emeritus clinical/adjunct faculty are not designated as official retirees of Michigan State University. Adjunct or clinical faculty appointments with an emeritus designation are limited to the following privileges:

- **Library privileges**
- **Privilege of attending departmental, college, and University faculty meetings**
- **Use of intramural facilities and Forest Akers Golf Courses**
- **Purchase of athletic tickets at faculty rates**
- **Eligibility for faculty membership in University Club**
- **Parking privileges (may continue to purchase standard permit or guest permits)**

5. Malpractice insurance coverage in teaching CHM and COM students *

The general principle of such coverage is that the University will participate with the physician and his/her own attorney and malpractice insurance carrier in the defense of a legal suit and be responsible for the payment of any award that should be made against the physician, if all the following conditions are met:

- 1. The lawsuit is premised upon the negligence of an MSU student, including MSU residents and fellows, and the liability of the physician is derived from the student's negligence, i.e., is vicarious or secondary;**
- 2. The student's participation involved a level of delegated responsibility which could be reasonably expected of medical students at a similar level of training and experience at the time of his/her assignment;**
- 3. The negligence occurred during the course of an MSU-sponsored educational program in which the physician and/or patient was participating.**

Such coverage is extended to all physicians involved in teaching MSU students and trainees in an approved experience, not only those who are members of the on-campus clinical faculty.

The University is generally not responsible for such coverage for residents or fellows who are supported by individual hospitals or a hospital-medical school educational corporation, nor does coverage extend to instances where an MSU student, resident or fellow is "moonlighting." Professional liability coverage is provided by these organizations.

As is the case with all such coverage, it is important that every incident involving an MSU student, resident, or fellow that may potentially develop into a malpractice suit be brought to the attention of the University as soon as possible and that the University be notified within 5 days after the physician is notified that a suit has been initiated. Notification should be sent to the Office of the Dean, in writing, including all details that are known at the time. It is essential that physicians cooperate fully with the University Office of Legal Affairs and Office of Risk Management.

The contribution that clinical faculty make to teaching programs is highly valued. MSU is committed to provide medical liability coverage for participation in such educational activities

***Memorandum distributed to clinical faculty in the Colleges of Human and Osteopathic Medicine from Deans W. Donald Weston and Myron S. Magen on October 31, 1983.**

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and will continue to assure such protection. The appropriate dean should be contacted for questions or additional information.

EMERITUS

The following policy was approved by the Board of Trustees on May 18, 1950 and revised on April 5, 1991.

Members of the faculty, academic staff and administrative staff who leave the University with official retirement status are granted certain privileges and the "emeritus" title. For faculty members with the rank of professor, associate professor or assistant professor, the "emeritus" designation is appended to the rank held at the time of retirement, e.g., professor emeritus. For academic staff the title would be librarian emeritus, etc. For administrators whose administrative appointment requires approval by the Board of Trustees and for all executive managers, the emeritus designation, upon approval by the Provost and the President, is appended only to the most senior administrative title held at Michigan State University, which may be held at or prior to the time of retirement, e.g., dean emeritus. The emeritus designation is not normally awarded for administrative titles held on an "acting" basis.

Faculty with the emeritus designation are entitled to attend Academic Senate meetings with voice but without vote; to march in academic processions such as commencement; to receive the MSU News-Bulletin; to avail themselves of the libraries; to receive, on application, a faculty vehicle permit; to represent the University, on appointment, at academic ceremonies of other institutions; and, in general, to take part in the social and ceremonial functions of the University.

HEALTH ASSESSMENT

Health assessments are required for all academic employees with continuing appointments. The assessment is conducted at the Michigan State University Health Center on campus; or if the prospective employee is unable to be in East Lansing for the assessment, arrangements may be made through the Office of Academic Personnel Records to have the assessment made by the prospective employee's personal physician.

PAYROLL PROCEDURES

The following items must be furnished to the Payroll Division of the Office of the Controller before a new faculty/academic staff member can be put on the University payroll.

1. **SOCIAL SECURITY NUMBER.** Social security numbers must be verified by the Payroll Office, 350 Administration Building, prior to the first pay date.

Verification may be completed by presenting the social security card to the Payroll Office or by sending a photocopy to that office. Note: Foreign nationals are required to obtain and furnish Social Security numbers to be used for payroll identification numbers, even though some (those who present F or J visas) may be exempt from provisions of the Social Security Act.

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2. **EMPLOYEE WITHHOLDING ALLOWANCE CERTIFICATE (FORM W-4).** The W-4 form authorizes the University to recognize the appropriate exemptions when calculating withholding taxes.

New faculty/academic staff members should at the same time complete the appropriate forms in the Staff Benefits Office to participate in such programs as employee-paid life, health care coverage, accidental death and dismemberment, and base and supplemental retirement benefits. All benefit programs are described briefly in the Faculty/Academic Staff Benefit and Retirement Programs section of this handbook. Additional information is available from the Staff Benefits Office, 140 Nisbet Building.

JURY DUTY

The University recognizes the civic responsibility of faculty/academic staff members to serve jury duty and makes provision for them to perform such duty without loss of pay.

The University will compensate the faculty/academic staff member called to jury duty for the difference between the pay received from the court and the normal take-home pay. The faculty/academic staff member's fringe benefits will continue. The faculty/academic staff member must notify his/her department chairperson/school director of the call to jury duty as soon as it is received and must provide proof of the jury duty pay to the payroll department. The faculty/academic staff member is expected to report for regular University duty when temporarily excused from attendance at court.

Full cooperation is expected between the faculty/academic staff member, unit administrator and department(s) involved to insure minimal disruption in the instructional and service responsibilities of the unit.

IDENTIFICATION CARDS

All members of the faculty and academic staff are encouraged to obtain identification cards. Similar identification cards can be issued to spouses upon request. The identification cards are useful for campus privileges.

To obtain an ID card, the faculty/academic staff member and spouse should secure authorization cards from the faculty/academic staff member's administrative unit. These should be presented at the ID Card Office, 110 Administration Building.

FACULTY RIGHTS AND RESPONSIBILITIES*

The following policy was approved by the Board of Trustees on July 27, 1984.

The Bylaws of the Michigan State University Board of Trustees state that "the Constitution (of the State of Michigan) confers upon the Board of Trustees the freedom, power, and responsibility to develop a free and distinguished university and to promote the welfare of mankind through teaching, research, and public service."^{1,2,3}

*Footnotes are located at the end of policy statement.

As the primary functions of an academic community, learning, teaching, scholarship, and public service must be characterized by a fundamental commitment to academic freedom and maintained through reasoned discourse, intellectual honesty, mutual respect and openness to constructive criticism and change. Faculty members, as central to this community, serve as scholars pursuing the search for knowledge and its free expression, as teachers instructing students, and as professionals and citizens contributing special knowledge and skills through public service and community participation. In the performance of all these functions faculty members are held accountable to the University, in accordance with established policies and procedures, by the Board of Trustees which, as an elected body, is responsible to the people of the State of Michigan.⁴ In order to carry out the mission of the University, faculty members, as members of both the academic and the broader public community, have the right to a clear statement of academic freedom, tenure, and other fundamental faculty rights and responsibilities. The purpose of this document is to acknowledge these fundamental rights and responsibilities.⁵

Academic Freedom and Responsibility

Michigan State University endorses academic freedom and responsibility as essential to attainment of the University's goal of the unfettered search for knowledge and its free exposition. Academic freedom and responsibility are fundamental characteristics of the University environment and are always closely interwoven and at times indistinguishable. Academic freedom and responsibility are the twin guardians of the integrity and quality of universities. The University looks to its faculty members to exercise their rights responsibly and to meet their obligations fully as professionals. Faculty acceptance of their responsibilities to students, colleagues, the scholarly community, and the public explains in great part why society historically has accepted the concept of academic freedom and has afforded its protection through the institution of academic tenure.

For faculty members, the principal elements of academic freedom include:

1. The right, as teachers, to discuss in the classroom any material which has a significant relationship to the subject matter as defined in the approved course description;
2. The right to determine course content, grading, and classroom procedures in the courses they teach;
3. The right to conduct research and to engage in creative endeavors;
4. The right to publish or present research findings and creative works;
5. The right to engage in public service activities; and
6. The right to seek changes in institutional policy through established University procedures and by lawful and peaceful means.

