MEMORANDUM

Date: January 25, 2007

To: University Committee on Academic Governance

From: Christina DeJong, Chair

Re: Law School Bylaws

On January 25, 2007, June Youatt, Phylis Floyd and I met to discuss the draft bylaws for the Law College. We reviewed them in conjunction with Robert Noto’s memo dated January 11, 2007 (and presented to UCAG members on the same date).

We are concerned that accreditation issues can complicate the Law College bylaws, because some governance issues are dictated by the accreditation process (an independent Board of Trustees, etc.). We have noted several instances were this can create specific problems.

Some information that typically appears in bylaws is not presented herein, particularly because the College of Law does not have units with their own distinct bylaws. We recommend the Law College faculty spell out processes for annual review, peer review, and promotion. Some of this is included but more detail may be needed.

Specific points:

Preamble: add “except as otherwise stated in the Memorandum of Understanding” after “The Law College follows MSU administrative and academic policies and practices,…”

1.1. Suggest language change to clarify that Provost of the Law College is Provost of MSU.

1.2. Change “build the strength” to “build and strengthen”.

1.3.1. Remove “instructor” from list. Instructors are not part of the tenure system at MSU.
1.3.3. Add “Assistant” and “Associate” to visiting professors, unless the Law College wishes to restrict Visiting Faculty to only Full Professors.

1.3.3.1. Clarify who can serve as visiting faculty. As written, only faculty at other institutions can serve as Visiting Faculty, but would they consider a retired judge or legislator qualified to hold such a position? What if such an individual was on a law faculty prior to becoming a judge, legislator, etc.?

1.4.2.4. Suggest adding “untenured faculty appointed in the tenure system”, because not all new employees will be assigned a “Tenure Advisory Committee”. (or perhaps, “each Assistant and Associate Professor appointed under the rules of tenure…”)

Also, what does it mean to be assigned a Tenure Advisory Committee? Does the college really need more than one? Most colleges use one committee, please specify.

1.4.2.7. Add the word “reappointment” to the first line. (“reappointment, promotion, or tenure”)

1.4.3.4. Visiting Professor: Add “Assistant” and “Associate” or change to “Visiting Faculty”

1.4.3.5. Requiring the Dean to seek the advice of the regular faculty before making the exception envisioned by this Section divides visiting faculty into two classes, those brought in on “try-outs” for permanent faculty appointment, where the Dean could plan for such a consultation, and those brought in to fill periodic gaps in the teaching curriculum, where offers might have to be made in a fairly short time frame without an opportunity for such a consultation. Does this confirm the faculty’s wishes or is the obligation to seek advice as a condition to the exception impractical?

2.2. What are the purposes and functions of the CAC? How often do they meet? Need detail on the function, purpose, etc. of this committee (see existing bylaws). It seems the FAC really is the CAC—if so, why have a CAC at all? Is there student representation on FAC?

2.3.1.2. How many faculty will sit on FAC? Who decides on whether 4, 5 or 6 will sit?

2.3.3. Add “each year” to be consistent with 2.3.6.2.

2.3.6.1. Is this necessary to include this, given that procedures are set out in other sections of the bylaws? (Jackie, can you comment?)
2.6.1. Add “at least” to “four full-time faculty members”.

2.6.4. Typically, faculty members cannot raise issues for vote that have not appeared on the agenda provided to the remainder of the faculty before the meeting. Faculty members should be notified when votes are to occur.

2.6.5. Which faculty members are eligible to vote on who serves as the Secretary to the Faculty? Only regular and full-time fixed term faculty are eligible to serve in that position, but it seems that all faculty are eligible to vote in this election. Also, who decides if there is a “Secretary or Secretaries to the Faculty”? How many of the latter would there be? Or is the intention that there be a Secretary and one or more Assistant Secretaries in case the Secretary is absent?

2.7.1. These are described as “Standing Committee Procedures”. Do they apply only to standing committees under Section 2.7.2 or also to Tenure Advisory Committees under Section 2.7.3 and Ad Hoc Committees under Section 2.7.4?

2.7.1.3. To whom are meetings open? Regular faculty? Any faculty? Students? Public? The press? If intent is to include all these groups, can be left as is (perhaps specific “Law College community”?)

2.7.2. How many members to serve on each standing committee? Should there be a minimum number specified to avoid committees of 1?

2.7.2.7. and 3.2: Given the small number of librarians at the Law College, should the Director of the Library at the Law College share authority with the Dean on appointment, promotion, and reappointment decisions, or should the Director of the Library merely make the required recommendations to the Dean? Would it be appropriate for the Director of Libraries at MSU to play an advisory role to the Dean/Director of the Library at the Law College on appointment and, especially, promotion and reappointment decisions for librarians at the Law College? Does the last part of 2.7.2.7 belong there, or should 3.2 cover reappointment and promotion as well as appointment?

4.5. How are student representatives selected and who is eligible (all students, LLM? MJ? JD?)

*Aside: How are student university assignments made (ie, to COGS)? Does this come from the student associations? Should these be specified in the bylaws?
6.2. We are concerned that section 6.2 cedes the rights of the faculty to outside entities (the ABA and AALS). No other accredited college or program contains such a statement in its bylaws. Interpretation of the bylaws with regard to ABA and AALS standards take away from faculty power to interpret their own bylaws—consider removing this phrase. The Preamble acknowledges the consistency and the operation of the bylaws with ABA and AALS standards, therefore this is unnecessary.

In addition, the Memorandum of Understanding states that “any question or ambiguity about the applicability to the Law College of MSU policies, procedures or practices will be resolved in favor of applicability. No exception to or modification of any MSU policies, procedures or practices, as applicable to the Law College, shall be effective unless, and then only to the extent, the exception or modification is approved in writing by a duly authorized MSU officer.” Given this statement, ABA or AALU policies cannot override MSU policies, which would conflict with the MoS. Therefore, we agree that the ability to interpret the bylaws of the Law College be held only by the Faculty of the Law College.

6.4 Why a two-third vote required to approve amendments to the bylaws but a majority vote required to revisions following five-year review? We assume the faculty would use the same percentage vote for each.