

HANDBOOK
for
Massachusetts State College
Department Chairs

Prepared by the
Massachusetts State College Association
and the
Council of State College Presidents

Fall 2009

A Message to State College Department Chairs

This is the first edition of the Chair's *Handbook*. Although every attempt has been made to be comprehensive, you may find that certain sections can be improved with further clarification or explanation. We would appreciate your contacting us to let us know where you feel such additions should be made.

Once chairs have had a chance to use this *Handbook*, we plan to again survey you and produce a second edition.

We hope that you will find this *Handbook* to be helpful in meeting the challenges of your role as department chair.

With our best wishes for your success,

The Employee Relations Committee

MSCA

Christopher J. O'Donnell
President

Margaret Vaughan
Chair, Grievance Committee

Glenn Pavlicek
Treasurer

Council of Presidents

Michael Fiorentino
Vice President, Fitchburg

Bradley Lima
Vice President, Mass. Maritime

We wish to acknowledge the following for their part in making this *Handbook* a reality.

Patricia Markunas
Amie Marks Goodwin
Robert Martin
Stephen Green
Donna Sirutis
Mark Peters, Esq.

TABLE OF CONTENTS

INTRODUCTION	1
Some Advice on Maintaining Departmental Cohesion	2
OVERVIEW OF RESPONSIBILITIES	4
EVALUATIONS	5
Personnel Calendar	5
Terminology.....	5
Review Period.....	5
Evaluation Period.....	6
Review Year.....	6
Materials Used in Evaluations	6
Student Evaluations	7
Classroom Observations	9
Frequency of Evaluation.....	11
Criteria for Evaluations.....	12
Full-time Faculty.....	12
Part-time Faculty.....	12
Application of Criteria	12
Promotion and Tenure.....	13
DEPARTMENTAL ADMINISTRATION.....	14
Assignment of Faculty Work.....	14
Scheduling/Course Assignments	14
Faculty Workload.....	14
The Conduct of Departmental Business	14
Departmental Procedures	14
Attendance and Voting	15
Departmental Committees	15
Department Meetings.....	16
Recruitment of Faculty	17
Full-time faculty.....	17
Part-time faculty.....	17

CONDITIONS OF CHAIR’S APPOINTMENT	18
Selection of a Chair.....	18
Chair’s Workload and Compensation.....	18
Evaluation of Chair as Chair.....	18
Frequency of Evaluation.....	18
Peer Evaluation Committee	18
Chair as a Post-tenure Review Candidate.....	19
A Non-tenured Chair.....	19
Evaluation of Chair for Reappointment, Promotion or Tenure	19
CONFLICT RESOLUTION.....	20
Complaints against Faculty Members.....	20
Complaint Letters in the Official Personnel File	20
Union Representation.....	20
Privacy Rights.....	21
GRIEVANCES	22
APPENDIX 1 – 2009-2010 Personnel Calendar	23
APPENDIX 2 – September 1, 2009 “Eligibility” Memorandum	28
APPENDIX 3 – Handling of Anonymous Complaints.....	32
APPENDIX 4 – Procedures for Department Committees	34
APPENDIX 5 – Sample Departmental Procedures	35
APPENDIX 6 – Arbitrary, Capricious, Bad Faith.....	40

INTRODUCTION

It has been said that chairs are responsible for keeping all of the moving parts of an academic department running smoothly and efficiently. Chairs do more than that; within the institution as a whole they represent their departments and advocate for the department's faculty. These activities require more than skill – they require leadership. Chairs set the tone of a department and serve as role models, particularly for junior faculty. Nowhere is this more important than when conflicts arise.

It is, therefore, important that chairs have a good understanding of their rights, their duties and the procedures in place to provide direction and address conflict. Despite good efforts, problems do present themselves and it is one responsibility of a chair to help resolve them in a judicious and consistent manner. It is to everyone's benefit that chairs succeed. That is the goal of this *Handbook*.

The concept of this *Handbook* was first discussed at meetings of the Employee Relations Committee (ERC), a joint union-management committee established by Article II of the collective bargaining agreement. The ERC meets regularly to resolve problems that arise on campuses and to make plain aspects of the collective bargaining agreement that need clarification. Frequent requests from chairs for help in finding and interpreting information were the impetus for assembling these pages.

Numbers in brackets that you see throughout the *Handbook* are page numbers in the 2009-2012 collective bargaining agreement for the day bargaining unit.¹ The agreement is posted on the MSCA website at www.mscaunion.org. Questions can be directed to your chapter president, MTA Consultant Donna Sirutis or the MSCA President's Office.

In almost all respects this *Handbook* is a guide to and a summary of those provisions of the collective bargaining agreement that concern department chairs. This *Handbook* does not replace or modify the agreement. A working knowledge of the relevant provisions of the agreement will therefore be of particular importance to any chair's success.

Other documents relevant to chairs are referenced where applicable and are contained in the appendices of this *Handbook*.

¹ This *Handbook* does not address the role of a DGCE chair; DGCE chairs are not in the day or DGCE bargaining unit.

Some Advice on Maintaining Departmental Cohesion

We begin with some general advice. Since the department chair is central in establishing the culture of a department, a chair should model the behaviors that are desirable among members of a department. If a chair is inclusive, respectful, candid and consistent in his or her dealings with other members, then departmental cohesion and cooperation are more likely and fewer problems will arise. To this end:

1. Have a clear understanding of what the members of the department expect of you and make sure that they have a clear understanding of what you expect of them. Ensure that everyone has a part in establishing what those expectations are.
2. Ask members what they feel they need from you to succeed and do your best to work with them to meet their needs. Everyone should feel valued as a member of the department.
3. Follow all contractual and departmental procedures in both their letter and spirit, even if it feels like it is not important. Doing this consistently will prevent problems when it *is* important.
4. All elections should be conducted by written, secret ballot and not by a show of hands or voice vote. Follow this practice even if there is only one candidate.
5. Have regular department meetings with a published agenda to which everyone can contribute items in advance. Listen to what everyone has to say and refrain from interrupting others. Use a speaking list to avoid free-for-alls. Do not allow displays of disrespect at meetings. Allow everyone to have his or her say (once) and then move to a vote or the next item on the agenda. Pick your battles carefully; the fewer, the better.
6. Do not lead or join factions within the department. Listen to members' complaints about colleagues but do not reinforce quibbling. Whenever possible suggest that the members deal with problems directly with each other first, but be willing to mediate when appropriate. When conflicts occur be constructive and act to defuse the conflict. At all costs, resist the temptation to retaliate against members who did not support your positions on issues.
7. Involve everyone in the decision-making process even if you think you can predict the outcome. Inform all members of the department at the same time and in the same manner after decisions have been made.
8. Remember to treat all staff members as you do your department colleagues and make clear your expectation that your department colleagues do the same. Staff members are no less important to the smooth operation of the department than the members themselves. All employees should be respected and treated with dignity.

Communication is very important, but we offer a few words of caution.

It is important to keep the members of your department informed and engaged in the business of the department. Doing so helps to assure members that they are a part of the department and neither excluded nor marginalized. However, it is your responsibility, ultimately, to make certain decisions and to keep the department functioning smoothly.

While email is a fast and efficient way to communicate, it should not replace face-to-face meetings when such meetings are called for. An innocent sounding email or reply to someone who is upset about an issue may be misinterpreted and make the problem worse.

Sending a pointed email to an individual, copied to a broader audience, is usually intended to embarrass the individual. This is a recipe for disaster. Do not participate in such emails and ask members of the department to refrain from doing so. An appropriate way of dealing with these situations is for the individuals to speak with each other in person.

It is best to limit the use of email to items that are informational in nature or to electronically transfer documents that other members may want to edit or comment on while still in draft form.

Professional discussions that should remain confidential (*e.g.*, search committee deliberations, discussion of personnel actions, problems with students, grievance issues, *etc.*) should never be transmitted on campus-based email or via personal email accounts from a college-based computer. These communications should be conducted in face-to-face meetings, in writing or between personal email accounts from non-campus-based computers.

It is important to remember that because you are public employees, your emails, or a majority thereof, are considered public records.

