

The Power of the Faculty¹

*Excerpts from the Lafayette College Charter and Statutes
Annotated and with an introduction*

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INTRODUCTION²

One sometimes hears that the Faculty has little power. In fact, the Faculty has substantial power, more than we are in the habit of using. Here I attempt to inventory these powers.

I am far from advocating that power is a good thing in itself, nor do I maintain that those who have power necessarily ought to use it. Often the exercise of power should be restrained. I do, however, suggest that we ought to be aware of the power that we have and that our successors may thank us for preserving it.

Most of the Faculty's power derives from our ability to persuade: to persuade each other, primarily, and secondarily to persuade the President and the Board of Trustees. Power by persuasion is essential in a shared-governance environment. Because Faculty members are academics, our persuasion consists of evidence—information—and reasoning about that evidence; and our ability to persuade depends on our getting information, paying attention to it, and sharing it.

Our Faculty committees can contribute significantly to gathering information. They can draw conclusions from it, expressing these conclusions as significant advice or in a motion to the Faculty and conveying the reasoning and evidence that support the advice or motion. Advice-giving, especially when reported publicly in a Faculty (or other) meeting, with evidence and reasoning, is one of the chief mechanisms through which governance is shared—through which minds are changed and through which common purpose is generated. The opportunity can be taken in such a meeting to find out whether the person or group being advised accepts the advice (and why or why not), to seek additional information, to support or oppose the advice rendered, or simply to draw other conclusions from the evidence adduced.

¹ Presented in draft form at the Faculty meeting of 22 May 2008 and revised 24 October 2008.

² The following paragraphs incorporate parts of the Clerk's reports of 6 Nov. 2001, 1 April 2008, and 6 May 2008.

2 Charter and Statutes Annotated

I am sometimes asked, though, what power the Faculty possesses outright, power not just to persuade but also to legislate.³ Lafayette, as is traditional in the old liberal arts colleges of the Northeast, assigns to the Faculty the primary responsibility for determining

- a. Who teaches (faculty personnel matters),
- b. What is taught (the curriculum),
- c. Who is taught (admissions), and
- d. Who graduates (graduate requirements and assessment of students' academic standing)

Only one of these areas, d, is explicit in the Charter. Indeed, the Charter (see below) assigns the Faculty only one duty other than rule enforcement, that of determining what students are to be recommended to the Trustees for Lafayette degrees. But from the earliest days of the College, to carry out that duty the Faculty has

admitted students;
set up curricula and degree requirements;
taught and counseled students, enabling them to meet the requirements;
monitored each student's academic progress, giving support and encouragement, meting out rewards and punishments where needed; and
kept the records that allow us to determine fairly and reliably whether a student has met our requirements.

Thus areas b and c are implicit in the Charter. It is in part the monitoring and supporting functions that the Charter and the Statutes contemplate when they entrust to the Faculty "the welfare and government of the students" (Statutes, Section 74) and when they charge us with enforcing the College's rules and regulations (Charter, Section I, Article VII; Statutes, Section 74). These and many other responsibilities and powers are detailed in the excerpts from the Charter and Statutes below.

The power to determine who teaches (item a in the list above) is documented not in the Charter or Statutes but rather in a policy proposed by the Faculty and ratified by the Board on 30 May 1981:

The faculty status of the teaching and research Faculty is primarily a Faculty responsibility; this area includes appointments, reappointments, decisions not to reappoint, promotions, the granting of tenure, and dismissal. Determinations in these matters shall first be by Faculty action through established procedures and then by the President and the Board of Trustees. The Board of Trustees and the President should, on questions of faculty status, concur with the faculty judgment except in rare instances and for compelling reasons which should be stated in detail (Faculty Handbook 4.3.1.1).

The Board commented, "We note that the Trustees have ultimate responsibility for managing the College, however we recognize the primacy of the Faculty's role in determining the Faculty status of individuals." The Board added, reasonably enough, "We believe the Faculty statement is based on the assumption that Faculty agencies will fulfill their responsibilities conscientiously and faithfully and that under these

³ Where outright powers exist, Faculty committees generally do not render significant advice but rather bring motions to the Faculty, though no hard and fast rule can be laid down on this point.

conditions the Trustees and Faculty can continue to share the responsibility and to foster excellence in the Lafayette Faculty” (Board minutes).

