

UNIVERSITY OF ILLINOIS URBANA-CHAMPAIGN SENATE
COMMITTEE ON UNIVERSITY STATUTES AND SENATE PROCEDURES
(Committee of the Whole Discussion)

SP.23.05 Committee of the Whole Discussion Regarding the Proposed Elimination of the Category of “Academic Staff” and Proposed Changes to Academic Freedom in the *Statutes* (as initiated by USC ST-83)

BACKGROUND

In September 2021, the University Senates Conference (USC) transmitted a large package of proposed revisions to the University *Statutes* (ST-83) to the three University Senates, along with a transmittal letter and explanatory document. Per the *Statutes*, Article XIII, Section 8.a.2, proposed amendments to the *Statutes* initiated by the USC are then considered by each Senate, which “may act on the proposed amendment[s] in accord with its own established procedures, including the right to concur, to modify, or to reject any proposed amendment or proposed statutory text.” Our Senate Committee on University *Statutes* and Senate Procedures (SP) has thus considered ST-83 (as SP.22.01), sending portions of these proposed changes to three subject-matter bodies for their input and identifying four significant areas on which the Committee would like the Senate’s input:

1. SP.23.03: Potential changes to Article II, including definitions of “faculty” and “staff,” clearer inclusion of non-tenure-track faculty, and distinctions about “administrative” and “academic” work;
2. SP.23.04: Restructuring Articles IX and X to better align the contents of each;
3. **SP.23.05: The proposed elimination of the category of “academic staff” throughout the *Statutes* and the impacts of this change, including on the academic freedom provisions in Article X;**
4. SP.23.06: Changes that may impact academic professionals and governance matters.

Senate discussion on these aspects of ST-83/SP.22.01 will inform SP’s work on this package of prospective changes, which will be brought to the Senate for a full discussion and vote or votes in the future.

Currently, the broad category of “academic staff” is used throughout the *Statutes*, defined in Article IX, Section 4.a.:

The academic staff which conducts the educational program shall consist of the teaching, research, scientific, counseling, and extension staffs; deans and directors of colleges, schools, institutes, and similar university units; editors, librarians, and such other members of the staff as are designated by the president and the chancellors/vice presidents.

ST-83 proposes eliminating the use of the category of “academic staff” throughout the *Statutes* (affecting around fifty uses in about forty passages), replacing each use with “faculty,” “tenure-system faculty,” “non-tenure system faculty,” “staff,” or “employees” in various combinations. SP has reviewed these changes and identified nine passages that may need attention (collated below), including the definitional language in Article IX, Section 4.a., which grounds other uses throughout the *Statutes*. SP has also been made aware of a wide array of policy documents and standards beyond the *Statutes* which hinge the category of “academic staff,” including *Provost Communications*, faculty and staff benefits language, the Division of Management Information (DMI), and so on. The category is used widely within University administration as well, as a broad, but defined, set of employees attached to the academic work of the University.

Further, SP referred one portion of these proposed changes, the elimination of the category of “academic staff” within Article X of the *Statutes*, which governs academic freedom, to the Committee on Academic Freedom and Tenure (AF), asking whether the changes proposed by USC “change the nature of the academic freedom protections in the *Statutes* and/or who those protections apply to.” SP noted that the definition of “academic staff” in Article IX, Section 4.a “was cited frequently in the Urbana Senate’s last deliberations over revisions to the academic freedom provisions in X.2 (see [page 2 of SP.17.12](#)),” which deliberately expanded the scope of academic freedom protections beyond “faculty” to “academic staff.” AF’s response, included below, indicates that:

A change in the scope of application of academic freedom is a matter that requires extensive discussion and consent. [...] The Senate should reject ST-83 because it changes the scope of application of academic freedom...

SP welcomes input on the proposed elimination of “academic staff” as a category throughout the *Statutes*, especially in light of the advice of AF.

Some questions that might guide the Senate’s consideration:

- Do any of the changes stemming from the elimination of the category of “academic staff,” itemized below, raise concerns?
- Does the elimination of the term “academic staff” cause unintended consequences to policy or practice affecting tenure-system faculty, non-tenure system faculty, academic professionals, or other employees, including to employment policies and benefits?
- Should the category of “academic staff” be retained, more or less in its current form?
- Considering the recommendation from the AF, should SP offer alternative language?
- Are there other potential changes from “academic staff” to other terms that raise concerns?