OVERVIEW OF RESPONSIBILITIES

The responsibilities of chairs appear throughout the collective bargaining agreement. A core list is found in Article VI, Section A [59-60]. Below is an abbreviated version of that core list. Consult Article VI, Section A, for a complete description of these responsibilities.

Note: the chair is *not* responsible for determining if a faculty member may, consistently with the requirements of the State Ethics Statute, use his/her own textbook in a class. That decision lies with the president of the college or other managerial employee designated by the president.

1. Provide for the scheduling of courses and other departmental functions
2. Make recommendations regarding the curriculum
3. Assist in program reviews
4. Assist in the recruitment of faculty
5. Request supplies, equipment, library holdings, *etc.*
6. Maintain communication with students and faculty regarding departmental matters
7. Oversee advising; assign student advisees on fair and equitable basis; evaluate faculty with respect to the quality of advising
8. Conduct faculty evaluations
9. Advise faculty of the receipt of a substantial complaint
10. Seek to resolve student/faculty complaints and other intra-departmental disputes informally
11. Prepare annual and long-range academic and budgetary plans
12. Maintain an inventory of departmental equipment and develop long-range plans for its replacement
13. Meet with the Vice President, any appropriate dean or deans, department members, and departmental committees to coordinate activities
14. Make recommendations regarding class sizes
15. Supervise clerical and non-unit staff (If you have questions about any supervisory responsibilities, please consult Human Resources concerning relevant provisions of the AFSCME Agreement.)
16. Carry out other duties assigned by the Vice President

EVALUATIONS

Department chairs play a central role in the evaluation of faculty. Chairs both conduct evaluations and manage the evaluation process within the department.

Some general principles apply to the conduct of all evaluations:

1. No member of the bargaining unit shall serve on an evaluation committee or otherwise participate in the conduct of an evaluation if to do so would constitute a conflict of interest or the appearance of a conflict of interest [88].
2. All evaluators are bound to keep confidential all aspects of an evaluation [88].
3. Evaluations shall not include incidental observations [93].

The forms you will need to fill out during the evaluation process are appendices to the collective bargaining agreement. Most of these forms are posted in electronic form on the Bridgewater State College website at: http://www.bridgew.edu/fac_eval_forms/

Personnel Calendar

The deadlines for steps in the evaluation process are set forth in a Personnel Calendar (Appendix M in the Agreement) which is published annually. The Personnel Calendar for academic year 2009-2010 is included as Appendix 1 to this *Handbook*.

Terminology

Review Period

The review period is the period during which the work that is being evaluated was actually performed [92-93]. It may be as short as a single academic year or encompass many. The standard review periods are these:

1. Evaluation for annual tenure-track reappointments: the one-year period preceding the year in which the evaluation is conducted. These evaluations begin in the second year of a faculty member's service and so the first review period encompasses the first year of the faculty member's service.
2. Evaluation for tenure: the entire period of the faculty member's service at the College while on tenure track.
3. Evaluation for promotion:
 - a. If there has been a prior promotion, the entire period since the last promotion, including the "evaluation period" (described below) for that last promotion. For example, if a faculty member was last evaluated for promotion during academic year

2002-2003, was promoted with effect on September 1, 2003 and is now being evaluated for another promotion in 2009-2010, then the review period for this latest promotion *includes* academic year 2002-2003 and all ensuing academic years up to the point in the fall semester of academic year 2009-2010 at which he or she submits his or her materials.

- b. If there has been no prior promotion, the period since the faculty member's initial appointment to a tenure-track position.

During the conduct of any evaluation, it is permissible to consider a faculty member's performance during any prior review period. When evaluating a tenure-track faculty member for reappointment during his or her fourth year of service, for example, it is permissible to consider his or her performance, not just during the immediately preceding year, but during prior years as well.

In general, the review period ends when the evaluation itself begins, *i.e.*, when the candidate (for reappointment, promotion, tenure or post-tenure review) submits materials for the evaluation.

Evaluation Period

The evaluation period follows the review period; it is the period during which the evaluation itself takes place [93]. An evaluation period also begins (and falls within) the review period for the next evaluation.

Generally speaking, the documentary materials used in the conduct of an evaluation are materials that have been generated during the review period and must be submitted at the commencement of the evaluation period. A few materials that may not be available until the evaluation period has begun are nonetheless treated as falling within the review period. Classroom observations conducted during the fall semester of an evaluation period are the most important of these. The Student Instructional Report II (SIR II) reports for the previous spring may not arrive before the candidate submits materials. However, when they become available, the chair must include them in the materials for the evaluation already in progress, along with any written comments the candidate cares to include relative to them.

Review Year

One term in Article VIII-C, which deals with post-tenure review, may cause confusion. In Article VIII-C the term "review year" means the same thing as evaluation period in Article VIII [127]. Please note that post-tenure review will not be conducted during academic years 2009-2010 and 2010-2011.

Materials Used in Evaluations

A dossier of materials is the basis for every evaluation [94-102]. Certain of the materials the faculty member must submit; others the chair must assemble [104-105]. Among the materials

for which the chair is responsible, two – student evaluations and classroom observations – are described below.

Student Evaluations

In this section and the next (Classroom Observations), the term “faculty member” refers to both faculty and librarians who teach courses within your department.

Student evaluations shall be used when evaluating the teaching effectiveness of faculty members. They are to be used to the extent possible to “discern the pattern or patterns evidenced with reference to teaching effectiveness” [94, 99] and “shall be used giving due consideration to the number of courses and sections that were being taught” by the faculty member being evaluated [94, 99].

The chair must arrange for the administration of student evaluations.

A. Evaluation Instruments

1. Student evaluations of lecture and laboratory courses are administered using the SIR II instrument [Appendix C-3]; and in all such courses the faculty member must prepare the Instructor’s Cover Sheet [Appendix C-2].
2. In all other instructional settings student evaluations are administered using the Student Instructional Rating Form for Non-lecture and Non-laboratory Courses [Appendix C-4].
3. The college is responsible for administering the web-based version of SIR II to students enrolled in online courses.

B. Procedures for Administering Student Evaluations

1. Frequency

The department chair must obtain student evaluations before the end of each academic semester for:

- a. Full-time temporary and tenure-track faculty: in all sections of all courses.
- b. Tenured faculty: in one section of each type of course, unless the unit member, the chair or the Vice President has requested that student evaluations be given in additional sections or courses.
- c. Part-time faculty: in all sections of all courses.

2. Procedures

- a. The chair or his/her designee (not a student) must administer student evaluation forms at a time arranged in advance with the faculty member.
- b. No faculty member shall administer student evaluations in his/her own classes.
- c. Pursuant to the directions in Appendix C-1, the person administering the forms shall:
 - Explain the use of the forms,
 - Distribute forms to the students,
 - Indicate that written comments are prohibited,
 - Collect the completed forms,
 - Record on the Instructor's Cover Sheet the number of completed forms returned, and
 - Deliver the forms to the department chair (if a designee administered the forms), who shall transmit them to the Vice President.
 - Assure that none of the forms are altered or discarded after students have filled them out.
- d. The faculty member whose class is being evaluated shall not be present nor shall a summary of the results be made available to the faculty member until final grades for his/her classes have been submitted.

3. Miscellaneous Provisions

No faculty member shall be given a negative evaluation by sole reason of the fact that his/her student evaluations, as revealed in summary format, are less favorable than those of another member of the department. Moreover, no such comparison of faculty members in one department with those in another is allowed.

“No student evaluation... shall be published or conveyed to any person save in accordance with the provisions of [Article VIII], of Article II and of Article XVI.” [94, 99]

Because no student evaluations were administered at the time, the absence of student evaluations from the record for the following semesters shall not be considered either positively or negatively when evaluating a faculty member's teaching effectiveness [95-96, 101]:

- | | |
|---------------|---------------|
| • Fall 1999 | • Spring 2004 |
| • Spring 2000 | • Fall 2004 |
| • Fall 2000 | • Spring 2005 |
| • Fall 2003 | • Fall 2005 |

Since student evaluations of distance education courses may not have been administered prior to the spring semester of 2008, the absence of student evaluations from the record for such courses prior to the spring semester of 2008 shall not be considered either positively or negatively when evaluating a faculty member's teaching effectiveness [96, 101].