Academic freedom carries with it responsibilities. For faculty members, the principal elements include:

1. The responsibility to carry out assigned teaching, research, and public service duties in a professional manner and in keeping with University policy;
2. The responsibility, as teachers, to refrain from introducing matters which are not consistent with their teaching duties and professional competence and which have no significant bearing on the subject matter of the course as approved under University procedures;

3. The responsibility to pursue excellence and intellectual honesty in teaching, research, and other creative endeavors and in public service activities; and in publishing or presenting research findings and creative works;
4. The responsibility to encourage students and colleagues to engage in free discussion and inquiry; and to evaluate student and colleague performance on a scholarly basis;
5. The responsibility to work in a collegial manner with appropriate individuals and bodies to encourage the free search for knowledge; its free exposition, and the University's continuing quest for excellence; and
6. The responsibility to differentiate carefully their official activities as faculty members from their personal activities as citizens and, when the situation warrants, to make it clear that, when speaking as private citizens, they do not speak for the University.

The above list provides a summary outline of the principal elements of academic freedom and responsibility. More detailed and explicit definitional statements applicable to specific faculty rights and responsibilities are set forth below under the following headings: Academic Tenure, Academic Governance, Teaching, Research and Creative Activity, Public Service, Relations with Colleagues, Relation to the University and the Community, and Resolution of Conflicts.

Academic Tenure

The faculty have a right to expect that the University's tenure system is characterized by high integrity and a responsibility to participate in the operation of the tenure system seriously and in good faith. All decisions involving tenure system recommendations shall be made in conformity to the University-approved policies and procedures that govern the tenure system.

Academic Governance

The faculty have a right and responsibility to participate in the establishment and functioning of a governance system at the department or school, college, and University levels in accordance with Michigan State University *Bylaws for Academic Governance* to ensure academic freedom and the promotion of the goals of the institution. The University looks to the faculty for recommendations on various academic personnel matters including faculty appointments, reappointments, promotions, the award of tenure, and salary increase guidelines; on the development of new academic programs and the modifications or discontinuance of existing programs, on academic curricula and standards; on definition of University mission and goals; on policies governing research and creative endeavors; on the formulation of annual budget requests and allocations; and on the selection and review of specified administrative officials, as well as other issues that concern the general welfare of the University, including student affairs and the academic environment.

Through the academic governance system, the University accords a central role to faculty peer review in the departments or schools, colleges, and the University. Faculty have a responsibility to participate in peer review procedures to ensure personnel recommendations which promote excellence. In accordance with established departmental or school, college, and University policies, faculty members have the right to be informed of the standards, criteria, procedures and other conditions which affect all aspects of their appointment in the tenure system, to be evaluated in a fair, objective manner, and to receive timely notice regarding their future appointment status at Michigan State University.

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Teaching

Because the faculty's role in the educational process is primary and central, the faculty member, as teacher, has the responsibility to make every effort to be accurate, objective, and effective. In the classroom, the teacher shall address topics and present materials consistent with the teaching assignments as defined in the approved course objectives.

The teacher has the responsibility to encourage the pursuit of learning by students by manifesting the best academic standards of the discipline or profession. To accord students respect as individuals, the teacher shall seek to establish a relationship of mutual trust and to establish an appropriate role as an intellectual guide, counselor and mentor, both in and out of the classroom. If problems arise in the relationship between teacher and student, whether on personal matters or on instructional materials or methods, both teacher and student shall attempt to resolve them in informal, direct discussions as between well-intentioned, reasonable persons.

The teacher has the responsibility not to exploit students for private advantage; the teacher also should avoid any form of discrimination or harassment, with the understanding that racism, sexism, and other forms of bias preclude the establishment of an effective learning environment.

The teacher has the responsibility to foster and require honest academic conduct. The teacher has authority and responsibility for grades and shall assure that the evaluation and assessment of academic performance reflect each student's true achievement by good faith application of criteria appropriate to the field of study and the course. The teacher shall further protect academic freedom for faculty and students by acknowledging the contributions of students to professional work of faculty members and by assuring that each student is free to voice opinions openly and to exchange ideas free from retaliation. Teachers have the responsibility to observe the University, college and department/school policies regarding such matters as the statement of course objectives, examination policy, office hours, course evaluations, and other provisions of *The Michigan State University Code of Teaching Responsibility*.

Research and Creative Activity

To fulfill the University's mission of advancing and disseminating knowledge for the improvement of the welfare of the public, faculty members have a responsibility to conduct research and engage in creative activity in their area(s) of appointment and professional competence. Recognition of professional competence and definition of area(s) of appointment occur in the basic academic units (departments, schools, non-departmentally organized colleges) through procedures in which established systems of peer review play a central role.

As scholars, faculty members have the right and responsibility to create, seek, and state knowledge freely and openly and to strive for scholarly excellence. The scholar has the right and responsibility to exercise critical self-discipline and judgment in generating, using, extending, and transmitting knowledge, to adhere to the highest standard of intellectual honesty, and to oversee and evaluate the research and creative efforts of students and subordinates. Faculty shall conduct all research and creative activity in a manner consistent with accepted scholarly standards and in conformity with legal, professional, and University codes, policies, and regulations governing research and creative endeavors.

Public Service

As the land-grant university of the State of Michigan, Michigan State University is committed to public service as an integral aspect of its mission; this entails a commitment to the creation, dissemination, and application of knowledge. Public service involves the application of the faculty member's professional training and competence to issues and problems of significance to constituencies and it is related to academic program objectives of the unit(s) in which the faculty member is appointed. Faculty members engaging in public service activities enjoy the same rights and have the same responsibilities which were previously stated as pertaining to them as teachers and scholars.

Faculty members, in accordance with University policy and regulations, can serve as valuable resources and provide valuable services by working with government, industry, public organizations, and others off-campus. Faculty members have the right to engage in a limited amount of outside work for pay in accordance with University policy and regulations.

Relation with Colleagues

As colleagues, faculty members have rights and responsibilities that derive from common membership in a community of scholars. Faculty have the responsibility to respect and right to defend the free inquiry of associates and, in the exchange of ideas and criticism, the responsibility to respect the views and rights of others. Faculty members shall acknowledge the contributions of colleagues to their own work. In the evaluation of the professional performance of a colleague, the faculty member shall provide an honest and objective appraisal in accordance with established department/school, college, and University criteria. The faculty member shall foster collaboration with and support of colleagues. Acts of racism or sexism, including harassment and other forms of bias and discrimination, violate University policies, and are unacceptable.

Relation to the University and the Community

As members of Michigan State University, the faculty have a primary responsibility to strive for academic excellence in instruction, research, and public service. When the situation warrants, faculty members acting or speaking as citizens have a responsibility to make clear that these actions and utterances are entirely their own and not those of the University or any component of the University. Faculty members have the responsibility not to abuse their standing within the University for personal or private gain nor use University employees, facilities, equipment, supplies, or other property for personal or private business.

As a member of the wider community, the faculty member has the rights and obligations of any citizen. In exercising these rights, the faculty member speaks only as an individual, either as a professional scholar with a field of special competence or as a private citizen.

Faculty members should be mindful that membership in the academic community inevitably involves identification and association with the University and that the University often is judged by the actions, performance, attitudes and expressions of its faculty members. Faculty members normally do not face a conflict between the exercise of their rights as a citizen and their responsibilities as a faculty member. If citizenship activities interfere with faculty

responsibilities, faculty members should request a leave of absence, resign from their appointment, or limit those activities to ensure a complete discharge of faculty responsibilities.

Resolution of Conflicts

The University is committed to respect the rights of the faculty. Faculty members who believe that their rights have been violated have the right to seek redress through the University's established procedures for the hearing and resolution of complaints. Faculty members have the obligation to meet their responsibilities as defined in this document and in those cited in Appendix A to help the University maintain academic excellence and realize its goals. Faculty members accused of failing to meet these responsibilities have a right to be informed of the accusations and accorded timely access to University procedures to determine whether or not the accusations are valid and any sanctions justified.

Amendment Procedures

Amendments to this document may be initiated by any individual member of the faculty and shall be submitted to the Office of the Provost and the University Committee on Faculty Affairs for consideration and action in accordance with Section 4.7.3 of the *Bylaws for Academic Governance*.

Footnotes:

¹The terms, "faculty" or "faculty members," as used in this document, apply to individuals appointed in the tenure system with the rank of instructor through professor.

²*Bylaws of the Board of Trustees*, as amended January 24-25, 1980, *Preamble*, page 1.

³"The Board of Trustees, the administration, and the faculty carry out their respective responsibilities not as isolated entities, but as major and primary constituents of the total University organization and structure which remain mutually independent and must be supportive of each other's purposes, functions, and obligations. It is within this context that the rights and responsibilities of the faculty are to be construed" (*Bylaws of the Board of Trustees*, as amended January 24-25, 1980, Article 7, page 7.)

