

APPENDIX A

Policy on Consultation Where the Administration Has Primary Decision-making Responsibility (Source: *Office of the President, Almanac*, April 20, 1999 (<https://almanac.upenn.edu/archive/v45/n29/ORconsultation.html>))

This statement sets forth the policy of the University on consultation between officers of the University and their representatives ("the administration") and persons or bodies who are members of constituent groups having an interest in the adoption, modification or implementation of various programs, actions and policies of the University in those areas of decision-making where the administration has final or primary responsibility and the faculty does not have a distinctive role.

Thus, this policy on consultation—which includes the standing faculty as one among several relevant constituency groups—does not pertain to those areas of decision-making where the standing faculty holds primary responsibility or where responsibility is held jointly by the administration and the standing faculty, under the University's system of coordinate powers and shared governance. Nor does it apply to those areas of primary administrative responsibility in which the standing faculty's distinctive role in the University would justify differential access to consultation as compared with the other constituency groups referred to in this policy.

1. Norms governing consultation policy

This policy shall be interpreted and applied in light of certain underlying premises and norms:

- a. The University is a non-profit organization committed to the structuring of its work and educational activities so as to provide opportunities for all who live, teach, carry on research, work, or study here to be participants in the campus community.
- b. Except where strategic concerns actually and reasonably counsel little or no public knowledge or awareness of emergent policies or actions, it is the administration's duty to allow for full and open discussion, that is consistent with the democratic aspirations of the University.
- c. Faculty, students, and staff, both as individuals and as constituency groups, have a stake in the welfare of the community as a whole, typically make a major commitment of time and devotion to the common enterprise, and often possess skills, resources and perspectives critical to the making of decisions that improve the quality of life at the University and in the surrounding community.
- d. As the largest private employer in Philadelphia, making its home in West Philadelphia, the University is an integral part of both the West Philadelphia community and the city as a whole, and has an important responsibility to take account of the effect of its decisions on those larger communities.
- e. Consultation by the University administration should be understood as conferring on those who are consulted an invitation and a responsibility to respond, to respect confidentiality when it is promised, to report and represent accurately the views of constituents and superiors, and to report in a timely manner to their constituents.
- f. In the decision-making areas to which this policy on consultation applies, ultimate decisional authority rests with the trustees and (pursuant to authority delegated by the trustees) the president, in order that they may fulfill their responsibility to ensure the

institutional and financial health of the University, as distinguished from its academic and scholarly mission, where the faculty holds primary responsibility under the trustees or, in some cases, shares such responsibility with the administration. The consultative process itself may be considered separate from the outcomes of that process, and a democratic, substantive, interactive process of consultation is not a mechanism for ensuring specific outcomes or for suppressing disagreement on substantive issues.

2. Definition

Consultation includes, but goes beyond, the disclosure of information about emergent decisions and policies. It is a process that embodies the spirit of give-and-take, whereby information of all types—specific questions, concerns and methods, but also broader strategies, principles and frameworks—is exchanged and incorporated into the process throughout its duration.

3. The framework of consultation

- a. Selection of consultation partners
It is for the most part in the administration's discretion to determine the identity of those bodies or individuals with whom to consult on specific matters. (Consultative procedures for use in the appointment, reappointment, or removal of academic administrators are specified elsewhere in this Handbook, and are not addressed here.) The University Council and Faculty Senate, and their appropriate committees, as well as the independent committees provided for in the bylaws of the Council, are the means of carrying on the process. They are readily available.
- b. Structures facilitating consultation
The long-standing practice of the president and provost to meet regularly with several groups provides a flexible established mechanism for raising matters on which consultation is appropriate, including the further specification of consultation partners. Specifically (but not exclusively), the chair, past chair, and chair-elect of the Faculty Senate ("the three chairs") meet frequently, and the Senate Executive Committee meets periodically, with the president and the provost and, as needed with other senior administrators. Similar practices exist with respect to the chairs or other officers of the Undergraduate Assembly, the Graduate and Professional Students Assembly, the Penn Professional Staff Assembly, and the A-3 Assembly Executive Board.
- c. Range and timing of consultation
 1. Range of decisions subject to consultation
The policies and decisions facing the University as an institution range along a continuum, from major developmental decisions, on one end, to narrower operational decisions, on the other. Broad consultation is needed most in the case of developmental decisions, and to a lesser extent with respect to operational decisions.
 2. Timing of consultation
A decision-making process contains a number of steps: (1) gathering of data; (2) formulation of goals; (3) development of major alternatives; (4) provisional evaluation of each alternative; (5) provisional selection of the most desirable alternative or set of alternatives; (6) implementation of the decision made; and (7) monitoring and adjustment of the action to be taken. The process is often sequential, but may be cyclical or overlapping rather than linear, with decision makers often revisiting some or all of the steps as they move toward a decision, refining and understanding it better with each cycle. The following norms shall guide the

administration in applying the "steps" model to the question of the appropriate timing of consultation:

- a. Consultation is presumptively obligatory no later than the conclusion of Step 3, and should be considered earlier, and carried out, where the decision maker in fact believes it feasible or perceives its utility.
- b. Earlier consultation is presumptively obligatory in a particular case if, in the considered judgment of a reasonable person in the position of the decision maker, the momentum inherent in moving through steps 1-3 would be recognized as sufficient to significantly inhibit (even though not preventing entirely) genuine consultation at the conclusion of Step 3.
- c. Consultation may be deferred, notwithstanding it being presumptively obligatory under sections 3.c.(2) (a) or (b), where and only to the extent that, for concrete and specific reasons, the need for confidentiality is reasonably believed clearly and strongly to counsel against it; provided, that in such event it shall be the administration's responsibility to consult the three chairs, under a promise of confidentiality, to advise them of the matter in question, and to seek and take seriously their counsel whether, how and when any consultation, going beyond them, should take place. It shall be the responsibility of the three chairs to consider whether to suggest to the president that, in light of the specific issue at hand, it would be appropriate, still on a confidential basis, to bring the UA and GAPSA chairs, the PPSA and A-3 Assembly chairs, or both groups, into the discussion of a matter, or in any other manner to broaden the sharing of information. Where there has been such a deferral of a more open consultation with the constituencies themselves, the administration should be especially attentive to the need for consultation more broadly at the later stages.

information has been given in confidence) seek administration approval to share it, with a broader range of membership within the relevant constituencies.

- f. Where there is a need for consultation with a committee of Council or the Senate, or with officers of constituency bodies, the need is ordinarily not satisfied by consultation with an administrative committee that contains faculty, staff or student members among it.

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4. Safeguards

- a. When a constituency representative has been consulted in confidence about a matter thought by the administration not to be ripe for broader disclosure, the representative shall, at an appropriate later date, report the fact of confidential consultation to his or her constituency.
- b. When those consulted by an administration representative believe that the issues involved are such that it is important that more senior administrators hear their views directly, it shall be their responsibility to bring that belief to the attention of the president or provost, utilizing the mechanisms described in section 3.b.
- c. It shall be responsibility of the three chairs to advise the president or provost of any serious concerns that they have, or have come to their attention, regarding a matter that has not been disclosed to them by the administration, and to request the president to consider the timing and manner of consultation.
- d. It shall be the responsibility of the leadership of student constituencies to take the necessary steps to orient the relevant student committees to the background and origin of a question, and to monitor the work of student committees to assure that their membership is active and increasingly informed and sophisticated about important matters.
- e. It shall be the responsibility of a person, group of people, or committee or other body consulted by the administration on a matter, to consider whether that act suffices as consultation with the constituency itself, or whether it should share the information, propose that the administration itself share it, or (where the