Due to technical difficulties student evaluations were not administered for distance education courses during the spring semester of 2008 at Fitchburg and Salem State Colleges. Therefore, the absence of student evaluations from the record for such courses prior to the fall semester of 2008 at these two colleges shall not be considered either positively or negatively when evaluating a faculty member's teaching effectiveness [96, 101].

Classroom Observations

Classroom observations must be conducted and incorporated into the evaluation record when evaluating the teaching effectiveness of faculty members.

The chair must conduct classroom observations in connection with each evaluation of a faculty member for reappointment, promotion, tenure or post-tenure review. A record of each classroom observation must be recorded on Appendix D-1(a) (classroom observation) or D-1(b) (an electronic observation) of the Agreement, as may be appropriate.

Frequency:

The frequency of the conduct of classroom observations and the courses/sections to be observed are given in the table below; see the Agreement for the specific language [96-98, full-time; 101-102, part-time].

Faculty Status and Personnel Action	Courses/Sections Observed²	Which Semester(s)?
First-year: reappointment	One section of each course.	Fall and Spring semesters.
Second-year: reappointment	One section of each type of course; no more than two observations.	Fall and Spring semesters.
Third-year: reappointment	One section of each type of course; no more than two observations.	Fall and Spring semesters.
Fourth-year: reappointment	One section of each type of course; no more than two observations.	Fall and Spring semesters.

² If the faculty member is teaching both distance education and in-class courses, one observation in each.

Fourth-year: promotion from Instructor to Assistant Professor	One section of each type of course; no more than two observations.	Fall and Spring semesters of fourth year (none in Spring if promotion denied prior to being conducted).
Fifth-year: reappointment (hired on or after 1-1-2006)	One section of each type of course; no more than two observations.	Fall and Spring semesters.
Fifth-year: tenure (hired before 1-1-2006)	One section of each type of course; no more than two observations.	Only Fall semester of fifth year, unless candidate for promotion evaluation the following year.
Sixth-year: tenure (hired on or after 1-1-2006)	One section of each type of course; no more than two observations.	Only Fall semester of sixth year, unless candidate for promotion evaluation the following year.
During any terminal year	None.	None.
Any other faculty member for promotion	One section of each type of course; no more than two observations.	Last Spring semester of review period (Fall semester of evaluation period if not done in the Spring).
Full-time temporary	One section of each type of course; no more than two observations.	First and third semesters.
Part-time	One section of each course.	The semester of an evaluation.
Post-tenure review	One observation only.	Fall semester of evaluation period.

Meetings with the Faculty Member:

The chair must meet with a full-time member of the faculty both before and after each classroom observation [97]. The chair need meet with a part-time member of the faculty only before each classroom observation [102], but a chair may meet after the classroom observation at the request of the either the faculty member or the chair.

It is recommended that the post-observation meeting include a review and discussion of the chair's draft D-1(a) or D-1(b) form. That way, the faculty member may provide clarifications or explanations before the final form is completed.

Frequency of Evaluation

A. Tenure-track faculty **hired on or before December 31, 2005** (five-year probation):

- For reappointment: annually by the chair and the Peer Evaluation Committee, starting in the second year of employment [91].
- For tenure: by the chair and, at the candidate's request or as required for faculty in social work [122], by the Peer Evaluation Committee in the fifth year of employment [106-107, 139]. The chair also serves as a consultant to the Committee on Tenure.

B. Tenure-track faculty **hired on or after January 1, 2006** (six-year probation):

- For reappointment: annually by the chair starting in the second year of employment [91], and by the Peer Evaluation Committee only in the second and fourth years of employment [139-140].
- For tenure: by the chair and, at the request of the candidate or as required for faculty in social work [122], by the Peer Evaluation Committee in the sixth year of employment [106-107, 139-140]. The chair also serves as a consultant to the Committee on Tenure.

Note: Faculty hired at the rank of Instructor may not remain at the rank of Instructor for more than five years. Prior to the beginning of his/her fifth year, an Instructor will be given written notice that he/she is to be promoted to the rank of Assistant Professor at the beginning of next year or that he/she is beginning a one-year terminal appointment [243-244]. This decision is based on a promotion evaluation conducted during the fourth year.

C. Tenure-track faculty **hired without tenure at the rank of Associate Professor or Professor** (three-year probation):

- For reappointment: by the chair and the Peer Evaluation Committee in the second year of employment [91].
- For tenure: by the chair and, at the request of the candidate or as required for faculty in social work [122], by the Peer Evaluation Committee in the third year of employment [140]. The chair also serves as a consultant to the Committee on Tenure.

D. Part-time faculty [92]

- First semester of employment
- Every sixth semester thereafter, or in the semester he/she teaches his/her 32nd credit (11th course at Framingham State), whichever is sooner
- Not more than once per academic year, unless required by the Vice President
- Vice President can require more frequent evaluations

E. Post-tenure review:

- First reviews under the new system will be during AY 2011-2012
- First eligible during the seventh year after tenure or the last post-tenure review, but post-tenure review is not compulsory
- Faculty member must give notice of candidacy to the Vice President by April 1st of the preceding academic year
- One classroom observation by the chair in the fall semester of the year of review
- No evaluation by the chair or Peer Evaluation Committee; the Vice President is the only evaluator

Criteria for Evaluations

Full-time Faculty [88-89]

- Teaching effectiveness
- Academic advising
- Continuing scholarship
- Other professional activities, *e.g.*, public service or college service
- Alternative professional responsibilities (Article XII, Section D), if any
- Additional criteria at the Maritime Academy (see Article VIII-A)

Part-time Faculty [90]

- Teaching effectiveness
- Academic advising of students they are assigned to teach
- Article XII obligations [185-186]

Application of Criteria

“In applying these criteria, regard shall be had to the fact that the State Colleges are primarily teaching institutions.” [89]

“The basis for every evaluation shall be professional quality demonstrated with reference to each of the applicable criteria.” [91]

Where the faculty member selects an activity or activities on Appendix A-1 under “continuing scholarship” or “professional activities,” only the activity or activities selected can be evaluated. For example, if the faculty member only selects “public service,” do not negatively judge the faculty member if there is no evidence of “contributions to the professional growth and development of the College community.”

Promotion and Tenure

Certain supplementary criteria apply when a faculty member is evaluated for promotion or tenure.

Promotion:

Whenever a faculty member is a candidate for promotion, he or she must, by September 1st of the evaluation period, either have fulfilled the requirements that pertain to the rank to which the promotion is sought [243] or be eligible to have those requirements waived under the so called “waiver clause” [241 (Section B)]. In the case of every promotion, the candidate’s overall performance must be judged “meritorious... as demonstrated by the candidate’s evaluations conducted in accordance with the provisions of Article VIII of the Agreement...” [242-243]

Tenure:

Whenever a faculty member is a candidate for tenure, the “President, before making recommendations to the Board, [must] have substantial evidence, determined through professional evaluation, that the candidate will be a constructive and significant contributor to the continuous development of high quality education in the institution. It is the responsibility of the candidate for tenure to produce such substantial evidence based on his/her prior academic and professional work.” [139]

DEPARTMENTAL ADMINISTRATION

Assignment of Faculty Work

Scheduling/Course Assignments

- The assignment of courses and schedules to each faculty member must take account of a series of considerations that are detailed at Section A(4)(a) of Article XII of the agreement; those provisions should be consulted when preparing schedules and making course assignments [189-190].
- Preliminary schedules must be distributed after consultation with faculty members [189].
- A final written schedule, which is subject to approval by the Vice President, must be provided to each faculty member [190].
- Only the Vice President can change a teaching schedule or cancel a class within thirty (30) days prior to the first day of classes in any semester [190].
- The department chair shall notify the chapter president of any changes in teaching schedules or course cancellations that occur within thirty (30) days of the beginning of an academic semester [191].

Faculty Workload

- No involuntary assignment is to be made after 4:30 p.m. or on Saturday or Sunday [187].
- The academic year runs from September 1 through May 31 (except when otherwise provided at the Maritime Academy) [187].
- Faculty may request special schedules for academic reasons [187].
- Assignments may be made on fewer than five days a week [186].
- A faculty member may not teach more than ninety-six (96) semester hours of credit of instruction during the four academic years 2008-2009 through 2011-2012 (24 courses at Framingham State); where that number is exceeded, adjustments must be made as promptly as practicable so that the contractual average is maintained over time [186].
- Compensatory adjustments for extraordinary workloads should be made as promptly as is practicable [200-201].