⁴"The Board of Trustees, elected by the voters of the State and responsible to all the people of Michigan, exercises the final authority in the government of the University, within the limits fixed by the State Constitution. In exercising its responsibility, the Board delegates to the President of the University and through the President to the faculty, appropriate authority and jurisdiction over matters for which they are held accountable by the Board. These matters include educational policy and the development of a strong and efficient organization with which to accomplish the objectives of the University." (*Bylaws of the Board of Trustees*, as amended January 24-25, 1980, *Preamble*, page 1.)

⁵Some faculty rights and responsibilities referred to in this document are stated elsewhere (see Appendix A).

Integrity of Scholarships and Grades (*Academic Programs, General Information, General Procedures and Regulations*)
 Interim Guidelines for Potential Conflicts of Interest in Academic Areas of the University
 Medical Service Plan for Colleges of Human Medicine and Osteopathic Medicine
 (*Facultry Handbook*)
Mission Statement, Michigan State University
 Non-Tenured Faculty in the Tenure System (*Facultry Handbook*)
 Ordinance on Examinations (*Ordinance #18.00, Michigan State University*)
 Outside Work for Pay (*Facultry Handbook*)
 Overload Pay (*Facultry Handbook*)
 Patents (*Facultry Handbook*)
 On Preventing Conflicts of Interests in Government-Sponsored Research at Universities
 (*Facultry Handbook*)
 Protection of Human Subjects (*Facultry Handbook*)
 Regulatory Guidelines for Research (*Facultry Handbook*)
 Rights of Students to Receive Instruction (*Facultry Handbook*)
 Sponsored Research and Creative Endeavor (*Facultry Handbook*)
Sponsored University Programs for Research and Education
 Student Instructional Rating System (*Facultry Handbook*)
 Student Records (*Academic Programs, General Information section*)
 Tenure of Appointment at Michigan State University (*Facultry Handbook*)
 Use of Animals in Research (*Facultry Handbook*)

APPENDIX A**Michigan State University Policy Documents Generally Applicable to Faculty Rights and Responsibilities:**

Bylaws of the Board of Trustees
 Board of Trustees Policy Manual
 Bylaws for Academic Governance
 The University Catalog
 Academic Programs
 Description of Courses
 Graduate Study
 Sponsored University Programs for Research and Education
 Academic Freedom for Students
 Bulletin (Schedule of Courses)
 Faculty Handbook
 Faculty and Staff Benefits
 Graduate Student Rights and Responsibilities
 Ordinances
 Student Handbook
 Traffic Regulations
 Travel Regulations
 Manual of Business Procedures
 Faculty Group Practice, Colleges of Human and Osteopathic Medicine
 Medical Student Rights and Responsibilities
 Bylaws of the College or Colleges
 Bylaws of the Department(s) or School(s)

Policy Documents Specifically Applicable to the Statement on Faculty Rights and Responsibilities:

Abrogation of Faculty Responsibility (*Faculty Handbook*)
 Academic Advisement, Enrollment, Registration and Counseling (*Faculty Handbook*)
 Academic Freedom (*Faculty Handbook*)
Academic Freedom for Students (especially Article 2)
Academic Programs: Michigan State University
Anti-Discrimination: Policy and Procedures
 Appointment, Reappointment, Tenure, and Promotion Recommendations
 (*Faculty Handbook*)
Bylaws for Academic Governance
Bylaws of The Board of Trustees (especially the Preamble and Article 7)
 Code of Teaching Responsibility (*Faculty Handbook, Academic Programs*)
 Development of Instructional Materials (*Faculty Handbook*)
 Dismissal of Tenured Faculty for Cause (*Faculty Handbook*)
 Equal Opportunity and Non-Discrimination (*Faculty Handbook*)
 Faculty Grievance Procedure (*Faculty Handbook*)
Faculty Group Practice, Michigan State University
 Final Examination Policy (Schedule of Courses)
 Freedom of Expression (Board of Trustees Policy Manual)

THE TENURE SYSTEM

The following policy was approved by the Board of Trustees on May 15, 1952. Revisions were approved by the Academic Council on February 4, 1986 and by the Board of Trustees on April 4, 1986.

The Board of Trustees in approving this statement of tenure policy does so in good faith with the intent to comply fully with it. It must, however, reserve the right to deviate from these terms if conditions beyond its control, such as abrupt declines in enrollment, drastic loss of income or conditions that result in the drastic curtailment or abandonment of programs or activities, make it necessary to do so.

Preamble: The purpose of tenure is to assure the University staff academic freedom and security and to protect the best interests of the University. Tenure shall not be considered to protect any person from the loss of his/her position as a result of gross misconduct such as violation of professional ethics or refusal to perform reasonable assigned duties, incompetence, voluntary withdrawal or actions which are inimical to the interests of the University.

GRANTING TENURE

A faculty member with the rank of *professor* in the tenure system is granted tenure (appointment for an indefinite period without a terminal date) from the date of appointment at that rank.

An *associate professor* who has not served previously at Michigan State University usually is appointed in the tenure system for a probationary period of four years. In some cases, upon the recommendation of the unit administrator(s), dean(s), and with the prior approval of the Provost and President, the probationary period may vary in length from two to five years. If an *associate professor* is reappointed, tenure is granted. Individuals appointed at the rank of *associate professor* without tenure have the option of requesting reappointment at any point prior to the conclusion of the stipulated probationary appointment period. A negative decision on such a request shall not preclude consideration for reappointment at the time specified upon appointment.

In unusual cases, on recommendation of the unit administrator(s) and dean(s) and with the prior approval of the Provost and the President, a faculty member initially appointed at the rank of *associate professor* may be granted tenure from the date of appointment.

An *assistant professor* who has not served previously at Michigan State University is appointed initially in the tenure system for a probationary period of four years and may be reappointed for an additional probationary period of three years. If an *assistant professor* is appointed beyond the two probationary periods, tenure is granted. If at any time during these two probationary periods an *assistant professor* is promoted to the rank of *associate professor*, tenure is granted.

An *instructor* is appointed in the tenure system for one three-year probationary period. Appointments at the rank of *instructor* in the tenure system are exceptions to University policy and are provided only in special circumstances (see policy on Receipt of Terminal Qualifying Degree as a Condition of Appointment in the Tenure System, *Faculty Handbook*). If not promoted to the rank of *assistant professor* at the conclusion of the one three-year probationary period, the individual is ineligible for an additional reappointment unless a special extension is approved (see below).

If during the one three-year probationary appointment period as an *instructor*, promotion to the rank of *assistant professor* is approved, the appointment period as an *assistant professor* will be for:

1. three years after service as an *instructor* for one year;
2. two years after service as an *instructor* for two years; or
3. one year after service as an *instructor* for three years.

If reappointed at the *assistant professor* rank, the appointment will be on a probationary basis for three years. If an *assistant professor* is reappointed after this three-year period, tenure is granted.

Extensions in the probationary appointment periods for all faculty appointed in the tenure system require approval of the University Committee on Faculty Tenure, the Chairperson/Director, the Dean, and the Provost (or designee).¹ Extensions in probationary appointment periods are not interpretations of or deviations from the rules of tenure under section 4.8.5. of the *Bylaws for Academic Governance*.

Recommendations for tenure system faculty appointments, reappointments, extensions of probationary periods, promotion and tenure originate in the primary academic unit (department, school or non-departmentally organized college) and are reviewed successively by the Dean, the Provost and are approved by the President. Actions involving the award of tenure are approved by the President, who makes the final recommendation to the Board of Trustees for action. When tenure is granted, it is effective upon the first day of the month after the date of approval by the Board of Trustees.

Appointments to the ranks of professor, associate professor, assistant professor, and instructor normally are made under the provisions of the Michigan State University tenure system.

1. The terms and conditions of employment shall be provided in writing to the faculty member at the time of initial appointment. These terms should include:
 - a. The time period covered by the appointment
 - b. Salary provision

¹ Information on extensions of probationary appointments should originate in the primary academic unit; such information may also be obtained from the chairperson of the University Committee on Faculty Tenure, the department chairperson, the school director, the dean, or the Office of the Provost.

- c. The general expectations in regard to the professional responsibilities of the person being appointed.
 - d. Conditions other than the appointee's performance of his/her responsibilities that would make a further appointment inadvisable.
2. The chairperson of the unit recommending the appointment shall deliver in writing to the non-tenured faculty member at the time of appointment a copy of the bylaws of the unit which specifies that administrative unit's procedures for action on the status of non-tenured faculty. (See section on Non-Tenured Faculty in the Tenure System.)