Most of the Faculty’s outright power (as opposed to persuasive power), however, is documented in the Charter (1826) and Statutes (1915 and many times revised). Though in several respects these documents reflect an earlier era, their historical perspective is instructive. A hundred years ago, when the College was *much* smaller and life was simpler, all the Faculty functions expressed or implied in the Charter were still being carried out by the Faculty directly. The teaching Faculty, that is, also served as the deans, the residence life staff, the religious life staff, the counseling service, the admissions officers, the coaches, the public information officers, and in many other capacities. The Faculty discussed the cases of individual students in Faculty meetings, and the Clerk kept the student records. As time passed, though, the College appointed a Registrar to maintain the student records and a Dean to assist the Faculty in counseling, advising, and if necessary disciplining individual students and in maintaining the integrity of the college’s academic mission in the face of various opposing forces.

A century ago, it was a matter of inevitable necessity that Faculty members would be informed about elements of the College’s operation outside of their own classrooms. Given the College’s increasingly complex division of labor today, owing not only to the institution’s sheer size but also to the climate of regulation, litigation, and market competition in which we must function, many responsibilities that in an earlier and simpler day Faculty members shouldered directly are today assumed by a variety of administrators. This is the very essence of shared governance: many administrators are performing what historically have been Faculty functions, either because the Faculty deliberately asked the Administration to take them over or because the Administration simply did what needed to be done and the Faculty acquiesced. I suggest, however, that in such statutory or traditional areas of Faculty responsibility, it is often still appropriate for the Faculty to exercise oversight, especially in instances where such oversight could serve the core educational mission of the College.

The Faculty’s essential connection to that core mission explains why the Faculty ought not to be merely a “constituency” or “stakeholder” within the College, another of many groups clamoring for attention (alumni, parents, students, prospective students, neighbors, support staff, administrators). In comparison with most members of those groups, the average member of the Faculty is more intimately and often more durably engaged with the institution, and especially with its educational mission. As experienced educators and as highly experienced learners themselves, faculty members have a special vantage point from which to make important judgments and to give important advice about how the College’s educational mission is best carried out. This kind of influence is the power that the Faculty should most cherish.

THE CHARTER AND STATUTES ANNOTATED

The following excerpts from the Charter and Statutes are chosen for their relevance to the concerns of the Faculty, collectively and as individual members. The excerpts come directly from *Charter of Lafayette College and Amendments Thereto; Statutes of Lafayette College as Amended* (June 2007) <<http://www.lafayette.edu/community/president/2007charter.pdf>>, which is the full authoritative text of both the Charter (the College's articles of incorporation) and the Statutes (the bylaws of the Board of Trustees).

It is self-evident that Board policy (as recorded in the Statutes) cannot conflict with the Charter (which is an act of the Commonwealth of Pennsylvania Legislature), though the Board could take, and occasionally has taken, the legal steps necessary to amend the Charter. In the absence of such amendments, it follows that powers explicitly or implicitly granted to the Faculty in the Charter remain in effect and are thus worth pointing out here. Except where the Charter directly grants powers to the Faculty, any powers possessed by the Faculty are delegated to it by the Board, such delegation usually but not always being recorded in the Statutes. Thus powers assigned to the Faculty in the Statutes are also worth pointing out. It is self-evident that Faculty policies may not conflict either with the Charter or the Statutes. Faculty policies are usually recorded in the Faculty Handbook, but sometimes they appear in the Catalog or the Student Handbook and sometimes only in the Faculty minutes.

The bracketed topic headings and the annotations provided here have no official status; they represent merely one person's opinion. While this opinion reflects some knowledge of the Faculty during the past 28 years and of the Faculty-Board relationship during the past 11 years, as well as of the Statutes and the Faculty Handbook since 1915 and Faculty legislation since 1967, a more informed annotation might view the Charter in the light of earlier charters granted to Pennsylvania colleges. It might also take into consideration interpretations of the Charter and Statutes as advanced by the Board in its meetings as well as relevant laws and judicial decisions pertinent to the powers of colleges and universities and their faculties. Federal and other applicable regulations constitute yet another worthy area of investigation.

CHARTER (excerpts, annotated)

[Curriculum]

CHARTER, SECTION 1, PREAMBLE. . . . That there be and hereby is erected and established . . . a College for the education of youth in the various branches of Science and Literature, the useful Arts, Military Science, Tactics and Engineering and the learned and foreign Languages . . .