The Conduct of Departmental Business

Departmental Procedures

Each department must have in place certain written departmental procedures. These procedures must be published and made available to all department members. (See Appendices 4 and 5 of this *Handbook* for suggestions.) The procedures must address the following matters [67-68]:

- The selection process for department chair nominees [62]
- The membership and selection process for the Departmental Undergraduate Curriculum Committee [67]
- The membership and selection process for all departmental *ad hoc* committees [68]
- The membership and selection process for establishing search committees and conducting searches [68-69]

Attendance and Voting

- Part-time faculty have no obligation or entitlement to attend meetings, but may be permitted to attend when invited as a guest, if their input in a particular issue would be helpful; part-time faculty may not vote on any departmental matter [59].
- Full-time temporary faculty may not vote in any departmental election [59] but are otherwise entitled to participate in departmental affairs.
- Faculty on a leave of absence on a full-time basis relinquish the right to take part in campus activities, including voting privileges and participation in or attendance at departmental meetings [51].
- Only the following members may vote in department chair elections and only when not on a leave of absence on a full-time basis: full-time tenured and tenure-track faculty [60] and salaried part-time faculty at the Massachusetts College of Art and Design [14, 59].

Departmental Committees

- Undergraduate Curriculum Committee: Every department must have constituted an Undergraduate Curriculum Committee. The number and selection of faculty members is determined by written departmental procedures; membership includes the department chair and two students [67].
- Graduate Committee: Each department that sponsors a graduate program must constitute a Graduate Committee. Its membership consists of graduate faculty (as determined by the College President) within the department selected by the department chair; the chair of the committee is selected by majority vote of the committee members [68].
- Departmental *ad hoc* committees: *Ad hoc* committees may be established by the chair when needed; membership is determined by written departmental procedures [68].
- Search committees: Search committees are constituted at the request of the Vice President or the department chair [68-69]. If requested, search committees shall be constituted in accordance with written departmental procedures.
- Peer Evaluation Committee: Every department must constitute a Peer Evaluation Committee [121-122]. If the department has twelve or more full-time members and the Peer Evaluation Committee must conduct eight or more evaluations, then the department may, at its discretion, establish a second Peer Evaluation Committee [Appendix 2, 3].

- The chair is responsible for ensuring that the Peer Evaluation Committee is annually established no later than September 30.
- Composition: two tenured members must be elected by the department from the department; a third member may be selected in each case by the candidate from the department or from a cognate department (the selected member can serve on more than one Peer Evaluation Committee) [122].
- Elected members may be drawn from cognate department(s) when needed [122].
- Cognate departments are designated as such by the Vice President [4].

Department Meetings

The chair should establish a schedule of department meetings each semester or year. It is important for members of the department to meet in person and engage in conversations about department, school and college issues.

The chair (or his/her designee) serves as the presiding officer at department meetings. It is typically not necessary to adhere strictly to *Robert's Rules*; however, the presiding officer must maintain order and see to it that meetings are conducted efficiently and that the agenda is covered. To that end:

1. Ensure that everyone has the opportunity to be heard *on the subject under discussion*. You are not required to allow participants to repeat the same points or address themselves to extraneous matters. You should prevent meetings from becoming unfocused or repetitious.
2. Consistent with the item above, bring matters to a vote so that business can be accomplished and the meeting can proceed. Everyone benefits from an efficiently run meeting.
3. When bringing a matter to a vote, present a clear statement of the resolution or motion on which the members of the department are being asked to vote.

Summary of Departmental Meeting Attendance, Committee Service and Voting Rights

Type of appointment	May attend meetings?	May serve on committees?	May vote in elections?	May vote on non-election matters?
Tenured/tenure-track	Yes	Yes	Yes	Yes
Full-time temporary	Yes	Yes	No	Yes
Salaried part-time faculty (College of Art and Design)	Yes	Yes	Yes	Yes
Part-time clinical nursing instructors	Yes	Yes	No	No
Other part-time faculty	At dept's discretion	No	No	No

Recruitment of Faculty

Full-time faculty³

1. When requested by the Vice President or department chair, the recruitment of full-time faculty will involve the use of a search committee, which is to be constituted in accordance with written departmental procedures [68-69].
2. The chair remains separate from the search committee but can – and should – participate in the interviewing of candidates. The chair has access to all application materials submitted by candidates [68].
3. The committee’s recommendations are made to the chair [68].
4. The chair has the right to make independent recommendations [68].
5. The selection process must conform to Equal Employment Opportunity guidelines [69].
6. Applicants from within the bargaining unit who are full-time faculty or librarians have the right to have their names submitted to the college president if they have the minimum advertised qualifications for the position. If they are not less qualified than the most qualified outside applicant, they should be ranked as the top candidate (*i.e.*, given added consideration) [245].
7. The “Conflict of Interest Law,” M.G.L. Ch. 268A, §6, prohibits a person from participating in a search if he or she (in the case of a full-time temporary faculty member) or any family member or domestic partner intends to apply for the position since such a person would have a financial interest in the outcome of the search.
8. Full-time temporary faculty may hold their appointments as such for a maximum of four consecutive semesters. After four consecutive semesters they may be appointed to a tenure-track position or, before being eligible for an appointment to a new full-time temporary position, hold no more than a part-time position for one semester [244-245].

Part-time faculty

1. Part-time faculty recruitment is conducted or supervised by the chair [69].
2. In departments of six or more full-time faculty, no more than 15% of three-credit courses (20% at the Massachusetts College of Art and Design) may be taught by part-time faculty. Certain sections are exempted in the computation [247].
3. Persons not in the bargaining unit (other than non-unit part-time faculty) may not teach more than one credit-bearing course per academic year; the total number of courses that can be taught at a college by non-unit individuals is limited [201].

³ This includes salaried part-time faculty at the Massachusetts College of Art and Design and part-time Clinical Nursing Instructors.

CONDITIONS OF CHAIR'S APPOINTMENT

Selection of a Chair

- Election of a nominee takes place between February 1 and April 30 in the year the term of the current chair expires [61-62].
- Chair terms begin on July 1 and are three years in duration [61].
- Chairs of departments with five or more full-time members are limited to three consecutive three-year terms (nine consecutive years). They must then sit out one term (three years) before being eligible to be nominated for another term [61].
- For the purpose of determining if a term limit exists (see the preceding bullet), the number of full-time members in the department (excluding those on unpaid leave on a full-time basis) is calculated as of February 1 of the semester in which the election is to take place [61].

Chair's Workload and Compensation

- The chair stipend for AY 2009-2010 is \$1685 per semester [66].
- A chair's work year includes ten days outside the academic year as determined by the President. Those ten days must fall within fifteen days after the end of an academic year or fifteen days prior to the start of an academic year or both. Notice of their scheduling must be given by April 15th of each academic year [66].
- A chair's minimum teaching workload reduction is based on the full-time equivalent (FTE) faculty count in the department as of the previous October 1st [65].
- A chair's responsibilities may be discharged by the Vice President if the chair is not available [60].

Evaluation of Chair as Chair

The chair's performance as chair is evaluated periodically.

Frequency of Evaluation

- First term as chair – during the second and third years [114]
- Each subsequent consecutive term – during the third year [114]

Peer Evaluation Committee

- In conducting its evaluation, the committee solicits comments from all members of the department [114]
- The committee records its evaluation on Appendix D-4

Chair as a Post-tenure Review Candidate

- When undergoing a review, the chair may not conduct classroom observations of any other post-tenure review candidate or serve as a consultant to the Vice President about any other post-tenure review candidate [127].
- In that circumstance, the tenured members of the department must elect one from among themselves to serve in the capacity of chair for all of the post-tenure reviews in the department [127].

A Non-tenured Chair

- A non-tenured chair may not evaluate a candidate for tenure or serve as a consultant to a Committee on Tenure [107].
- In that circumstance, the tenured members of the department must elect one from among themselves to serve in the capacity of chair for all of the tenure evaluations in the department [108].

