October 16th, 2019

Dear Colleagues,

The Faculty Senate has significant concerns about both the process through which the Faculty Handbook (Handbook) was revised and the substantive changes that have resulted.

The Provost on June 10, 2019 in a letter to the Howard University Faculty stated that the revised Handbook “is a document developed by the Faculty and Administration for the purpose of... protecting academic freedom and faculty rights and providing a framework for shared governance....”

We, however, strongly disagree. The revised Handbook severely weakens the rights of faculty members at Howard University, especially as it pertains to tenure and the rights of faculty during financial exigencies. Moreover, the process by which the Handbook was revised demonstrates a blatant disregard by the Board of Trustees for clearly established procedures, undermines the good faith efforts of the faculty, and further erodes the trust of the faculty in the Board.

Procedural Issues and Concerns
The process to revise the Handbook was controlled by Section 2.9 of the 1993 version of the Handbook, “Procedure for Revision of the Faculty Handbook,” which stated, in pertinent part, that the procedure:

(a)...tried to satisfy the need for an orderly manner that allows for all segments of the University to contribute... to the formulation or alteration of policy statements...

(b)... attempts to.....prevent endless debate and allows for particular issues to be brought to decisive action.

(c) ... recognizes the fact that the adoption of policy, however formulated or proposed, is among the powers reserved to the Board of Trustees.

Section 2.9.2.1, however, indicates that:

Wherever proposals originate, they will be considered by the Faculty Handbook Committee of the Faculty Senate.

Once it reviews a proposal to revise the Handbook, the Faculty Handbook Committee of the Faculty Senate submits its position on the proposal to the Steering Committee, which can then place the matter on the agenda of the Council of the Faculty Senate. According to Section 2.9.2.1, if the proposal is approved by the Council, the proposal is sent to the President, who then forwards the proposal to the Board. According to Section 2.9.2.2, “The action of the Board is final.”
There was an explicit agreement between the administration (Office of the Provost, Office of the General Counsel) and the Faculty Senate that the amendment process would be governed by Section 2.9. of the Handbook. Accordingly, the University and the Faculty Senate agreed that they would commit their good faith efforts to adhering to this process and to achieving agreement on policy issues affecting faculty employment. As noted above, a critical part of the process is a review by the Handbook Committee of any proposed change. In most, but not all cases, the Faculty Senate Handbook Committee and the Office of the Provost were successful in reaching a consensus regarding proposals to amend the Handbook.

The Board, however, blatantly disregarded established process at this juncture. It had the option of simply rejecting any proposed revisions. In such a case, the 1993 Handbook provisions would remain intact.

However, rather than merely rejecting the proposed changes to sections that were submitted for review, the Board took the disconcerting step of creating its own language to diminish the rights of faculty that had been guaranteed in the 1993 Handbook. The Board, therefore, created a new proposal that, in the spirit and language of Section 2.9.2.1, ought to have been reviewed by the faculty and the administration before the change became final.

Clearly, the Board did what Section 2.9.2.1 specifically forbids it from doing - namely, it introduced new policies without faculty and administrative input. If the Board could make changes to the Handbook independently, Section 2.9, which lays out the procedure for revisions of the Handbook, would be superfluous.

Section 2.9.1., “Proposed Amendments,” specifies the process that the Board is required to follow:

Proposals for revising those portions of the Faculty Handbook covered by this procedure can be made by the Board of Trustees....

(a) Proposals made in the form of texts intended to replace in whole or in part some current expressions of the handbook...

(c) A brief explanation of the reason(s) for proposing the revision will accompany the proposal...

We recognize that Section 2.9 of the 1993 Handbook indicated that certain sections were not covered by the process dictated by Section 2.9 and, therefore, “revisions could be made by the Board...as appropriate” without following the established procedure. But in revising all other sections of the Handbook, the Board had to follow the procedures established in Section 2.9., something it did not do.

While the Board may have ultimate authority to enact new policies, doing so without faculty input undermines established processes and erodes the trust of faculty, who have acted in good faith throughout the process to revise the 1993 Handbook. In the view of the Faculty Senate, the Board’s actions in unilaterally modifying the Handbook are a flagrant abuse of its power.
Substantive Issues and Concerns
There are significant changes that the Board made to the Handbook without faculty input that severely diminish the protections afforded to faculty by the 1993 Handbook.