Science and Literature: Section I, Article VII, of the Charter more inclusively describes the curriculum, or this part of it, as “the liberal Arts and Sciences.” Section I, Article X calls it “the usual course of collegiate studies.”

learned Languages: probably Greek and Latin.

Military Science, Tactics and Engineering: The Charter amendment of 1832 permitted the trustees to “dispense with” the teaching of these subjects and defined *engineering* as “civil and military engineering.” See further Section I, Article X of the Charter.

[Powers of the Board]

CHARTER, SECTION I, ARTICLE VI. . . . [the Board of Trustees] shall be capable of doing and transacting all the business and concerns of the said College not otherwise provided for by this act, and particularly of making and enacting ordinances for the Government of the said College, . . . of electing or appointing the principal and professors of the said College, or agreeing with them for their salaries and stipends and removing them for misconduct, breaches of the ordinances of the institution or other cause which shall be deemed sufficient, . . . of providing for . . . the punishment of all violations of the rules, regulations or ordinances of the College or other misconduct committed by the students, or other persons thereat . . .

Government: a broad term, including but not limited to student conduct, faculty conduct, and the curriculum; the Board has for the most part delegated the government (in this sense) to the Faculty and the President. Regarding student conduct, see also Statutes, Sections 50, 74, and 111.

principal and professors: the principal was the officer now designated as the President. The professors were only a part of what we would now call the Faculty (the rest were the tutors). The Statutes, Section 90, in effect redefines *professors* by including associate and assistant professors and instructors in the Faculty.

agreeing with them for their salaries and stipends: now delegated to the President and Provost.

removing them: now governed by Statutes, Section 70.C.

punishment [of] students, or other persons: It seems to have been envisaged that the Faculty would administer lesser punishments to students (up to and including suspension; see further Charter, Section I, Article VII) and that the Board would consider suspended students, or certain ones of them, for expulsion; similarly, that the President would administer lesser sanctions to members of the Faculty and other employees and that the Board would terminate them for cause.

[“Faculty” defined; powers of the Faculty; commencement; degrees]

CHARTER, SECTION I, ARTICLE VII. The principal and professors of said College, or a majority of them for the time being, shall constitute the Faculty of the College, which Faculty shall have the power of enforcing the rules and regulations adopted by the Trustees for the government of the students, and to grant and confirm, by the order and direction of a quorum of the Board of Trustees, such degrees in the

liberal Arts and Sciences, or such branches thereof, to such students of the College or others, who by their proficiency in learning or other meritorious distinction they shall think entitled to them, as have been usually granted in other colleges or universities, or which the said trustees or a quorum thereof shall think right and proper, and to grant to such graduates, diplomas or certificates, under their common Seal, to authenticate and perpetuate the memory of such graduation.

principal and professors: see Charter, Section I, Article VI.

enforcing the rules . . . for the government of the students: The original conception was that the Board would make the rules and that the Faculty would enforce them; the Board has evidently delegated the rule-making function to the Faculty.

grant and confirm . . . degrees . . . and to grant to such graduates, diplomas or certificates, under their

[the Board's] common Seal: The syntax in this sentence, though somewhat tortured, can be followed.

Although no degrees may be granted without the Board's "order and direction," the Faculty is the agency that issues the diplomas. Thus the Commencement Ceremony, at which diplomas are issued, is inherently a Faculty ceremony, though the Faculty has in effect delegated to the President responsibility for managing the ceremony. The Board has specified in Statutes 61 and 121 that the President will confer the degrees. The Faculty's role in the ceremony is signified firstly by its members' presence (required by Statutes, Section 74), secondly by the Clerk's oral certification that the graduates have met the requirements of the Faculty for their respective degrees, and thirdly by the Clerk's signature on the diplomas. In the early part of the twentieth century, the Faculty sometimes elected the Commencement marshals. From the evidence of the College Archives' collection of Lafayette College diplomas, the degrees were granted by the "president and professors" (*praeses et professores*) until about 1885, but by 1887 the trustees (*custodies*) granted them, notwithstanding this requirement in the Charter. In a search 25 November 1998, Diane Shaw found no authorization for the change in the Board minutes, and I found no authorization for the change in the Faculty minutes.