Evaluation of Chair for Reappointment, Promotion or Tenure

The evaluation procedure follows those for faculty being evaluated for the same personnel action except that there is no evaluation by a chair. The first evaluation in the evaluation process is therefore conducted by the Peer Evaluation Committee. Evaluations of the chair as chair (see above) are a part of the record used in any evaluation of the chair for reappointment, promotion or tenure.

CONFLICT RESOLUTION

Complaints against Faculty Members

Chairs are usually the first recipients of complaints against faculty members in their department.

The first thing to ascertain about a complaint is whether the complainant wishes to remain anonymous to the faculty member.

If so, no action can be taken regarding the faculty member based on the complaint (see Appendix 3). This would include changing a grade, removing a student from the faculty member's class, or referencing the complaint in an evaluation of the faculty member.

However, if the chair believes that the complaint is substantial and may affect the faculty member's employment status, the chair must advise the faculty member of the receipt of the complaint [59]. This is required even if the complainant is to remain anonymous. In the latter case, the faculty member should be informed about the complaint in such a way as to protect the complainant's anonymity and the faculty member should be assured that no action will be taken as long as the complainant remains anonymous. Sometimes, just knowing of a complaint can resolve a problem before it becomes compounded by repetition.

The chair is expected to seek, "where appropriate," to resolve complaints informally. While this is a matter for the chair's discretion, the decision about what is appropriate should favor attempts to resolve complaints.

"Resolving informally" means that it needs to be made clear to both the complainant and the faculty member that the process is "off the record" and confidential. Statements made by the complainant, the faculty member, the chair or any other participant cannot be used outside the resolution process, whether in casual conversations, evaluations or in forums for adjudication. The purpose of an informal resolution process is to encourage cooperation and conciliation. This purpose is defeated if the "informal resolution" process is actually an investigation that could lead to negative consequences for either the faculty member or the complainant.

Complaint Letters in the Official Personnel File

The chair is not permitted to place documents in a faculty member's Official Personnel File [7, 236]. Only the College administration is authorized to do so.

Union Representation

The Massachusetts collective bargaining law, M.G.L. Chapter 150E, as interpreted by the Massachusetts Labor Relations Commission (now known as the Massachusetts Division of Labor Relations), grants public sector unionized employees what are called *Weingarten* rights. *Weingarten* permits an employee to have a union representative in a meeting at which the employee is being investigated if the employee reasonably believes that the investigation could

lead to discipline. In such situations, the union representative may participate in the meeting, but cannot interfere with the conduct of the meeting or speak in the faculty member's stead.

If the chair is engaged in an informal resolution discussion with a faculty member, this is – as indicated above – not an investigation that could lead to discipline. It is outside the investigation process. Therefore the faculty member does not have *Weingarten* rights to a union representative during informal resolution discussions with a chair.

Even though the faculty member does not have a right to a union representative in such situations, the following considerations may be reason to permit the presence of a union representative when discussing an informal resolution with a faculty member.

- The faculty member may be traumatized by the idea of a complaint and the presence of a union representative is reassuring.
- The union representative has had some experience or training in dealing with complaints against faculty and can bring an outside perspective to the problem.
- The union representative can help maintain calm and knows when to ask for a brief break if emotions are getting too intense.

Whether you do or do not permit a union representative to participate in an informal resolution discussion is entirely within your discretion. In no event, however, is the faculty member to be penalized in any way for requesting union representation.

Privacy Rights

Certain information that Department Chairs may be privy to is confidential. Examples are:

- Student educational records, pursuant to the Family Education Rights and Privacy Act (“FERPA”).
- Personnel information, such as evaluations or employee disciplinary matters.
- The names of unit members bringing grievances under the collective bargaining agreement.

Check with Academic Affairs about whether and to whom information can be disclosed.

GRIEVANCES

You may find that a faculty member files a grievance challenging something you have done as department chair, such as an evaluation, a scheduling decision or how you have handled a complaint. When this happens, the faculty member may be represented by the MSCA. You would be represented by the college's administration.

Occasionally, a chair files a grievance when there is a question of the chair's contractual rights. For example, if you believe you did not receive the correct instructional release time or chair stipend, you would have the right to file a grievance. In such a situation you would have the right to be represented by the MSCA.

The most frequent grievances involving department chairs concern evaluations. These may concern your exercise of academic judgment. It is important that the statements you make in evaluating faculty not be arbitrary, capricious or in bad faith. Evaluations have been the subject of grievances by faculty and arbitrators have issued decisions addressing what is meant by "arbitrary or capricious" and "bad faith." Appendix 6 of this *Handbook* contains excerpts from arbitrators' decisions on this subject.

The best way to avoid grievances concerning evaluations is to follow the contractual procedures with care and to base the academic judgments that are called for on the relevant contractual criteria only.

APPENDIX 1 – 2009-2010 Personnel Calendar

All actions must be taken no later than the dates indicated. Deadlines falling on a Saturday, Sunday or holiday are moved to the next business day.

Evaluation of Full-time Unit Members¹

Evaluation of Alternative Professional Responsibilities done pursuant to Article XII, §D, shall be completed no later than thirty (30) days after the end of the semester in which the APR is undertaken.

REAPPOINTMENTS

<u>Action Required</u>	<u>During First Year*</u>	<u>During Second Year³</u>	<u>During Third or Later⁹ Years³</u>
Classroom observations by Chair ²	11/13	(See Note 3)	(See Note 3)
Candidate submits materials ⁴	N.A.	9/15	9/15
Classroom observations by Peer Evaluation Committee ⁵	N.A.	10/2	10/16
Evaluation by Peer Evaluation Committee ⁵ (Transmit to candidate who has 10 calendar days from receipt to respond.)	N.A.	10/9	10/30
Peer Evaluation Committee transmits to Chair	N.A.	10/23	11/12
Evaluation by Chair (Transmit to candidate who has 10 calendar days from receipt to respond.)	N.A.	10/30	11/23
Chair transmits recommendation to Vice President ²	N.A.	11/12	12/4
Evaluation by Vice President (Transmit to candidate who has 7 calendar days from receipt to respond.)	N.A.	11/24	1/8
Vice President transmits recommendation to President	2/16	12/3	1/19
Non-renewal notification deadlines	3/15	1/15	9/1 of final year

***Including unit members hired in the preceding Spring and Summer.**

PROMOTION

Action Required³

Classroom observations by Chair – See Note 3	
Candidate submits materials ⁴	9/15
Classroom observations by Peer Evaluation Committee ⁵	10/23
Evaluation by Peer Evaluation Committee (Transmit to candidate who has 10 calendar days from receipt to respond.)	10/30
Peer Evaluation Committee transmits to Chair	11/12
Evaluation by Chair (Transmit to candidate who has 10 calendar days from receipt to respond.)	11/30
Chair transmits to Committee on Promotions ⁶ via VP	12/11
Committee on Promotions recommends to VP (initial)	1/29
Committee on Promotions recommends to VP (final)	2/12
Evaluation/recommendation of VP (Transmit to candidate who has 7 calendar days from receipt to respond.)	2/26
Vice President transmits recommendation to President	3/8
President recommends to Trustees	3/22

TENURE

Action Required³

Classroom observations by Chair – See Note 3	
Candidate submits materials ⁴	9/15
Evaluation by Chair (Transmit to candidate who has 10 calendar days from receipt to respond.)	10/2
Chair transmits to next step	10/15
Evaluation by Peer Evaluation Committee ⁵ (Only if requested ⁷ , transmit to candidate who has 7 calendar days from receipt to respond.)	11/6
PEC transmits to Committee on Tenure via VP	11/16
Evaluation/recommendation by Committee on Tenure ⁸ (Transmit to candidate who has 7 calendar days from receipt to respond.)	1/29
Committee on Tenure transmits to VP	2/8
Evaluation/recommendation of VP (Transmit to candidate who has 7 calendar days from receipt to respond.)	2/22
VP transmits recommendation to President	3/2
President recommends to Trustees	3/16

SABBATICAL LEAVE

Action Required

Candidate submits proposal to Chair	10/1
Chair recommends to Vice President	10/9
Vice President recommends to President	10/30
President recommends to Trustees	11/13