Where Tenure Resides
Section 2.7.4.2 of the 1993 Handbook indicated that “A faculty member who has received tenure has a continuous appointment made by the Board of Trustees...” There was no statement regarding the residence of the tenure appointment. During the revision process, the Faculty Senate and the Office of the Provost reached consensus and forwarded to the Board the following language “…for tenured faculty members, tenure resides in the University.” The Board, however, drastically modified this language to diminish the rights of faculty (see C1.5), in stating that, “A faculty member’s appointment is generally made to a specific academic department...”

Termination of Faculty Due to Financial Exigency
Section 2.7.8.4.6 of the 1993 Handbook stated that “A faculty member whose appointment is terminated for reasons of financial exigency has the right to appeal...in cases where other faculty members in the same department are retained...” Although the Faculty Senate recommended a right of appeal in these circumstances, the Board did not merely reject this provision, it also completely removed all the language providing any right to appeal in such circumstances. See Section C5: Separation of Faculty Due to Financial Exigency.

Section 2.7.8.4.5 of the 1993 Handbook, “Rights of Tenured Faculty Members,” stated that “the appropriate Faculty Senate Committee will monitor the efforts made by the University in finding suitable positions for displaced faculty members within the University.” The Faculty Senate and the Office of the Provost reached consensus on language which would maintain the rights of faculty in this situation. This language was presented to the Board which, again, not only rejected the proposals, but completely removed the 1993 Handbook language providing a monitoring role for the Faculty Senate.

Appeal Rights of Faculty Denied Tenure
Section 2.7.4.6.2 of the 1993 Handbook provided that “If the dean’s or school/college APT Committee’s final decision is negative, the candidate...may appeal that decision to the Faculty Grievance Commission (FGC) before the recommendation is reviewed by the appropriate vice president. Both the Faculty Senate and the Office of the Provost recommended that the Board adopt a provision that “final action by the Provost will be held in abeyance until the FGC appeal process is concluded.” The Board, acting contrary to yet another recommendation, reduced the faculty member’s right to appeal which was guaranteed in the 1993 Handbook as follows, “Final action by the Provost will be held in abeyance until the FGC appeals process is concluded, or up to one year from the date of the dean or school/college recommendation, whichever is shorter.” (See D2.5.3)

On other matters, the Board created policies in the Handbook (which would constitute new proposals) on matters that had not even been brought up by the administration or the faculty. For example, faculty members who have been issued reprimands can now appeal the reprimand only to the next highest administrator. See Section E2 on written reprimands: “If the administrator (issuing the reprimand) decides to let the reprimand stand, the faculty member may request review by the next higher administrative
authority...The decision of the administrator who hears the appeal is final..." As a result, for instance, a reprimand issued by a department chairperson can only be appealed to the Dean, and no further. In such a scenario, a faculty member's right to appeal would be severely curtailed. Since it was a proposal initiated by the Board, the process outlined in Section 2.9 - review by the Faculty Senate - should have been followed before this new policy was adopted. However, this did not occur.

The Board also disregarded language recommended by the Faculty Senate and the Provost on several issues involving faculty rights: provisions that defined academic freedom, provisions that provided faculty the right to appeal to the Provost evaluations by chairpersons and deans on their performance; provisions calling for faculty to represent no less than half of the membership of University committees; and the right of temporary faculty members to appeal a written reprimand or a major sanction to the Provost.

There is yet another serious concern: the Board deleted language pertaining to a grandfather clause for faculty hired under the 1993 Handbook. Their position is clear: the 1993 Handbook has been replaced and the revised Handbook applies to all faculty. As a result, faculty who expected the 1993 Handbook to govern their terms of employment, now find themselves being governed by the 2019 Handbook - which affords them significantly fewer rights and protections. This amounts to a unilateral abrogation by the Board of a prior agreement between the faculty and the University, that is, the 1993 Handbook.

In conclusion, we believe the Board of Trustees has acted unilaterally and in bad faith to make revisions and add several new policies to the 2019 Handbook that are inimical to the well being and interests of Howard University faculty. The Faculty Senate is deeply concerned by these developments and is requesting a meeting with the Board to address these matters.

Sincerely,

[Signature]

Marcus Alfred
Chair