

香港浸會大學教職員工會
Hong Kong Baptist University Faculty and Staff Union

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NEWSLETTER (197)

A GUIDE TO
Consultation on policy guidelines and procedures governing disciplinary
proceedings of substantiated staff (1)

February 17, 2009

Dear Colleagues,

This document seeks to clarify the following claims which the University Administration made in a press statement dated 9 February 2009:

1. The University Administration and the President/Vice-Chancellor will not be offered more authority than they have at present,
2. There is no change in substantiated staff's terms of service,
3. The main proceedings in handling such cases (of disciplinary actions against substantiated staff) remain unchanged, the proposal only improves the clarity of certain details concerning these cases,
4. The authority of the President/Vice-Chancellor always has the discretion to give directions in dealing with such cases,
5. The members of the Committee of Enquiry are, at all times, appointed by the President,
6. The Committee on Termination of Appointment has the sole authority to remove substantiated staff member, while the President does not.

We have organized our investigation into 6 parts, which will adopt the same framework of analysis to (a) highlight the current guidelines and procedures, (b) pinpoint the proposed changes, and (c) raise questions for colleagues' consideration.

The 6 parts cover: Authority and Applicability, the Purpose of the Policy Guidelines and Procedures, the Committee of Enquiry, the Committee on Termination of Appointment, Appeal and Redundancy, and the Powers of the President / Vice-Chancellor.

We invite colleagues to study this document in order to compare and contrast the existing and proposed policy guidelines and procedures in detail, and to draw their own conclusion accordingly.

For our part, we have raised 23 questions. We now write to ask the Personnel Office to start the consultation process anew.

HKBU Faculty and Staff Union members will not refrain from taking further actions to defend the rights of academic and administrative staff, and to continue to speak out for the interests of the academic community.

Thank you.

Executive Committee

Hong Kong Baptist University Faculty And Staff Union

Part I. Authority and Applicability

1.1 According to the existing policy guidelines and procedures:

Substantiated staff on Terms of Service A "may be removed from appointment on grounds of misconduct, inefficiency or other good causes by the Committee on Termination of Appointment" in accordance with Clause 16.3 and Appendix F. Under Clause 16.4 staff member may be removed from appointment by the Council in any case where it has decided on or required to make a change in the University staffing requirement, in consequence of which the appointee is made redundant in that the staffing need which he / she was appointed to fill no longer exists.

Academic staff on substantiated appointment under New Pay and Rewards Structure (NPRS) since July 2004 "may be terminated on grounds of poor performance, redundancy, misconduct and / or other good cause as determined by the University and in accordance with the established procedures."

1.2 According to the proposed changes:

The Personnel Office document claims that the authority of the proposed policy guidelines and procedures is based on Terms of Service A, prior to the establishment of the New Pay and Reward Structure in July 2004; and they apply to both substantiated staff under Terms of Service A before July 2004 and those under NPRS after July 2004.

QUESTIONS for Part I:

- 1.1 For substantiated staff on Terms of Service A, will the proposed guidelines and procedures override Clause 16.3, 16.4, and Appendix F (the existing terms of service)?
- 1.2 For staff who gave consent to join NPRS in July 2004, and those appointed under NPRS since then, do the proposed guidelines and procedures amount to replacing "the established procedures"?
- 1.3 Do you think the introduction of the new policy guidelines and procedures amounts to changing the terms of service for substantiated staff on Terms of Service A and those under NPRS?

Part II. The Purpose of the Policy Guidelines and Procedures

2.1 The current policy guidelines and procedures begin with a last resort clause, followed immediately by a stated preference for Informal Procedures which will be applied under clearly defined conditions:

"Removal from appointment is a serious matter and will only be used as a last resort after all other efforts have failed. In the event that removal cannot be avoided, this document provides clear policy guidelines and procedures to be followed in investigating into the case and to remove, if appropriate, a substantiated academic and equivalent administrative staff member from appointment in accordance with what is set out in Clause 16 and Appendix F of Terms of Service A." (Paragraph 1)

"Before a recommendation is submitted to the President and Vice-Chancellor to initiate a process of removal from appointment by the Council, there should be procedures for an internal inquiry within the University Administration to investigate into the alleged case initiated by a Head of Department / Office or a Dean of Faculty / School." (Paragraph 2)

"Any allegation of misconduct or complaint on inefficiency against a staff member should be investigated in the first instance by the staff members' Head of Department / Office who should ascertain if there are objective evidences in support of the allegation or complaint." (Paragraph 3)

2.2 If the proposed guidelines and procedures are adopted:

There will be no "last resort clause".

The President / Vice-Chancellor enjoys the power "to initiate the removal from appointment without going through the Informal Procedures or Internal Investigation process."

Under the revised Informal Procedures, the supervisor within the Faculty / School / Office of the staff concerned is given new power to take "any other appropriate actions" in the event the investigation results in findings in support of the allegation.

QUESTIONS for Part II:

2.1 Do you support the retention of the "last resort clause" in the existing policy guidelines and procedures (Paragraph 1)?

- 2.2 Do you support the retention of the "preference for Informal Procedures clause" in the existing policy guidelines and procedures (Paragraph 2)?
- 2.3 Do you agree to give the President / Vice-Chancellor the power to initiate the removal from appointment without going through the Informal Procedures or Internal Investigation process?
- 2.4 Do you support the proposal to give the supervisor within the Faculty / School / Office of the staff concerned such power as to take "any other appropriate actions" in the event the investigation results in findings in support of the allegation?
- 2.5 The proposed changes are said to "bring about overall improvement in clarity, practicality and effectiveness." Do you understand the meanings of such notions in the light of the proposed changes?

To be continued.....