DEPARTMENT CHAIR EVALUATION AS CHAIR

Action Required

Receipt of comments from department by Peer Evaluation Committee	11/13
Evaluation by Peer Evaluation Committee (Transmit to candidate who has 10 calendar days from receipt to respond.)	12/1
Peer Evaluation Committee transmits to Vice President	12/14

NOTES:

1. Includes salaried part-time faculty at the College of Art and Design and Clinical Nursing Instructors; for librarians the classroom observations are replaced with director observations.
2. For first year reappointment candidates, Chair will complete classroom observation process and transmit Appendix D-1(a) to Vice President by 11/13/09.
3. Candidates for these actions as well as for promotion and/or tenure should notify chairs by April 1st of the preceding year so that classroom observations may be conducted, if possible, during the spring semester preceding the evaluation period. If classroom observations are not possible in the spring, they should be conducted in the fall during the evaluation period, no later than two (2) weeks before the Chair's evaluation is due.
4. Appendix A-1 or A-2, as appropriate, is submitted by the unit member at the same time as the unit member submits other materials.
5. Peer Evaluation Committees must be formed no later than 9/30/09.
6. The Committee on Promotions must be formed no later than 9/30/09.
7. For faculty at the Salem School of Social Work, Westfield Program in Social Work and Bridgewater Master of Social Work Program, evaluation by the Peer Evaluation Committee is mandatory.
8. The Committee on Tenure should be formed no later than 10/31/09.
9. For full-time members hired after 12/31/05, the Peer Evaluation Committee conducts an evaluation (including classroom observations) for reappointment only during the second and fourth years.

Evaluation of Part-Time Faculty

(Exclusive of salaried part-time faculty at the College of Art and Design and Clinical Nursing Instructors)

**All actions must be taken no later than the dates indicated.
Deadlines falling on a Saturday, Sunday or holiday are moved to the next business day.**

Fall Semester, 2009

Candidate submits material	9/15
Evaluation by Chair, including classroom observation(s) (Transmit to candidate who has 10 calendar days from receipt to respond.)	11/20
Chair transmits to Vice President	12/4

Spring Semester, 2010

Candidate submits material	1/29*
Evaluation by Chair, including classroom observation(s) (Transmit to candidate who has 10 calendar days from receipt to respond.)	4/5
Chair transmits to Vice President	4/20

*** At the Maritime Academy, the second Friday of the Spring Semester.**

**SUPPLEMENT TO APPENDIX M (AY 2009-2010)
CANDIDATES APPLYING FOR BOTH PROMOTION AND TENURE**

All actions must be taken no later than the dates indicated.

Deadlines falling on a Saturday, Sunday or holiday are moved to the next business day.

- **The tenure-promotion portfolio is to be maintained in the Office of Academic Affairs.**
- **Promotion evaluations and responses are to be transmitted separately from tenure evaluations and responses.**
- **Footnotes 3 – 9 of Appendix M-I apply.**

Action Required

Classroom observations by Chair	(See Note 3)
Candidate submits materials for promotion and tenure	9/15
Chair evaluation for tenure (Transmit to candidate who has 10 calendar days from receipt to respond and/or request PEC.)	10/2
Chair transmits tenure evaluation and response to next step	10/15
Classroom observations by PEC (regarding promotion)	10/23
Promotion evaluation by PEC (Transmit to candidate who has 10 calendar days from receipt to respond and/or request PEC.)	10/30
Tenure evaluation by PEC (If requested; transmit to candidate who has 7 calendar days from receipt to respond and/or request PEC.)	11/6
PEC transmits promotion evaluation to Chair	11/12
PEC transmits tenure evaluation to Committee on Tenure through Vice President	11/16
Promotion evaluation by Chair (Transmit to candidate who has 10 calendar days from receipt to respond.)	11/30
Chair transmits promotion evaluation to COP through Vice President	12/11
Evaluation by Committee on Tenure (Transmit to candidate who has 7 calendar days from receipt to respond.)	1/29
Committee on Promotions transmits initial promotion evaluation to Vice President	2/5
Committee on Tenure transmits tenure evaluation to Vice President	2/8
Committee on Promotions transmits final promotion evaluation to Vice President	2/12
Tenure evaluation and promotion evaluation by Vice President (Transmit to candidate who has 7 calendar days from receipt to respond.)	2/19
Vice President transmits tenure evaluation and promotion evaluation to President	3/1
President recommends to Trustees	3/15

APPENDIX 2 – September 1, 2009 “Eligibility” Memorandum

**MEMORANDUM OF UNDERSTANDING
Concerning
ELIGIBILITY FOR MEMBERSHIP ON EVALUATION COMMITTEES
Under the
BHE/MSCA COLLECTIVE BARGAINING AGREEMENT**

A. General Rules

1. Tenure

Only persons who hold tenure are eligible to serve on evaluation committees. A non-tenured department chair is thereby disqualified from serving as consultant to a Committee on Tenure.

2. Leaves of Absence; Partial Year of Employment

Except as described in paragraphs (a), (b) and (c), (i) any person who is or will be on a scheduled leave of absence (e.g., for a sabbatical) or an anticipated leave (e.g., for a long-term illness) for an academic semester or longer, and (ii) any person who will, or is expected to, be employed for no more than a single academic semester is, in any such case, disqualified from serving on any evaluation committee during the academic year (or years) in which the leave or the partial year of employment occurs.

- a. A person who will be on a leave of absence during the spring semester of an academic year is not disqualified from serving on an evaluation committee if the work of the committee will have been completed prior to the end of the preceding fall semester.
- b. A person who is on a partial sick leave (i.e., someone whose full-time employment consists of part-time sick leave in conjunction with part-time employment) is not thereby disqualified from serving on any evaluation committee.
- c. A person whose partial year of employment will encompass the whole of the fall semester of an academic year is not disqualified from serving on an evaluation committee if the work of the committee will have been completed prior to the end of that fall semester.

3. Conflicts

No one is permitted to evaluate someone who is or will be evaluating him or her in the same academic year (this rule informs many of the particular rules that are set out below).

No unit member may serve on his/her own evaluation committee. No member of the bargaining unit shall serve on an evaluation committee or otherwise participate in the conduct of an evaluation if to do so would constitute a conflict of interest or the appearance of a conflict of interest. No unit member, for example, shall participate in the evaluation of his or her spouse or domestic partner.

4. Dual Roles

No member of the bargaining unit who is a candidate for a particular personnel action should be twice evaluated for that personnel action by another individual member of the bargaining unit; this rule does not prohibit department chairs from both evaluating candidates for tenure in the manner required by the Agreement and serving as consultants to the Committee on Tenure.

B. Departmental Peer Evaluation Committee

1. General Rules of Eligibility

Subject to the rules of disqualification that are set out below, only the following members of the bargaining unit are eligible to serve as members of Departmental Peer Evaluation Committees:

- a. only persons who hold tenure (at any rank); and
- b.
 - i. in the case of the two members selected by the Department/Library, only persons who are members of the Department/Library or (but only absent a sufficient number of eligible members from within the Department/Library) persons who are members of a cognate department; and
 - ii. in the case of the single member selected by the person to be evaluated, only someone who is a member either of the Department/Library or of a cognate department.

2. Rules of Disqualification

Even if otherwise eligible to serve on Departmental Peer Evaluation Committees, the following members of the bargaining unit are disqualified from doing so:

- a. the chair of any Department;

- b. any candidate for promotion;
- c. if the Peer Evaluation Committee is evaluating a candidate for promotion, any member of the Committee on Promotions; and
- d. any person undergoing post-tenure review, but only for evaluations of a department chair who will be conducting a classroom observation of that person that year.

3. Conduct of Classroom Observations

Whether members of the Peer Evaluation Committee conduct classroom observations in the fall or spring semester, the members of the Committee must be eligible to serve on it during the semester in which the observations take place. The Peer Evaluation Committee established in the preceding fall semester must conduct any classroom observations that occur during the spring semester.

4. Number of Committees

If in a department with twelve or more full-time members, eight or more evaluations are required to be conducted by the Peer Evaluation Committee (for reappointments, promotions or tenure) in any academic year, the department may, at its discretion, establish two peer evaluation committees (but not more), and in that event the persons to be evaluated by each committee should be assigned by lot.

