

## 5. UAB and Sexual Misconduct Allegations (AR 6:2)

Wood reviewed the history of release of AR 6:2 and the University's policies on issuing Administrative Regulations.

According to [AR 1:6](#) and its associated official [flow chart](#) new Administrative Regulations or changes to Administrative Regulations are vetted through a Regulations Review [Committee](#), of which the University Senate Council Chair is a member. According to AR 1:6 and the flow chart, the process of review before the President approves and promulgates new or amended Administrative Regulations includes obtaining "*Stakeholder Feedback*" on a "*draft*" of the regulation prepared by the Regulations Review Committee. The identified stakeholders include "*University Senate, Staff Senate, SGA Deans, other affected UK units.*" The only exception provide by AR 1:6 is for the President to promulgate an "interim" Administrative Regulation for six months, when circumstances make it urgent to issue the AR.

According to the Administrative Regulation 6:2, the President issued on September 30, 2014 an "interim" AR 6:2 on "Policy on Sexual Assault, Stalking, Dating Violence, and Domestic Violence." Then, on December 3, 2014, the President issued a 'regular' AR 6:2 that contains provisions impacting faculty and the University Senate's role in academic degrees (See Footnote \* below). However, there is no record that a "draft" of "Administrative Regulation 6:2" from the Regulations Review Committee was submitted to the University Senate or to the University Senate Council to obtain the feedback of the "University Senate" before promulgation. Nor is there a record in the University Senate Council minutes that the Senate Council prior to December 3, 2014 was even informed, formally or informally, that a 'regular' version of AR 6:2 had been drafted by the Regulations Review Committee for approval by the President. Subsequent to the President having approved AR 6:2 on Dec. 3, 2014 as a 'regular' Administrative Regulation to supercede the Sept. 30, 2014 'interim' regulation, General Counsel Bill Thro at the May 2015 Board of Trustees meeting characterized to the Board that the regulation in effect was an "interim" regulation. (See footnote \*\* below)

Then, the President issued another revision of AR 6:2, effective June 19, 2015, that also added, as an appendix to AR 6:2, new procedures and policies

"that apply to University faculty, staff and students. Allegations relating to AR 6:1 Policy on Discrimination and Harassment are normally adjudicated under the Code

of Student Conduct for students, Human Resources Policy and Procedure for staff, and the **Faculty Disciplinary Policy for faculty.**"

and

"VIII. Appeals to the University Sexual Misconduct Appeals Board (SMAD)

"... For allegations involving students the SMAB serves in place of the **University Appeals Board.**" (emphasis added here)

The SREC expressed concern that the AR contradicts the higher Board of Trustees GR XI that prescribes student access to the UAB for final decision of all nonacademic and academic student appeals. That UAB is subject to procedures prescribed by the University Senate. However, again, there is no record that a "draft" of the June 19, 2015 revision to "Administrative Regulation 6:2" from the Regulations Review Committee was submitted to the University Senate or to the University Senate Council for feedback before promulgation. Nor is there a record in the University Senate Council minutes that the Senate Council was even informed, formally or informally, that a revision to the Dec. 13, 2015 AR 6:2 had been officially drafted by the Regulations Review Committee for approval by the President. The SREC also noted that the promulgated June 19, 2015 version of AR 6:2 references a "Faculty Disciplinary Policy" that does not exist.

Wood noted that during spring 2015 the University Senate had provided feedback to the President on a Governing Regulation (to be approved by the Board of Trustees) concerning Faculty Disciplinary Policy and she directly asked the President at the Oct 2015 Senate meeting as to the status of that document. Wood noted that the President did not provide a substantive response to her question and the President did not use the occasion to draw the University Senate's attention to the June 19, 2015-effective AR 6:2 that he had promulgated without Senate feedback.(See Footnote \*\*\* below)

The SREC directed that Chair Wood, Jones and Bird-Pollan shall draft a letter drawing the above circumstances to the attention of the Senate Council. The letter shall be circulated to the SREC for edit/approval. The letter shall include the points that

- (a) under the published procedures for revising ARs, the University Senate is a "stakeholder" from whom it is required that feedback will be solicited

on the draft version of the revised AR that is prepared by the Regulations Review Committee (RRC),

(b) the University Senate was not solicited for this feedback for either the Dec. 13, 2014 or the June 19, 2015 draft revisions prepared by the RRC.

(c) substantive policies impacting the faculty and University Senate are contained in AR 6:2 that were not properly vetted through the University Senate for feedback, including that AR 6:2 refers to a nonexistent "Faculty Disciplinary Policy" and that AR 6:2 appears to violate GR XI concerning student access to the University Appeals Board that operates in accordance with University Senate Rules.