OPERATING PRINCIPLES OF THE TENURE SYSTEM

1. Appointment periods for tenure purposes are calculated from September 1 of the calendar year in which the appointment is effective.
2. A faculty member granted a leave of absence will have the appointment period extended appropriately.
3. Faculty members serving abroad with one of Michigan State University's projects are treated for tenure action as if they were serving the University on campus except that:
 - a. A faculty member without tenure whose initial appointment to Michigan State University is to an overseas assignment of six months or more will have the appointment period under the tenure system extended by a period equal to the duration of the overseas assignment.
 - b. Any other faculty member without tenure who serves abroad on a Michigan State University project may have the appointment period under the tenure system extended similarly only with the concurrence in writing of the faculty member involved and the department chairperson, the dean, the provost, and the president. Such agreement must be reached prior to departure for the overseas assignment.
4. A faculty member who is not to be recommended for reappointment by the department chairperson and dean must be so notified in writing by the department chairperson by December 15 preceding the expiration of the appointment. Copies of the notification are to be sent to the dean and provost. Upon written request of the faculty member, the administrative unit making the decision shall transmit in writing the reasons for not recommending further appointment.
5. If a faculty member who was recommended by the department chairperson and dean is not reappointed, and/or if proper notification, as stated in 4., is not given, an extension of one year is automatic, and the faculty member shall consider this arrangement as official notification of separation from the University at the end of the one-year extension.
6. A faculty member may not be transferred out of the tenure system during or immediately after an appointment under the tenure system, except as approved by the University Committee on Faculty Tenure upon written petition of both the faculty member and the department. Subsequent appointment in the tenure system requires approval of the University Committee on Faculty Tenure.
7. Foreign nationals (non-citizens of the United States) may be appointed within the tenure system; however, they are not to be given indefinite appointment with tenure unless they have signified their intention of, and have moved in the direction of, acquiring

- citizenship. Canadian citizens may be exempt from this regulation and upon specific approval by the Board of Trustees, other exemptions may be made.
8. Questions about the interpretation of the tenure regulations, or about the solution of tenure problems arising from situations not specifically covered in these regulations, are referred to the University Committee on Faculty Tenure. The Committee after thorough study submits its recommendations to the president, the provost or other appropriate administrative officer or body. In every case, final decision rests with the Board of Trustees.

IMPLEMENTATION PRACTICES

The following statement was issued by the Office of the Provost on June 1, 1990.

For leaves of absence without pay, it is the long-standing practice to automatically extend the probationary appointment by one year for leaves that are six to twelve months; the probationary appointment is not extended for leaves one quarter or less; extension of the probationary appointment is handled by mutual agreement for leaves between one quarter and six months. Unpaid leaves may be granted up to a maximum of two years.

The procedure for requesting a one-year extension of the probationary tenure system appointment includes the following:

- A memorandum to the Assistant Provost and Assistant Vice President for Academic Human Resources providing information and a rationale for the request. The request for extension must be endorsed and signed by the faculty member, department chairperson/school director and dean.
- A memorandum from the department/school peer review committee which indicates that the request for an extension has been brought to their attention with an opportunity for advice to be rendered as appropriate. It is not necessary that the department/school peer review committee approve the extension request.
- Endorsement of the request by the Office of the Provost.
- Approval of the request by the University Committee on Faculty Tenure.

It is the position of the University Committee on Faculty Tenure that childbearing, adoption, family illness, etc., are appropriate grounds for extending the probationary appointment period.

AMENDMENTS TO THE TENURE RULES

Amendments to these tenure rules shall require the approval of the faculty and the Board of Trustees.

TENURE ACTION AND PROMOTION

Recommendations for actions under the tenure system and for promotions in rank are made in the department according to unit, college and university bylaws, policies and procedures. Recommendations which do not involve the award of tenure are reviewed successively by the

dean, the provost and the president, who makes the final decision. Recommendations which involve the award of tenure are reviewed successively by the dean, the provost, and the president, who makes the final recommendation to the Board of Trustees for action. Since extensive information is needed to make an adequate evaluation of the performance of each faculty member to be recommended for reappointment, tenure, or promotion, a comprehensive form has been developed which provides space for reporting activities such as instruction—undergraduate, and graduate; academic advising; research—creative and scholarly; public service—extension and/or continuing education; international program assignments; committee and administrative services; and other evidence of merit. The expectations for each individual are dependent on the individual's particular assignment and the missions of the unit. Sample copies of the form are available in the Office of Academic Personnel Records, 312 Administration Building, telephone 355-1526.

COLLEGE-LEVEL REAPPOINTMENT, TENURE AND PROMOTION COMMITTEES

The following statement was issued by the Office of the Provost on November 8, 1982.

The colleges of Michigan State University may establish peer review committees to review department/school reappointment, promotion and tenure recommendations. Several of the colleges have established such college, in addition to department/school, peer review committees for the purpose of providing advice to the dean in these personnel matters. Approaches used by various colleges, including committee composition, are variable.

In the event that a college-level peer review committee is established in a particular college, the Dean of the college shall provide faculty members with information concerning the composition, role and functions of the college-level reappointment, promotion and tenure committee. At a minimum the following information must be provided: (a) the composition of the committee, including methods of selection and the names of specific individuals involved and their University roles, i.e., administrators or regular faculty; (b) the standards and criteria used by the committee in reviewing department/school recommendations; (c) the procedures used by the committee in rendering advice to the Dean, i.e., a ranking or rating procedure or a more qualitative assessment of unit recommendations; and (d) the information or materials made available to the committee to conduct the reviews. The Dean also is encouraged to provide information on any other matters deemed relevant relating to the role and function of the college-level review, reappointment, promotion and tenure committee.

GUIDELINES FOR ACADEMIC UNIT PEER REVIEW COMMITTEE COMPOSITION AND EXTERNAL EVALUATIONS

The following statement was issued by the Office of the Provost on December 2, 1987.

University Policy

Each academic unit (department, school, non-departmentally organized college) is charged to establish procedures so that its faculty can provide advice to the academic administrator regarding recommendations for various academic personnel actions, e.g., merit salary increases, appointments, reappointments, promotion, and tenure. Procedures adopted should provide a role for peer review committees. For example, Section 2.1.2.1., of the Michigan State University *Bylaws for Academic Governance*, states that a department chairperson or school director "is

responsible for the educational, research, and service programs, budgetary matters, physical facilities, and personnel matters in his or her jurisdiction, taking into account the advisory procedures of the unit."

The policy statement on non-tenured faculty in the tenure system also states that the bylaws of each basic administrative unit: "shall provide for a designated group to make recommendations with respect to reappointment, tenure, or promotion" (*Michigan State University Faculty Handbook*).

Guidelines for Peer Review Committee Composition

These guidelines have been developed in consultation with and the concurrence of the Council of Deans, the University Committee on Faculty Affairs, and the University Committee on Faculty Tenure (for the latter on tenure matters only).

The members of the Council of Deans agree to seek implementation of the guidelines set forth below within the specific bylaws or other procedures established for the applicable peer review process in academic units within their area of responsibility:

1. Eligibility for membership on academic unit peer review committees should be limited to individuals appointed in the tenure system at Michigan State University and/or at peer higher educational institutions.
2. Eligibility for membership in academic unit peer review committees, to the fullest extent possible and particularly for personnel actions involving the award of tenure, should be limited to individuals holding tenured faculty appointments at Michigan State University and/or at peer higher education institutions.
3. Women and minority faculty members should participate in academic unit peer review committee processes for all academic personnel actions referenced above. Specific procedures for involvement should be developed as consistent with University procedures, college/academic unit bylaws and practice and may include, but are not limited to, the following possible arrangements:
 - a. Regular peer review committee membership.
 - b. Service as a consultant to the peer review committee (with or without vote).
 - c. Participation in the pool of individuals from both within and outside Michigan State University identified by the academic unit, in accordance with regular procedures, to evaluate the candidate's record.
 - d. Service as a member of or a consultant to (with or without vote) a college-level peer review committee (if such a body exists).
 - e. Participation in the pool of individuals from both within and outside of Michigan State University identified by the college-level peer review committee and/or dean to evaluate the candidate's record.

External Evaluations: A Recommendation

It is noted that many departments, schools and colleges at Michigan State University have academic personnel action (normally promotion and tenure) recommendation procedures which include an evaluation role (external assessment letters) for tenure system faculty appointed in other academic units in the applicable college and/or Michigan State University or who may hold

faculty or other applicable appointments in other universities or institutions. It is not intended to stipulate that such external evaluation procedures must be incorporated in all academic unit peer review procedures but, rather, to encourage academic units to consider a possible adoption of these procedures to ensure that individuals recommended have an achievement and performance level which is comparable with faculties of peer institutions.