C. Committee on Promotions

1. General Rules of Eligibility

Subject to the rules of disqualification that are set out below, only the following members of the bargaining unit are eligible to serve as members of the Committee on Promotions:

- a. only persons who hold tenure; and
- b. only persons who hold one of the following ranks:
 - Professor;
 - Associate Professor;
 - Senior Librarian;
 - Librarian, or
 - Associate Librarian.

2. Rules of Disqualification

Even if otherwise eligible to serve on the Committee on Promotions, the following members of the bargaining unit are disqualified from doing so:

- a. the chair of any Department;
- b. any candidate for promotion;
- c. the standing members of the Committee on Tenure; and
- d. any person undergoing post-tenure review whenever his or her department chair is a candidate for promotion.

3. Departmental Limits

No more than one person from any one department or from the Library can serve on the Committee on Promotions.

D. Committee on Tenure

1. General Rules of Eligibility

Subject to the rules of disqualification that are set out below, only members of the bargaining unit who hold tenure are eligible to serve as members of the Committee on Tenure. A department chair who lacks tenure is, therefore, disqualified from serving as a consultant to a Committee on Tenure.

2. Rules of Disqualification

Even if otherwise eligible to serve on the Committee on Tenure, the chair of any Department is disqualified from doing so except as a consultant to the Committee. Nor can any member of the Committee on Promotions serve as the ad hoc member of the Committee if the candidate for tenure is also a candidate for promotion.

3. Departmental Limits

No more than one person from any one department or from the Library can serve as a standing member of the Committee on Tenure.

APPENDIX 3 – Handling of Anonymous Complaints

Policy on Handling Anonymous Complaints

The Board of Higher Education, acting by the Council of State College Presidents (“the Board”), and the Massachusetts Teachers Association, acting by the Massachusetts State College Association (“the Association”), agrees as follows:

1. The administration of each College shall not take adverse action against any unit member on the basis of anonymous complaints, including complaints where the complaining individual is known but does not want his or her identity disclosed, whether such complaints are made orally or in writing, unless the unit member agrees to the action; no record of any action so taken shall be placed in the unit member’s personnel file or used in connection with the making of any decision under Article VIII, VIII-A, VIII-B, VIII-C, IX, XII, XII-A, XII-B, XIII, XX or XX-A of the parties’ collective bargaining agreement.
2. Adverse action means any administrative action based on a suspicion, belief or conclusion of inappropriate conduct or wrongdoing by a unit member.
3. This agreement does not prohibit the administration from orally informing the unit member of the fact that such a complaint has been made and disclosing the nature and substance of the complaint; nor does it prohibit the administration from informing any member of the bargaining unit concerning his or her legal obligations.
4. This policy is consistent with and not limited by the attached Memorandum of Agreement made the 3rd day of December 1996.
5. Nothing in this Policy governs the manner in which complaints that are not anonymous may be used or dealt with.
6. Annually, during the month of September, each College shall distribute this Policy and the attached Memorandum of Agreement to each of the following persons: the Vice President for Academic Affairs, all Deans who hold academic positions, including all School Deans and/or Directors, the Library Director, and all Department Chairs.

COUNCIL OF PRESIDENTS

MASSACHUSETTS STATE COLLEGE
ASSOCIATION

By: /s/ Mark Peters

By: /s/ Donna Sirutis

Attachment: 12/3/96 Memorandum of Agreement

MEMORANDUM OF AGREEMENT

This Memorandum of Agreement is made this 3rd day of December, 1996, by and between the Board of Higher Education, acting by the Council of State College Presidents (the “Board”), and the Massachusetts Teachers Association, acting by the Massachusetts State College Association (the “Association”).

WHEREAS the Board and the Association are parties to a collective bargaining agreement (the “Agreement”) that was made between them as of July 1, 1995; and

WHEREAS the Board and the Association wish to clarify certain matters pertaining to complaints should students make them about one or another member of the bargaining unit to which the Agreement is of application;

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants set forth below, the Board and the Association hereby agree as follows:

1. The parties recognize and agree that the chair of an academic department has the discretion to make known to a member of the faculty the nature and substance of a complaint that a student, whose identity is known to the chair, has made about such member of the faculty, and the chair may do so without disclosing the identity of the student making such complaint whenever the student has not authorized the disclosure of his or her identity.

2. Only if a student, by a signed writing, authorizes the disclosure of his or her identity to a member of the faculty about whom he or she has made a complaint, may such complaint be used in connection with the evaluation of such faculty member pursuant to Articles VIII, IX and XX of the Agreement or, pursuant to Article XVI of the Agreement, be recorded in such faculty member’s personnel file as a part of or in connection with any statement of concern or discipline that is contained in official personnel correspondence.

WHEREFORE the parties hereto hereunder set their signs and seals on the dates inscribed below.

COUNCIL OF PRESIDENTS

MASSACHUSETTS STATE COLLEGE
ASSOCIATION

By: /s/ Thomas Aceto
Chair

By: /s/ Frederick M. Doherty

APPENDIX 4 – Procedures for Department Committees

Department: _____ College: _____

- I. Departmental Undergraduate Curriculum Committee
 - A. Describe the membership
 1. Indicate the number of members
 - a. Department chair must serve as member
 - b. Committee must contain at least two students
 2. Describe procedure for selecting faculty members (include length of term)
 3. Describe procedure for selecting student members (include length of term)
 - B. Describe process for identifying a committee chair
 - C. Duties and responsibilities per Article VI, Section H(1)
 - D. Committee recommends to appropriate governance body via department chair

- II. Departmental Graduate Committee (if applicable)
 - A. Description of membership
 1. Graduate faculty only
 2. Number of members determined by department chair
 3. Members appointed by department chair
 - B. Committee chair (selected by majority vote of the committee)
 - C. Duties and responsibilities per Article VI, Section H(1)
 - D. Committee recommends to the graduate dean via department chair

- III. Other Standing Committees
 - A. Describe the membership (faculty and students)
 - B. Describe procedure for selecting members (include length of term)
 - C. Describe duties and responsibilities
 - D. Describe procedure for identifying committee chair

- IV. Departmental *Ad Hoc* Committees
 - A. Established by department chair
 - B. Describe the membership (faculty and students)
 - C. Describe procedure for selecting members
 - D. Describe procedure for identifying committee chair

- V. Search Committees
 - A. Established at request of Vice President or department chair
 - B. Describe the membership (include length of term)
 - C. Describe procedure for selecting members
 - D. Describe procedure for identifying committee chair
 - E. Search committee reports through the department chair

APPENDIX 5 – Sample Departmental Procedures

Conduct of Department Meetings

1. The department chair is the presiding officer. If the chair is unavailable and the meeting must be held, the members present should elect a chair *pro tem*. It is the responsibility of the presiding officer to maintain order at the meeting, including adherence to the agenda, use of proper motions and establishment of a speaker's order for all discussions.
2. A schedule of departmental meetings for the semester should be established by the chair at the beginning of each semester and distributed to all department members. Meetings should take place between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. Meetings should be scheduled to maximize participation (*i.e.*, avoid days and times when a large number of members have a scheduled class). If there is insufficient business or the chair knows a quorum cannot be attained, the meeting may be canceled at the discretion of the chair.
3. At the chair's discretion, special meetings of the department may be called in order to make decisions which cannot be postponed until a regularly scheduled department meeting. The specific agenda and the reason for the special meeting must be given to all members of the department. Notification must be given at least two (2) working days in advance of the special meeting. Department members should be contacted via their home telephone number; additional notification via e-mail, office telephone numbers and written memoranda may also occur.
4. A written agenda, with all items and proposals to be considered, shall be distributed to all members of department at least three (3) working days in advance of the meeting. The members present at the meeting may vote to change the order of agenda items. Members of the department may submit items for the agenda to the chair at least five (5) working days prior to the meeting or from the floor at the meeting.
5. A quorum is a majority of the eligible voting members of the department. Part-time faculty and faculty on any leave of absence on a full-time basis are not eligible to attend department meetings. If a quorum is not present, discussion may occur but no votes may be taken.
6. Voting is by a show of hands or a voice vote. Secret ballots shall be used when individuals are being elected to a position (chair, committee appointments, *etc.*) Votes by mail or email may be allowed when proposals have been submitted to all department members ahead of time. Proxy voting is not permitted under any circumstances.