UNIVERSITY STATUTES AND SENATE PROCEDURES

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Review of “academic staff” changes proposed in ST-83

Potential changes involving “academic staff” proposed in ST-83 that may require additional attention. Note that the following only includes revisions that SP feels need attention at this time.

Article II, Section 4: Faculty Roles in Governance

ST-83 Lines 251-261, 275-288:

[lines 251-261] ~~The bylaws of a unit may grant specified faculty privileges to selected faculty of other units. The bylaws may also grant specified faculty privileges to members of the academic staff of the unit or of other units who are not included in subsection 1 above (i.e., neither tenured nor receiving probationary credit toward tenure), and who have the rank or title of professor, associate professor, assistant professor, instructor, or lecturer. The bylaws may also grant specified faculty privileges to members of the academic staff of the unit or of other units who have the rank or title of professor, associate professor, assistant professor, instructor, or lecturer modified by the terms “research,” “adjunct,” “clinical,” “visiting” and/or “emeritus” (e.g., “research professor,” “adjunct assistant professor,” “clinical associate professor,” “visiting professor”). Only academic staff with titles listed above may be extended faculty privileges. Voting on these provisions of the bylaws is limited to those named in subsection (1) above.~~

[lines 275-288] ~~Each college or other academic unit shall be governed in its internal administration by its faculty, as defined in Section 3a (1) above. Governance of each academic unit shall be based on unit bylaws established and amended by the tenure system faculty of that unit. The bylaws may grant specified unit governance privileges and rights to selected faculty of other units or faculty with joint appointments in that unit. The bylaws may also grant specified unit governance privileges and rights to non-tenure system faculty, emeritus/emerita faculty, academic professionals, or students. In granting specific governance privileges, such as voting privileges, to these participants the bylaws may require a minimum rank, seniority, or percent appointment in that unit. The bylaws shall provide for the administrative organization and procedure of the unit, including the composition and tenure of executive or advisory committees, ~~except that they may not conflict with these Statutes, or other specific actions of the Board of Trustees, or with the bylaws of a unit which that encompasses it, the details of the bylaws are left to the faculty of the unit.~~ Voting on these provisions of the bylaws is limited to tenure system faculty (as defined by Article II, Section 1 (a)).~~

SP comment: portions of lines 251-261 have been incorporated into lines 275-288, with categories of faculty, staff, and students substituted.

Article VIII, Section 5: Academic Unites Not Requiring Board of Trustees Approval

ST-83 Lines 1093-1101:

Any proposal for creation or change in organization (such as termination, separation, transfer, merger, or change in status) of any unit engaged in academic activities the creation of which does not require Board of Trustees approval shall be referred to the executive committee of the relevant university senate for its information and advice prior to approval by the appropriate administrator. If the unit is not organized within one university of the system, the proposal shall be referred to the University Senates Conference rather than to a senate executive committee. ~~Academic staff a~~ Appointments in such units may not be made to ranks subject to the provisions of Article X, Section 1, governing appointments for an indefinite term as defined in Article IX, Section 3c.

SP comment: "Appointments" may need to be specified to include "faculty" and/or "staff" as appropriate.

Article IX, Section 1: Principles Governing Employment

ST-83 Lines 1121-1128:

Full-time employees shall not be assigned any other work that is not reasonably within the scope of that person's duties and responsibilities without the prior approval of the appropriate administrator or supervisory authority. Compensation made for services in excess of a full-time appointment must follow the provisions of Article IX, Section 2 (f). ~~No person employed on a full-time basis on the instructional or administrative staffs of the University of Illinois System shall be assigned any other work which does not naturally come within the scope of that person's duties and for which additional compensation is to be paid without the prior approval of the president or chancellor/vice president.~~

SP comment: Will be reviewed for consistency with current practice.