APPOINTMENT, REAPPOINTMENT, TENURE, AND PROMOTION RECOMMENDATIONS

The following statement is sent annually by the Office of the Provost to deans, directors, and chairpersons on the occasion of reappointment, promotion, and tenure decision recommendations. It is reviewed annually and advice is requested from the University Committee on Faculty Affairs and the University Committee on Faculty Tenure. Any changes will be sent to deans, directors, and chairpersons to incorporate into departmental and unit copies of the Handbook and for distribution to the faculty.

MSU is a premier, land-grant, and AAU University, committed to quality undergraduate, graduate, graduate-professional education, research and public service. MSU aspires to improve continuously and this requires that academic personnel decisions must build a progressively stronger faculty. This process begins with vigorous, effective recruitment and selection of new faculty, followed by systematic encouragement and facilitation of the professional growth of these faculty members, followed by the application of demanding standards and the use of rigorous evaluation procedures when reappointment, tenure, and promotion recommendations are formulated. Our policies, procedures, criteria, and decisions on recruitment, reappointment, award of tenure, promotions and salary increases must be guided by the goal of increasing the academic excellence of MSU. The future academic quality of MSU will be determined in large measure by these decisions.

After a review of the mission and personnel needs of the unit, fiscal constraints and any other relevant factors to determine if the applicable position(s) is (are) to be retained, then recommendations for appointment, reappointment, and tenure are initiated following rigorous evaluation at the unit level, including peer review. Recommendations for promotions of individuals with tenure also are to be initiated following rigorous evaluation at the unit level, including peer review. All involved in these deliberations must apply high standards of performance. Chairpersons and directors make the unit level recommendations. Unit level recommendations are subject to review and approval or disapproval at the college and University levels. Recommendations are to be based on explicit unit criteria and quality evaluations that are consistent with college and University policies.

As provided in the 1978 *Bylaws for Academic Governance*, the faculty, operating in the advisory mode, is to provide advice to the chairperson/director as ascribed in the unit bylaws. Each department, school, and comparable unit is required to have procedures and criteria that are clearly formulated and relevant on which to evaluate the performance of faculty members (see Statement on Non-Tenured Faculty in the Tenure System, *Faculty Handbook*). The 1978 *Bylaws for Academic Governance* includes the following statement that is of fundamental importance.

...The chairperson or director has a special obligation to build a department or school strong in scholarship, teaching capacity, and public service. (2.1.2.1.)

The chairperson or director makes judgments taking into consideration peer evaluations, including their quality, and other supporting data and information. The chairperson or director is responsible as an individual for the recommendations made.

Unit criteria for appointment, reappointment, tenure, promotion, and salary increases must serve the objective of improving academic strength and quality, taking account of the mission of the department, college, and the University. Deans review independently each recommendation and approve or disapprove, taking into account unit, college, and University criteria and other factors such as quality, progress, resources, program needs, percent of tenured faculty in the unit, and any other relevant University policies (see below).

The Office of the Provost will review recommendations for reappointment, awards of tenure and promotion in each case primarily in terms of the evidence for the effectiveness of each individual in the performance of academic duties.

In addition, the following elements which are applicable and relate to individual performance and institutional contextual factors will be considered:

- In each case, solid evidence of consistent and persistent professional improvement and effectiveness at MSU sufficient to serve as the basis for predicting continued professional effectiveness and growth for the remainder of the individual's academic career.
- Evidence of actual and/or potential external competition for employment in the Big Ten or institutions of at least comparable quality.
- The history of salary increases awarded the individual relative to others in the unit.
- Standards of the college and department/school for recommendations of appointments, reappointments, awards of tenure, and promotions.
- Progress of the unit in improving its overall quality, including visible efforts toward achieving diversity and recognition of diversity in the definition of quality.
- Fiscal constraints.
- The extent to which program commitments require the continuation of faculty (relevant primarily for decisions on reappointments and awards of tenure).

Each dean or director is to insure that unit administrators in their college make clear, in a timely fashion, to the concerned faculty the procedures and criteria that will be used in making tenure system reappointment and promotion recommendations. Forms for "Recommendation for Reappointment, Promotion or Tenure Action" outline many of the activities that are relevant to decisions on promotion and reappointment. As stated in Sec. 2.1.2.1. of the *Bylaws for Academic Governance*, academic administrators have the special obligation to build academic units strong in scholarship, teaching capacity, and public service. To discharge this responsibility, academic administrators must apply selective, rigorous standards in making reappointment, tenure, and promotion recommendations. The achievement and performance level required must be competitive with faculties of leading land-grant universities and member institutions of the Association of American Universities (AAU).

1. Reappointment with award of tenure: Each tenure recommendation should be based on a clear record of sustained, outstanding achievements in teaching, research and/or public service.
 - a. For the assistant professor who has established such a record, the tenure recommendation is effective upon reappointment after two or more cumulated

probationary appointments in the tenure system, if the individual is reappointed again.

- b. For the faculty member appointed initially as associate professor in the tenure system who has established such a record, the tenure recommendation is effective upon reappointment after one probationary appointment period, if the individual is reappointed.
2. A recommendation for promotion from assistant professor to associate professor in the tenure system should be based on several years of sustained, outstanding achievements in teaching, research and/or public service as assistant professor, consistent with performance/levels expected at a premier, land-grant AAU University.

A recommendation for promotion from associate professor to professor in the tenure system should be based on several years of sustained, outstanding achievements in teaching, research, and/or public service as associate professor, consistent with performance/levels expected at a premier, land-grant AAU University.

The reasons for a reasonably long period of time in rank prior to promotion are:

- a. To provide a firm basis in actual performance for predicting long-term, high quality professional effectiveness, and
- b. To provide a firm basis in actual performance under Michigan State University standards to permit endorsement of the individual as an expert of national stature.

Bearing in mind the University's continuing objective to improve its faculty, the unit and college must refrain from doubtful recommendations of reappointment, tenure, or promotion. The dean is to evaluate carefully each recommendation to insure that it is well grounded and fully justified.

NON-TENURED FACULTY IN THE TENURE SYSTEM

The following policy was approved by the Board of Trustees on April 17, 1970.

Recommendations for actions affecting the appointment, reappointment or promotion of faculty members under the tenure system must be in accord with the provisions of the tenure system.

At the level of the basic administrative unit, judgments on non-tenured faculty with respect to professional competence (including teaching ability), academic potential, and the needs of the department are made by the responsible administrator after consultation with the tenured faculty and/or other duly constituted group specified in the bylaws of that basic administrative unit. Recommendations for reappointment or promotion which do not involve the award of tenure are reviewed and must be approved successively by the dean, the provost and the president, who makes the final decision. Recommendations for reappointment or promotion which involve the award of tenure are reviewed and must be approved successively by the dean, the provost, and the president, who makes the final recommendation to the Board of Trustees for action.

Each basic administrative unit shall base its judgments on criteria and procedures that are clearly formulated, objective and relevant. These criteria and procedures shall be known to all members of the basic administrative unit. If appropriate, the responsible administrator may supplement information required for these judgments by consulting with representative non-tenured faculty, students and/or qualified individuals outside the basic administrative unit. Review procedures

shall be described in its bylaws and shall include a means by which the faculty member is evaluated and informed annually of his/her progress. These bylaws shall provide for a designated group to make recommendations with respect to reappointment, tenure, or promotion. Procedures shall also exist by which the faculty member may confer with this sub-group before a decision is made in his/her case.

Decision not to reappoint a non-tenured faculty member does not necessarily imply that the faculty member has failed to meet the standards of the University with respect to academic competence and/or professional integrity. This decision may be contingent, wholly or in part, upon the availability of salary funds and/or departmental needs. The decision not to reappoint a non-tenured faculty member does not require action by the Board of Trustees. In the case of a non-tenured faculty member within the tenure system, notification is required as set forth in the section entitled Operating Principles of the Tenure System, above. Such decision is made at the level of the basic administrative unit. Upon written request of the faculty member, the administrator of the basic administrative unit making the decision shall transmit in writing the reasons for the decision.

If a non-tenured faculty member believes that the decision not to reappoint has been made in a manner which is at variance with the established evaluation procedures, he/she may, following efforts to reconcile the differences at the level of the basic administrative unit and the Dean of his/her college, initiate an appeal in accordance with the Faculty Grievance Procedure.

When reason arises to consider dismissal of a non-tenured faculty member before the expiration of his/her term of appointment, the procedures to be followed shall be identical with those established for the dismissal of a tenured faculty member.

