

FORMAL COMPLAINT

TO: The Middle States Commission on Higher Education

FROM: The Council of the Howard University Faculty Senate

SUBJECT: Noncompliance of the Howard University Board of Trustees with The Howard University Bylaws of the Board of Trustees and the Constitution of the Faculty Senate of Howard University regarding election of Faculty Trustees and Middle States Standard VII – Governance, Leadership, and Administration

DATE: October 26, 2020

Section 8 a (3) of the Howard University Bylaws of the Board of Trustees states, in pertinent part:

“Faculty Trustees - The selection of candidates to be nominated as Faculty Trustees shall be made in accordance with Board-approved policies and procedures and such provisions of the Faculty Constitution as are relevant thereto. Such policies and procedures may be proposed by the Faculty Senate for approval by the Board and shall be consistent with Board Bylaws, shall include nomination, campaign, and balloting standards, and shall be consistent with, and in furtherance of, the following principles:”

- (a)Prior to the nomination process and distribution of ballots, the Secretary in consultation with the Provost and the Secretary of the Faculty Senate shall designate such schools and colleges, and the criteria that shall be used to determine candidate eligibility and the faculty attributable to each;
- (b) Faculty eligible for nomination to the Board as a Faculty Trustee may be either tenured or non-tenured, and be employed at the time of their candidacy, nomination, election, and the entire term on the Board:
 - (i) in a full-time faculty appointment or position, performing a majority of the academic and research services attendant to such appointment at one or more University campuses; or
 - (ii) be serving as a full-time departmental Chair;
- (c) Deans and ex officio members of the Faculty Senate shall not be eligible to serve as a Faculty Trustee;

Article II of the Constitution of the Faculty Senate of Howard University states:

“The Senate shall consist of:

Section A. Faculty Members: All faculty members, both tenured and non-tenured, who are currently serving in full-time faculty appointments or positions, and department chairs, if they have been appointed with the advice and consent of the faculty of their department.

Section B. Ex-Officio Members: The following general administrative officers of the University, whether they hold regular faculty appointment or not, shall be non-voting members, ex-officio of the Senate.....Deans of the Schools and Colleges.”

As mandated by the Faculty Senate Bylaws, the Faculty Senate regularly holds elections for Graduate and/or Undergraduate Faculty Trustee nominations to the Board of Trustees, as appropriate. These elections are coordinated by the Faculty Senate Committee on Committees, a standing committee of the Faculty Senate, in conjunction with the Secretary of the Senate.

While both the Constitution and the Bylaws of the Faculty Senate and the Bylaws of the Board of Trustees address the election of Faculty Trustees to serve on the Board, the eligibility criteria differ with respect to faculty status and administrative appointment. Generally, Senate eligibility criteria for Faculty Trustee nominations have been more restrictive than those established by the Board. The rationale being that Faculty nominated by the Senate to the Board of Trustees would assuredly meet eligibility requirements outlined in the Board’s governing documents. Historically, Deans at all levels have been considered ex officio members of the Faculty Senate and therefore, ineligible to serve as Faculty Trustees.

In 2017, the Chair of the Faculty Senate requested clarification from the Board regarding eligibility of Assistant and Associate Deans to serve as Faculty Trustees following a challenge presented to the Senate by an Associate Dean. The Board provided preliminary guidance that Assistant and Associate Deans are eligible to serve as Faculty Trustees.

In 2018, the Senate Parliamentarian ruled that Assistant and Associate Deans are ineligible to serve as Faculty Trustees. The Board formally disagreed with the ruling. The inability to resolve these differences have resulted in the Board declaring Senate elections to be invalid and declining to elect an Undergraduate Trustee since April 2018. Therefore, faculty who serve nine schools, colleges, and units in undergraduate programs at Howard University have had no representation on the Board since that time.

Following the Board’s ruling to allow Assistant and Associate Deans to be elected as Faculty Trustees, the Senate conducted a Survey of the Faculty to obtain its position on this matter. The survey was available electronically or by paper. The responses of 192 faculty members who completed the survey follows:

- 88% (paper) and 83.5% (electronic) Agreed and Strongly Agreed that Associate and Assistant Deans should be excluded from serving as Faculty Trustees on the Howard University Board of Trustees.

- 81% (paper) and 82% (electronic) Agreed and Strongly Agreed that excluding Assistant and Associate Deans from serving as Faculty Trustees would best ensure that the elected Faculty Trustee can provide a faculty perspective that enriches Board discussion and decision-making.
- 67% (paper) and 69% (electronic) Agreed and Strongly Agreed that excluding Assistant and Associate Deans from serving as Faculty Trustees would have a positive impact on the Board.
- 14% (paper) and 10% (electronic) Agreed and Strongly Agreed that Excluding Assistant and Associate Deans from serving as Faculty Trustees would have a negative impact on the Board.

The survey results were presented to the Secretary of the Board of Trustees in 2019. Despite the information gathered from the surveys, the Board determined that its initial ruling stands and Assistant and Associate Deans are considered eligible to serve as Faculty Trustees. During the 2019 Faculty Senate elections, the Council of the Faculty Senate voted against placing Assistant and Associate Deans on Senate ballots as nominees for Faculty Trustee because such action compromises the spirit of the position as it was created. Once again, the Board declared the Trustee election invalid and no Undergraduate Trustee was seated.

During the Spring 2020 Faculty Senate elections, the Board of Trustees interfered with the elections process causing confusion among faculty and potentially impacting voter participation as follows:

- In February 2020, it removed the Call for Nominations issued by the Faculty Senate and replaced it with a Revised Call for Nominations with changes to eligibility requirements for Graduate and Undergraduate Faculty Trustee nominees.
- In April 2020, it delayed the distribution of the Faculty Senate Spring 2020 Sample Ballot via HU Communications.
- In April 2020, it announced that Faculty and other Affiliate Trustee elections would be postponed indefinitely providing as its rationale, “the country is in a midst of an unprecedented global health crisis.”

The Council of the Faculty Senate informed the Board in April 2020 that it would conduct Spring elections for Faculty Trustee nominations as stipulated in the governing documents of both the Faculty Senate and the Board of Trustees. In addition, the Senate provided the Faculty Trustee nominations to the Board in July 2020. The Board simply acknowledged receipt of the nominees.

The actions taken by the Board of Trustees serve to diminish the voice of faculty in the shared governance of the University. A faculty perspective on research, academic priorities, financial matters, and other concerns is essential. The Council of the Faculty Senate views the Board’s actions to be imprudent. Accordingly, we submit this complaint.