Article IX, Section 2: Appointments, Ranks, and Promotions of Faculty and Staff

ST-83 Lines 1164-1172:

~~The members of the academic and administrative staffs shall be employed and salaries fixed by the Board of Trustees, except that members of the academic staff below the rank of assistant professor may be employed by the universities. These appointments shall be reported to the board by the president prior to the start of said appointments.~~

~~All appointments, reappointments, and promotions of university academic staff, as defined in Article IX, Section 4a, and university administrative staff, shall be made by the Board of Trustees on the recommendation of the chancellor/vice president concerned and the president. All~~

~~appointments, reappointments, and promotions of system-level academic or administrative staff shall be made by the Board of Trustees on the recommendation of the president.~~

Faculty, academic professionals, and postdoctoral research associates shall be employed and salaries fixed by the Board of Trustees. All appointments, reappointments, and promotions of such employees at any of the three universities shall be made by the Board of Trustees on the recommendation of the chancellor/vice president concerned and the president. All appointments, reappointments, and promotions of system-level academic or administrative employees shall be made by the Board of Trustees on the recommendation of the president.

SP comment: Will review whether the listed replacement, “faculty, academic professionals, and postdoctoral research associates,” is congruent with those encompassed by “academic staff” in the IX.4.a in the current *Statutes*.

Article IX, Section 2: Appointments, Ranks, and Promotions of Faculty and Staff

ST-83 Lines 1208-1211:

~~The academic staff which conducts the educational program shall consist of the teaching, research, scientific, counseling, and extension staffs; deans and directors of colleges, schools, institutes, and similar university units; editors, librarians, and such other members of the staff as are designated by the president and the chancellors/vice presidents.~~

SP comment: This passage, IX.4a., is the basis for the use of “academic staff” in the current *Statutes*; ST-83 proposed striking it without replacement.

Article IX, Section 2: Appointments, Ranks, and Promotions of Faculty and Staff

ST-83 Lines 1215-1234:

~~The following ranks, and only these ranks, of the faculty as defined in Article IX, Section 4a, are subject to the provisions of Article X, Section 1: professor, associate professor, and assistant professor. Modifying terms such as “adjunct,” “clinical,” “research,” “teaching,” and “visiting” may be used in conjunction with these academic ranks (e.g., “research professor,” “adjunct assistant professor,” “clinical associate professor,” “visiting professor”); but no appointment for an indefinite term may be made in which a modifying term is used in the academic rank. Furthermore, an appointment in which a modifier is used in the title will not count toward completion of the probationary period, as provided in Article X, Section 1, unless specially recommended by the executive officer of the unit and approved by the dean and by the chancellor/vice president or an officer authorized to act for the chancellor/vice president. Other academic ranks recognized within the academic staff are: (1) instructor, senior instructor, lecturer, and senior lecturer, which may be modified by “adjunct,” “clinical,” or “visiting”; (2) clinical associate, research associate (which may be modified by “postdoctoral”), and teaching associate, each of which may be modified by “adjunct” or “visiting”; (3) clinical assistant,~~

~~research assistant, teaching assistant, and other graduate assistants.~~ The faculty comprise tenure system faculty (as defined in Article II, Section 1a) and non-tenure system faculty (as defined in Article II, Section 1d).

SP comment: Will review to see that these elements have been specified via other proposed changes to Articles II and IX.

Article IX, Section 2: Appointments, Ranks, and Promotions of Faculty and Staff

ST-83 Lines 1254-1255:

Special classes of positions within the academic staff may be established to meet specialized professional or technical needs, in accordance with Article IX, Section 2g.

SP comment: This may need a clearer specification, such as “faculty and staff positions”.

Article IX, Section 2: Appointments, Ranks, and Promotions of Faculty and Staff

ST-83 Lines 1270-1279:

Non-tenure system faculty and staff ~~In the case of positions other than appointments at the rank of professor, associate professor, assistant professor, dean, director, department head, and department chair,~~ appointments shall be for not longer than the terms specified in this Section. Contracts shall be renewable at the discretion of the hiring unit. Except as provided in Section 3, below, these positions do not require an official notice of nonreappointment from the Board of Trustees ~~is not required.~~ Dismissal prior to the end of the contract term shall be governed by Section 4, below. ~~An appointment with the rank of clinical assistant, research assistant, or teaching assistant shall be for not longer than one year and notice of nonreappointment is not required. Appointments at these ranks may be conditional upon the availability of funds if so, specified in the notice of appointment.~~

SP comment: Will review for consistency with current practice.