FACULTY CAREER ADVANCEMENT AND PROFESSIONAL DEVELOPMENT: A SPECIAL AFFIRMATIVE ACTION RESPONSIBILITY

The following statement was issued by the Office of the Provost on October 5, 1982.

University policy requires that each non-tenured faculty member in the tenure system be "evaluated and informed annually of his/her progress" (see statement on Non-Tenured Faculty in the Tenure System, *Faculty Handbook*). Such annual reviews are to provide opportunities for two-way communication regarding academic unit performance expectations and, if necessary, to provide suggestions and reasonable assistance for improving performance. Faculty career advancement and professional development are to be encouraged.

Under the University's affirmative action policy, unit academic administrators have a special responsibility to encourage the career advancement and professional development of all women and racial minority faculty members appointed in the tenure system, especially non-tenured faculty. A supportive environment should be created in each academic unit to maximize the opportunity for success of these individuals in meeting both their career goals and the unit's performance standards for merit salary increases, reappointment, promotion and tenure. An important aspect of this environment is regular and supportive interaction with colleagues in the unit and in related fields in other units. Efforts of women and racial minority faculty members to overcome barriers related to gender and/or race can divert attention from the achievement of basic career goals and diminish the quality of professional experience.

Department and school administrators are urged to give special attention to and encourage the professional development of their units' women/racial minority faculty members. Special emphasis is placed on the role of annual performance reviews and/or special meetings with women and racial minority faculty to evaluate progress, to encourage professional development, and to ensure two-way communication. Among other things, performance reviews and/or special meetings are:

1. To encourage opportunities as appropriate for membership in informal and formal research groups, teaching, research, and service program activities, assignment of graduate students and research assistants, committee assignments, and other critical activities in the unit.
2. To discuss professional objectives and their relationship to the individual's distribution of effort among assigned duties.
3. To discuss any issues and concerns that may be perceived as barriers to effective performance and full participation in the unit

Deans should ensure that unit administrators conduct annual performance reviews of each non-tenured faculty member appointed in the tenure system and that, among the topics addressed, those stated above are included in these reviews. If college or unit practice is to require written annual evaluations, the dean should receive a copy of the evaluation sent to each faculty member. The dean should conduct in-depth reviews with each chairperson or director of the annual performance evaluations of each non-tenured faculty member appointed in the tenure system to identify issues and to implement appropriate steps to assist the faculty member in achieving success in the unit.

FACULTY GRIEVANCE PROCEDURE

An Interim Faculty Grievance Procedure was approved by the Academic Council, May 9, 1972 and by the Board of Trustees, May 19, 1972. A revised Faculty Grievance Procedure was approved by the Academic Council on March 5, 1991 and by the Board of Trustees on April 5, 1991.

1. Definitions and Exclusions

- 1.1 Any Michigan State University faculty member with the rank of professor, associate professor, assistant professor, lecturer, instructor, assistant instructor, research associate, specialist, or librarian may initiate a grievance procedure alleging violation of existing policies or established practices by an administrator, by filing a complaint with the FGO pursuant to the procedures set forth in this document.
- 1.2 The provisions of this document shall not preempt or replace the functions of the Anti-Discrimination Judicial Board (ADJB) or of the University Committee on Faculty Tenure (UCFT) except to provide procedures for the appeal of administrative decisions not to reappoint non-tenured faculty in the tenure system.
- 1.3 The provisions of this document do not prohibit administrative review of any grievance prior to or during the pendency of a grievance. Any grievance under administrative review shall be held in abeyance until the review is completed or terminated at the request of grievant.

2. Grievance Structure

2.1 The University Committee on Faculty Affairs (UCFA)

- 2.1.1 The UCFA shall serve as a University grievance advisory committee.
- 2.1.2 The UCFA shall recommend to the President, pursuant to procedures set forth in the Appendix to this document, one person who shall be appointed as the Faculty Grievance Official (FGO) upon approval of the Board of Trustees.
- 2.1.3 The UCFA shall periodically review the performance of the FGO according to the procedures set forth in the Appendix to this document.

2.2 The Faculty Grievance Official (FGO)¹

- 2.2.1 The FGO shall receive and make every reasonable effort to resolve grievances and assure that all hearings are conducted in accordance with the procedures prescribed in this document.

¹ See Appendix for appointment, reappointment and evaluation of the Faculty Grievance Official.

- 2.2.2 The FGO shall administer the grievance procedures as set forth in this document and shall advise the parties about appropriate procedures to follow.
- 2.2.3 The FGO shall have broad investigative authority and shall have ready access to all administrative officials and faculty and to all relevant information and records except those required to be kept confidential by statute and/or judicial decision. Information and records available to the FGO shall be made available to a grievant, in a form that protects the privacy and confidentiality of third parties if, in the FGO's judgment, the grievant has need of them for resolution of the grievance.
- 2.2.4 The FGO shall respect the confidentiality of information and records and the privacy of all parties whose interests are affected by a grievance.
- 2.2.5 The FGO shall exercise only those powers delegated to him/her.
- 2.2.6 The FGO shall not serve as advocate for any party on any grievance and may participate in a grievance proceeding only in his/her official capacity.
- 2.2.7 The FGO shall provide, upon request, assistance in the promulgation of procedural guidelines by departments, units and colleges.
- 2.2.8 The FGO may recommend to the UCFA changes in existing faculty grievance procedures.
- 2.2.9 The FGO shall report once a term to the UCFA and once each year to the Academic Council, and shall sit as an ex officio member of the Academic Council.
- 2.2.10 The FGO shall forward to the Chairperson of the UCFA, for distribution to the members of the committee, a copy of any decision of the President which overrules, in whole or in part, the findings and recommendations of an appeals hearing panel. The UCFA shall maintain the confidentiality of such documents.
- 2.2.11 The FGO shall maintain records of all grievances, formal proceedings, findings and recommendations, and decisions.

3. Initiation of Grievances and Hearing Procedures

3.1 Initiation of Grievances

- 3.1.1 A grievance may be initiated and processed at the department/unit, college or University level according to the procedures set forth in this document.

- 3.1.2 A faculty member who feels aggrieved may without delay discuss the matter in a personal conference with the FGO. The FGO shall determine if the grievance falls under the jurisdiction of the Faculty Grievance Procedure, the UCFT or the ADJB.
- 3.1.3 In order to establish and retain access to the formal hearing mechanisms at any level (department/unit, college, or University), a faculty member must submit a written grievance statement to the FGO within 30 days of his/her first knowledge of the alleged violation.²
- 3.1.4 The grievance statement shall set forth the alleged violation of existing policy or established practices, a concise statement of the facts relevant to the grievance, the name of any administrator(s) whose action is at issue, the approximate date on which the alleged action took place, and the redress sought.
- 3.1.5 The FGO shall forward a copy of the grievance statement to the administrator(s) named within 10 days of receipt of the grievance.

3.2 Informal Resolution

- 3.2.1 The FGO shall investigate the grievance and make every reasonable effort to resolve it informally. The FGO may recommend dropping the grievance as lacking in merit or for other just cause. Such a recommendation, however, shall not be binding on the grievant.
- 3.2.2 Within 30 days of the filing of the grievance statement, the parties and the FGO shall attempt to resolve the grievance informally. If the FGO determines that the grievance cannot be resolved, notice shall be provided to the parties. If the faculty member wishes to pursue the grievance, a written request for a formal hearing must be submitted to the FGO within 30 days of such notice. Failure to submit such a request will constitute a waiver of the faculty member's right to pursue the grievance.
- 3.2.3 The FGO shall determine after consultation with both parties the appropriate hearing level (i.e. department/unit, college, or University) and shall notify the administrator at the appropriate level of the written request for hearing.

3.3 Formal Hearing Procedures: Department, College or other Academic Unit

- 3.3.1 Each department, college, or other academic unit, subject to the approval of the UCFA, shall establish a grievance procedure that assures fair treatment for individuals and that accords with the guidelines contained in this Article and Article 6. A model procedure is available from the FGO.

² For good cause shown, any time limits specified in this document may be waived or extended by the FGO or upon mutual agreement of the parties. References to days in this document are to calendar days.

- 3.3.2 Upon receipt of notice from the FGO that a hearing has been requested, a formal hearing shall be conducted in accordance with prescribed unit policies within 14 days of establishment of the hearing panel. The FGO shall be involved in the establishment of all hearing panels and shall be present at all hearings to ensure compliance with the procedures set forth in this document.
- 3.3.3 Whenever a hearing panel loses thirty percent or more of its members, the hearing shall be terminated and a new panel selected.
- 3.3.4 Hearing panels shall forward their findings and recommendations in writing within 14 days of the completion of the hearing to the FGO, who shall forward them to the grievant, respondent, and the administrator who is the respondent's immediate supervisor.
- 3.3.5 The administrator at the appropriate level shall provide written notification of his/her decision to the grievant, the respondent, respondent's immediate supervisor, and the FGO within 14 days of receipt of the hearing panel's findings and recommendations. Failure to provide written notification shall result in automatic appeal.