In accordance with Robert's Rules, a majority vote is a majority of the votes cast when a quorum is present; abstentions are not votes.

7. Minutes shall be taken by a secretary *pro tem* appointed by the chair for the term of the meeting; such appointments should rotate among department members. Minutes will include the names of members present, motions adopted or not adopted, reports and

announcements. Unless points are made in discussion which clarify the motion or actions to be taken, discussion of motions are not summarized in the minutes. Minutes shall be signed by the secretary *pro tem* and distributed to all department members within ten (10) working days after the meeting. Minutes must be approved at subsequent department meeting.

8. If the chair deems it necessary, and no member of the department objects, voting on a specific issue that would otherwise need to be handled via a special department meeting may be conducted via email or telephone so long the issue is not one in respect of which confidentially is a concern.
9. The chair is authorized to make decisions on an emergency basis. The chair should notify the department members of any such emergency decisions as soon as practicable. Such notice might appropriately be given via home telephone.
10. Non-voting guests (including part-time and full-time faculty and faculty on a leave of absence on a full-time basis, such as a sabbatical leave) may attend meetings at the invitation of the chair or by majority vote of the members present at any meeting.

Recruitment of Full-time Faculty

I. General Provisions

The procedures for the recruitment of all faculty in the department shall conform to applicable Affirmative Action/Equal Employment Opportunity guidelines of the College, state and federal law and the BHE/MTA collective bargaining agreement.

These procedures shall only apply to the recruitment of full-time faculty, whether tenure-track or temporary, when either the Vice President for Academic Affairs or the department chair has requested that the department assistance in the recruitment for the position. The hiring of part-time faculty is conducted under the auspices of the department chair. The chair may request assistance in the hiring of part-time faculty.

These procedures may be amended by a majority vote at a department meeting.

II. Job Descriptions

The department chair shall call a meeting of the department to discuss the job description. The department chair shall then submit a written proposed job description for the approval of the department members at least ten (10) working days prior to the deadline for submission to the administration.

If the department fails to approve a job description at the end of the meeting the chair may call further meetings for the purpose of discussing the job description or submit his/her own job description to the administration. Copies of any such submission shall be provided to the members of the department.

III. Search Committees

Once the job description has been approved for advertisement by the administration, a search committee shall be formed, the size of which shall be determined by the department chair. Members of the department may submit their names for nomination to search committees. If more members are nominated than are required on the committee, then an election shall take place. Members of the department shall vote by secret ballot and the department chair shall tally the votes.

Once constituted, the search committee shall elect its own chair. The search committee chair shall be responsible for communication with the members of the department, the department chair and the administration. The search committee chair shall ensure that the committee adheres to all procedures.

In compliance with appropriate college and collective bargaining requirements, the search committee shall devise its own method of reviewing job applicants, identifying those applicants to be interviewed, and gathering feedback regarding interviewed candidates from members of the department.

Only full-time⁴ members of the MSCA bargaining unit are entitled to the “added consideration” provisions contained in Article XX of the BHE/MTA agreement.

IV. Interviewing Candidates

All members of the department, including the department chair, shall be invited to participate in on-campus interviews with all candidates to be interviewed. Copies of applicant materials shall be made available to members of the department prior to interviews, if possible.

V. The Role of the Department Chair

The search committee shall recommend, simultaneously and in writing, the names of finalists to the department chair and the Affirmative Action/Equal Employment Opportunity Officer, in accordance with college procedures. The department chair shall then meet with the search committee to discuss the relative strengths and weaknesses of each finalist.

When the department chair has prepared his/her recommendation regarding which candidate(s) should be offered the position, the department chair shall communicate that recommendation, in writing, to all members of the search committee at least five (5) working days prior to submitting the chair’s and committee’s recommendation(s) to the administration.

At the request of either the search committee or the department chair, another meeting shall be held to discuss the chair’s and/or committee’s recommendation(s).

⁴ This includes salaried part-time faculty at the Massachusetts College of Art and Design and part-time Clinical Nursing Instructors.

VI. Notification Procedures

After the administration has informed the department chair that an applicant has accepted an offer of employment, then, within ten (10) working days thereafter, he/she shall inform the members of the department in writing of the name of the successful candidate.

Upon the conclusion of the search, the search committee chair or designee shall notify all other candidates that the search has concluded. If for any reason a search fails, then the department chair shall notify the members of the department in writing as soon as practicable.

Departmental Committees

I. Eligibility

Unless precluded from serving by contractual or statutory provisions, all full-time members of the department who are not on a leave of absence on a full-time basis are eligible to serve on departmental committees.

II. Nominations

Unless otherwise specified by contractual or statutory provisions, the department chair shall determine the number of members to serve on a committee and, if applicable, the number of student members.

Departmental Membership

The department chair shall request nominations for all committees in writing at least five (5) working days before nominations are to close. Members may nominate themselves; members shall not nominate others without the express consent of the other person.

Student Membership

Whenever appropriate or required contractually, students shall be appointed to serve on departmental committees. Unless otherwise specified, student nominees shall be full-time, matriculated students majoring in a major offered by the department. In all cases student members must be in good academic standing.

The chair shall solicit from members of the department the names of student nominees. Members may submit names of student nominees after obtaining permission from the student to be nominated; such nominations shall be in writing. The chair shall then appoint the requisite number of students to the appropriate committee and inform all members of the department of these appointments in writing.

III. Election

The tenured and tenure-track members of the department eligible to vote in a departmental election shall elect the members of committees.

The department chair shall distribute to eligible voting members a ballot listing the names of all nominees. This ballot shall be clearly labeled as such and shall not include any other departmental communications. Ballots shall include the specific date, time and place for their return. At least five (5) working days shall be given for return of ballots. A receipt shall be given to voters when the ballot is returned.

Election shall be by plurality. Tie votes will require a run-off election. The ballot shall list only the names of the tied nominees.

IV. Voting

All members of a committee are eligible to vote on business items. Only tenured and tenure-track members of the department are eligible to vote in any "election" (*e.g.*, the election of a chair, vice chair or secretary).

V. Recommendations

With the exception of the Departmental Graduate Committee and any search committee, all recommendations from departmental committees shall be distributed to the members of the department at least three (3) working days after submission to the department chair and at least three (3) working days prior to discussion or action at a departmental meeting called for that purpose.

APPENDIX 6 – Arbitrary, Capricious, Bad Faith

The arbitrator determined that a negative recommendation by the Committee on Tenure was in part based on the Chair's and some Committee members' adverse reaction to the candidate's having filed discrimination complaints and grievances. The arbitrator wrote, "Inclusion of such matters barred by the Agreement violated the Agreement's express terms, tainted the process and resulted in a decision that was less than fair, and that can be and is deemed arbitrary and made in bad faith, although not necessarily purposefully so by all members of the committee."

Arbitrator Marcia L. Greenbaum

Decision of February 14, 1994 in *Massachusetts Higher Education Coordinating Council and Massachusetts State College Association*

In assessing whether a recommendation to deny promotion was arbitrary and capricious, the arbitrator asked how the Vice President reached her decision. "Did she reach judgment in complete disregard of the facts? Were her conclusions grounded on whim or caprice?" The arbitrator concluded that the Vice President had established a factual basis for her judgment and so had not acted arbitrarily or capriciously.

Arbitrator Paul J. Dorr

Decision of January 10, 1996 in *Massachusetts Higher Education Coordinating Council and Massachusetts State College Association*

Citing various judicial opinions, the arbitrator said, "So long as there is a rational basis for the decision, and it is supported by substantial evidence, it will not be found to have been arbitrary and capricious.... Just because an administrator exercises poor judgment does not mean that he or she was arbitrary or capricious.... Bad faith is not simply bad judgment or merely negligence. 'It imports a dishonest purpose or some moral obliquity. It implies a conscious doing of wrong. It means a breach of a known duty through some motive of interest or ill will....'" (Citations omitted.)

Arbitrator James S. Cooper

Decision of October 12, 1994 in *Massachusetts Higher Education Coordinating Council and Massachusetts State College Association*