Article X, Section 5: Academic Freedom

ST-83 Lines 1878-1907:

It is the policy of the University of Illinois System to maintain and encourage full freedom within the law of inquiry, discourse, teaching, research, and publication and to protect all members of the academic staff tenure system and non-tenure system faculty against influences, from within or without the University of Illinois System, ~~which that~~ would restrict the faculty member’s exercise of these freedoms in the faculty member’s area of scholarly interest. Academic freedom includes the right to discuss and present scholarly opinions and conclusions both in and outside the classroom. The right to the protection of the University of Illinois System shall

not, however, include any right to the services of the University of Illinois System counsel or the counsel's assistants in any governmental or judicial proceedings in which the academic freedom of the staff member may be in issue.

As a citizen, a **faculty** member of **the academic staff** may exercise the same freedoms as other citizens without institutional censorship, discipline, or restraint. A **faculty** member **of the academic staff** should be mindful, however, that accuracy, forthrightness, and dignity befit association with the system and a person of learning and that the public may judge that person's profession and the system by the individual's conduct and utterances.

If, in the president's judgment, a **faculty** member **of the academic staff** exercises freedom of expression as a citizen and fails to heed the admonitions of Article X, Section ~~2b4b~~, the president may publicly disassociate the Board of Trustees and the University of Illinois System from and express their disapproval of such objectionable expressions.

A **Faculty** members ~~of the academic staff~~ who believes that ~~he or she does~~ they do not enjoy the academic freedom ~~which~~ that it is the policy of the University of Illinois System to maintain and encourage shall be entitled to a hearing on written request before the Committee on Academic Freedom and Tenure of the appropriate university senate. Such hearing shall be conducted in accordance with established rules of procedure. The committee shall make findings of facts and recommendations to the president and, at its discretion, may make an appropriate report to the senate. The several committees may from time to time establish their own rules of procedure.

SP comment: ST-83 proposes a substantial change to the current scope of academic freedom protections in Article X of the *Statutes*. SP has referred this particular set of changes to AF, with their response letter following.



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October 27, 2022

Shawn Gilmore, Chair
Senate Committee on University Statutes and Senate Procedures

Via email (sgilmore@illinois.edu)

Dear Professor Gilmore,

You have asked the Senate Committee on Academic Freedom (AF) to review Article X, Section 5, of ST.83, to determine whether we would recommend that the Senate accept, reject, or modify any of the proposed revisions to Article X, Section 5, which can be found in Attachment B. AF discussed these proposed revisions in detail on September 15.

The discussion focused on five places where the proposed revisions would effectively narrow the scope of application of academic freedom from “academic staff” (as that term is currently defined in the statutes) to “tenure system and non-tenure system faculty” (often referred to simply as “faculty”), as those terms are defined in the proposed ST.83 (see 1880, 1889, 1890-91, 1895, 1900). AF voted unanimously to recommend that the Senate reject ST.83, because these five changes would narrow the scope of application of the academic freedom protections identified in Section 5. AF found these defects sufficiently egregious that it did not further analyze the proposal.

The changes identified above in ST.83 were described to AF as clarifications. They are not. At least the changes identified above (and quite possibly others) would result in a major change in substance. A change in the scope of application of academic freedom is a matter that requires extensive discussion and consent. The most recent revision to Article, Section 5 offered an expanded scope of protection to academic staff, a fact that was explicitly discussed in the Senate deliberations that led to use of the term “academic staff” in the current Section 5. At the time, this expanded scope was a consideration that many senators believed spoke in favor of that language. That language was subsequently approved by the Board of Trustees. The Senate

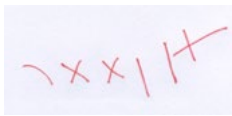
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should reject ST.83 because it changes the scope of application of academic freedom while claiming that it is a clarification.

Any review of Article X that is not purely a clarification (as ST.83 is not) would need to consider, among other matters, statutory changes to counter problems created by cases like Garcetti by addressing rights to critique administrators and administrative decisions.

Sincerely



D.A. Forsyth

Fulton Watson Copp Chair in Computer Science

Chair, Senate Committee on Academic Freedom and Tenure.