4. University Level Hearings

4.1 University Hearing Board and Hearing Panels

- 4.1.1 A University Hearing Board shall be established from which hearing panels shall be selected.
- 4.1.2 Each college shall select four (4) tenured faculty members and one (1) non-tenured tenure system faculty member to serve as members of the University Hearing Board. Each college with 75 but no more than 199 tenure system faculty members additionally shall select four (4) tenured faculty members and one (1) non-tenured tenure system faculty member. Each college with 200 or more tenure system faculty members additionally shall select six (6) tenured faculty members and three non-tenured tenure system faculty members. The non-college faculty shall select six University Hearing Board members from the tenured faculty and librarians with continuous appointment status. Tenured faculty and librarians shall serve three-year terms and non-tenured faculty shall serve two-year terms. Service shall be limited to two consecutive terms. Annually the Secretary for Academic Governance, in consultation with the colleges and non-college faculty, shall encourage the selection of a diverse group of faculty for service on the University Hearing Board and shall ensure the selection of the appropriate number of University Hearing Board members.
- 4.1.3 A University hearing panel shall consist of 5 members of the Hearing Board who are selected by the FGO by lot. A Hearing Board member shall serve on no more than one University hearing panel per year.

- 4.1.4 Each hearing panel shall have a presiding officer selected by the FGO from a list established by the UCFA. The presiding officer shall not be a voting member and shall apply the rules of procedure consistent with the guidelines stated in Article 4.2 and Article 6.
- 4.1.5 The FGO shall notify each party of the names of the five members of the hearing panel and within 10 days either party may challenge any member for cause. In addition, each party shall have two peremptory challenges. Cause shall be determined by the Presiding Officer. Challenged members of the panel shall be replaced pursuant to the procedures stated in 4.1.3.
- 4.1.6 If a hearing panel loses two or more of its members during the course of a hearing, the hearing shall be terminated, and a new panel selected.

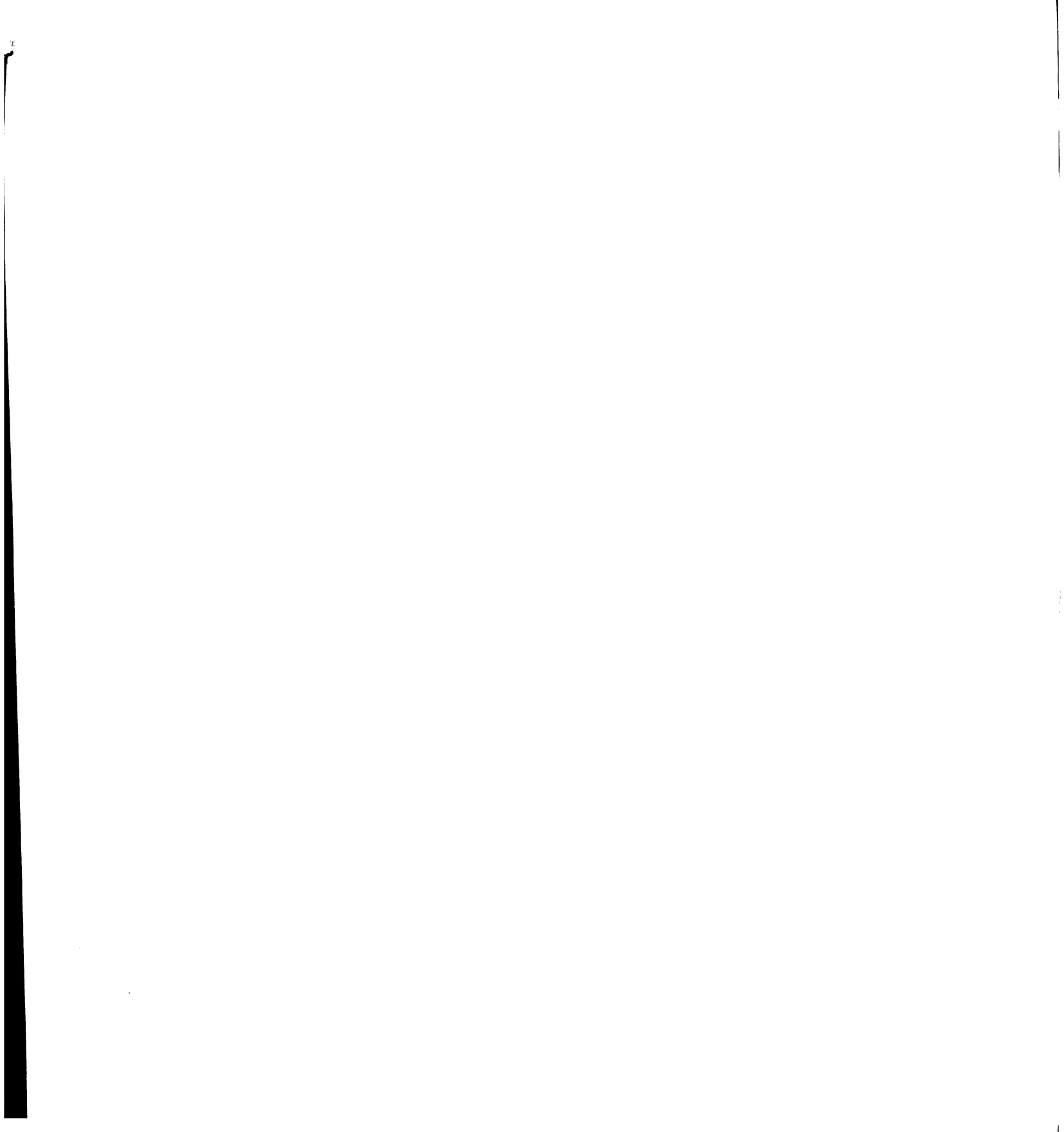
4.2 University Hearing Panel Procedures

- 4.2.1 The FGO shall convene the hearing panel and shall be present during all formal proceedings.
- 4.2.2 The hearing shall begin within 14 days of the establishment of the panel and shall be conducted expeditiously in accordance with the procedures of this Article and Article 6.
- 4.2.3 When a University hearing panel sustains the allegation(s) made in a grievance, it shall recommend appropriate redress consistent with existing policies, procedures, or practices in the appropriate unit of the University. Its findings and recommendations shall be presented to the FGO within 14 days of the completion of the hearing.
- 4.2.4 Upon receipt of the panel's findings and recommendations, the FGO shall forward them to the Provost and the parties.
- 4.2.5 The Provost shall provide written notification of his/her decision to the parties and to the FGO within 14 days of receipt of the hearing panel's findings and recommendations. Failure to provide written notification shall result in automatic appeal to the University appeals panel.

5. Appeals

5.1 Initiation of and Conduct of Appeals Hearings

- 5.1.1 The decision of any administrator (department/unit, college or university) may be appealed by either party. If the original hearing was by a department/unit hearing panel, the appeal shall be to college hearing panel. If the original hearing was by a college hearing panel or University hearing panel, the appeal shall be to the University Appeals Board. Notwithstanding the above, grievances concerning non-reappointment of non-tenured faculty members, if appealed, are taken to the University Appeals Board.



- 5.1.2 An appeal must be filed with the FGO within 14 days of receipt of the decision of the appropriate administrator. Failure to appeal within the prescribed time shall be deemed acceptance of the decision.
- 5.1.3 Appeals to the college level shall be conducted in accordance with procedures adopted by the college. Findings and recommendations of the college hearing panels shall be forwarded to the FGO within 14 days of the completion of the hearing. The FGO shall forward the findings and recommendations to the President who shall render a decision pursuant to Article 5.3.7 and 5.3.8.
- 5.1.4 Appeals to the University Appeals Board shall be conducted in accordance with the procedures set forth in Section 5.2.
- 5.1.5 Once an appeal is filed, the decision of the administrator in response to the findings and recommendations of the initial hearing panel shall be suspended until a final decision is rendered.

5.2 University Appeals Board and Appeals Panels

- 5.2.1 A University Appeals Board shall be established from which appeals panels shall be selected.
- 5.2.2 Each college shall select two tenured faculty members and one non-tenured faculty member to serve on the University Appeals Board. The non-college faculty shall select four members from the tenured faculty and librarians with continuous appointment status. Tenured faculty and librarians shall serve three-year terms and non-tenured faculty shall serve two-year terms.
- 5.2.3 Appeals panels shall consist of five members selected by the FGO by lot from members of the University Appeals Board, except that for grievances concerning non-reappointment in the tenure system, panels shall consist of five members (three tenured and two non-tenured) appointed as follows:
 - a) three faculty members selected by the UCFT from its membership
 - b) two faculty members selected at random by the FGO from the members of the University Appeals Board.
- 5.2.4 A presiding officer for each appeals panel shall be selected by the FGO from a list established by the UCFA. The presiding officer shall not be a voting member and shall apply the rules of procedure consistent with the guidelines stated in Article 6.
- 5.2.5 The FGO shall notify each party of the names of the five members of the appeals panel and within 10 days either party may challenge any member for cause. In addition each party shall have two peremptory challenges. Cause shall be determined by the presiding officer. Challenged members of the panel shall be replaced pursuant to the selection process stated in 5.2.3.

- 5.2.6 If an appeals panel loses two or more of its members during the course of a hearing, the hearing shall be terminated and a new panel selected.

5.3 University Appeals Panel Procedures

- 5.3.1 The FGO shall convene an appeals panel within 14 days of the establishment of the panel and shall be present during all formal proceedings. Written notice of the time and place of the hearing and any documents deemed relevant by the FGO shall be provided to each party 72 hours before the hearing.
- 5.3.2 Appeals shall be conducted expeditiously.
- 5.3.3 Appeals shall be decided upon the record of the original proceeding and upon argument of the parties presented to the Appeals panel.
- 5.3.4 Appeals must allege either that there has been a prejudicial violation of the procedures established for the conduct of the initial hearing, and/or that the decision of the administrator is not consistent with the preponderance of the evidence presented at the initial hearing.
- 5.3.5 University appeals panels may recommend affirmation, reversal or modification of decisions of the appropriate level administrator.
- 5.3.6 The findings and recommendation of an appeals panel shall be forwarded to the FGO within 14 days of the completion of the hearing. The FGO shall forward the findings and recommendations to the President and to the parties.
- 5.3.7 For stated cause the President of the University may return the findings and recommendations to the appropriate hearing panel or appeals panel once for reconsideration.
- 5.3.8 Within 30 days, the President shall either concur with the finding(s) and recommendation(s) of the appeals panel and direct appropriate implementation or overrule the findings and/or recommendations. When a recommendation is overruled, in whole or in part, written reasons shall be given by the President to the parties, the appropriate appeals body, the FGO and the Chairperson of the UCFA.

6. Guidelines for the Conduct of Department/Unit, College and University Level Hearings

- 6.1 Department/unit, college and University level hearings shall be conducted in accordance with the following guidelines:
- 6.1.1 Records shall be maintained throughout the informal and formal phases of each grievance by the parties and records of all formal proceedings shall be promptly filed with the FGO upon completion of such proceedings.

- 6.1.2 All hearings shall be recorded. A party may request and obtain a copy of the recording from the FGO.
- 6.1.3 Hearing panels shall serve throughout an entire proceeding.
- 6.1.4 A hearing panel shall take necessary precautions to avoid any conflict of interest on the part of its members.
- 6.1.5 The membership of hearing panels shall not be selected by administrative appointment.
- 6.1.6 Formal hearings shall be closed unless the parties agree otherwise.
- 6.1.7 The privacy of confidential records used in the hearing shall be respected.
- 6.1.8 Hearings shall be conducted in good faith and are to be completed within 30 calendar days unless the FGO determines that an extension of time is necessary.
- 6.1.9 All parties may present their cases in person and may call witnesses on their behalf. A party may elect not to appear, in which event the hearing will be held in his or her absence. Absence of a party shall not be prejudicial to the case.
- 6.1.10 All parties are entitled to counsel of their choice. Counsel must be identified to the FGO who shall inform the parties and the hearing panel at least 48 hours prior to the time set for hearing.
- 6.1.11 Any party or counsel shall be entitled to ask pertinent questions of a hearing panel or any witness.
- 6.1.12 A hearing panel shall decide whether the preponderance of the evidence does or does not support the allegations made by the grievant.
- 6.1.13 Prior to the commencement of any hearing, hearing panels shall resolve any procedural or jurisdictional issues raised by the parties after providing each party the opportunity to be heard on the matter.
- 6.1.14 Hearing bodies may consider evidence submitted by the parties concerning the relative credentials of faculty members in determining the merit of grievances involving salary, appointment, re-appointment or promotion.
- 6.1.15 Findings and recommendations of hearing panels shall conform to existing policy and procedures in the appropriate unit of the University.
- 6.1.16 Hearing panels shall report their findings and recommendations in writing within 14 days of the completion of the hearing to the FGO, who shall forward them to the grievant, the respondent, and the administrator who is the respondent's immediate supervisor.

- 6.2 Upon the request of either party, the FGO, prior to convening a hearing panel, or a hearing panel, upon being convened, has the authority to request that appropriate individuals discontinue or postpone any action threatening irreparable harm pending final disposition of a case.
- 6.3 Written notice of the time and place of the hearing, a copy of these procedures and any other documents deemed relevant by the FGO shall be provided to each party and to the panel 72 hours before the hearing.
- 6.4 All parties shall be notified in writing of their right to appeal by the FGO when a copy of any decision is forwarded to the parties.

7. Procedures for Revision and Implementation of this Document

- 7.1 Any faculty member or administrator may initiate a proposal to revise this document.
- 7.2 All proposals for revision shall be submitted to the UCFA which shall consider them and forward them to the Elected Faculty Council (EFC), with or without recommendation.
- 7.3 If approved by the EFC, the proposal shall be submitted to the Academic Council.
- 7.4 Proposed amendments and revisions approved by the Academic Council shall be forwarded to the President for action by the Board of Trustees and shall become effective upon Board approval and operative no later than 90 days from the date of approval.
- 7.5 The UCFA shall formulate and disseminate to all departments/units and colleges, a model academic unit grievance procedure that accords with the provisions of this document.
- 7.6 The UCFA shall have the responsibility to ensure that the procedures set forth in this document are fully implemented in accordance with the provisions of this document.
- 7.7 Copies of this document shall be widely distributed throughout the University and copies shall be available from the FGO upon request.

APPENDIX

Appointment, Reappointment and Evaluation of the Faculty Grievance Official

I. Appointment of and Support of the FGO¹

1. UCFA shall prepare a slate of candidates for presentation and discussion with the Provost and President, after which it shall recommend one person to be appointed as the FGO.
2. Upon approval of the Provost, President and the Board of Trustees, the FGO shall be appointed for a term not to exceed five years. The FGO may be reappointed beyond the initial term and may be reappointed beyond the five-year period but there is no right to reappointment for any term or period.
3. The office of the FGO shall be independent of the administrative structures of the University.
4. The UCFA shall consult as necessary with the Provost and President concerning salary, budget, office facility and staff for the FGO. The UCFA shall annually review the performance of the FGO and shall advise the Provost and President regarding salary recommendations.
5. Whenever a vacancy occurs in the FGO position, the UCFA shall confer and recommend to the Provost and the President an individual to serve as Acting FGO.

II. Evaluation of the FGO

1. The UCFA shall annually evaluate the FGO pursuant to criteria established by the UCFA in consultation with the Provost and the President.
2. The UCFA shall discuss the evaluation with the FGO and shall forward its evaluation and a recommendation as to salary to the Provost and President.
3. The UCFA shall establish procedures for review of the FGO's performance which shall be undertaken when reappointment of the FGO is under consideration. Such procedures shall involve input from individuals who have had contact with the Faculty Grievance Procedure and the FGO.
4. The reappointment evaluation shall be transmitted to the Provost and the President together with a recommendation for reappointment. In the event that reappointment is not recommended, the UCFA shall follow the procedures set forth in Article I for the appointment of a new FGO.

¹ The 14-step hiring procedures applicable to faculty and academic staff shall apply to the appointment of the FGO.

III. Reappointment of the FGO

1. The UCFA may recommend reappointment of the FGO to the Provost and the President for a term which does not extend the FGO's service beyond five years. Such recommendation shall be made only after the UCFA has evaluated the FGO's performance for the term preceding the recommendation.
2. Should the FGO express a desire to serve an appointment which would extend the FGO's service beyond five years, a review of all years of service of the FGO shall take place.
3. In the event that the UCFA decides not to recommend a continued appointment, the UCFA shall proceed with the appointment of a new FGO pursuant to the provisions set forth in Article I.