degrees to such students of the College . . . who by their proficiency in learning . . . they [the Faculty]

shall think entitled to them: All of the major powers and responsibilities of the Faculty follow from this clause about ordinary earned degrees (or "degrees in course" as described in the Statutes, Section 120). The Faculty must admit the students, must staff officers of instruction qualified to educate the students, must educate the students (therefore must provide a curriculum), must foster an environment conducive to the students' education, must assess the students' work, therefore must keep records of these assessments (so that the Registrar is carrying out a Faculty function), and must at last determine which students are qualified for earned degrees. An earned degree implicitly cannot be authorized by the Board without the approval of the Faculty.

degrees to . . . others, who by . . . other meritorious distinction they [the Faculty] shall think entitled to

them: other meritorious distinction than that earned by being a student at Lafayette College. Whether the College has ever granted such degrees, I do not know. The Faculty would assess the (academic) merit of someone who was not an enrolled student and recommend this person for a degree. An example would be the Doctor of Letters (Litt.D.) degree occasionally granted by United Kingdom universities upon the certification of Faculty-designated examiners that the candidate's work published over a long period constituted a significant original contribution to knowledge. Note that this would not be an honorary degree (which is a degree authorized by the Board without Faculty testimony as to the academic merit of the candidate).

such degrees . . . as have usually been granted: The College may grant any degree that other colleges and universities have "usually" granted. Though the College has granted a variety of earned degrees in the past, the range is now limited by the Statutes, Section 120.

or which [degrees] the said trustees or a quorum thereof shall think right and proper: honorary degrees, i.e., degrees to be awarded without a formal Faculty assessment of the candidate's academic merit. The Faculty is in no sense barred from recommending honorary degree candidates to the Board, and indeed frequently made such recommendations during the College's early decades.

under their [the Board's] common Seal: This section authorizes the Faculty to seal diplomas with the College's corporate seal (see Section I, Article V of the Charter, not excerpted here). In modern times, the Registrar has carried out this Faculty responsibility.

[Freedom from religious discrimination]

CHARTER, SECTION I, ARTICLE VIII. That persons of every religious denomination shall be capable of being elected trustees, nor shall any person, either as principal, professor, tutor or pupil be refused admittance into said College, or denied any of the privileges, immunities or advantages thereof for or on account of his sentiments in matters of religion.

[Professor of German; curriculum]

CHARTER, SECTION I, ARTICLE X. That there shall be forever maintained in the said College a Professorship of the German Language, and in addition to the usual course of collegiate studies, there shall be taught in and at the said institution, military science and tactics, and civil and military engineering.

military science and tactics, and civil and military engineering: See Charter, Section I, Preamble.

STATUTES (excerpts, annotated)

[Board's power to appoint and remove faculty members]

STATUTES, PREAMBLE. . . . The Board of Trustees has the power to . . . elect or appoint the President, officers of instruction, administrative officers and other employees of the College and to remove them for such cause as they shall deem sufficient, subject however to the provisions of Article VIII of the Charter, "that persons of every religious denomination shall be capable of being elected trustees, nor shall any person either as principal, professor, tutor or pupil be refused admittance into said College or denied any of the privileges, immunities, or advantages thereof for or on account of his sentiments in matters of religion." . . .

to appoint . . . officers of instruction . . . and to remove them: treated more fully in Statutes, Sections 60 and 70.C. See also Charter, Section I, Article VI.

[Clerk's invitation to Board meetings]

STATUTES, SECTION 5. The Board shall invite such officers or representatives of the Alumni Association, the Faculty, and the Student Government as it in its discretion deems advisable to attend meetings of the Board to participate in discussion but not to vote. The Board reserves the right to call a closed meeting or enter into executive session. . . .

representatives of . . . the Faculty: The Clerk is currently the only such representative of the Faculty; other such invited representatives are the president and president-elect of the Alumni Association, the chair and vice chair of the Lafayette Leadership Council, and the president of the Student Government.

[Faculty members of Board committees]

STATUTES, SECTION 46. Each Standing Committee, except the Executive Committee, the Steering Committee, the Committee on Investments, and the Committee on Audit, shall consist of the Chair of the Board ex officio and the President of the College ex officio, normally five but not more than seven Trustees and such number of non-trustees as the Board may determine, provided however that the non-trustee members, if any, of the Committee on Financial Policy and the Committee on Investments may participate in discussion and may vote on matters generally but not on those where the Committee specifically acts for the Board of Trustees in financial matters. Vacancies in the Standing Committees and other committees may be filled by the Board upon nomination by the Chair of the Board at any meeting of the Board. The Chair of the Board shall designate a Chair and a Vice Chair for each Standing Committee, both of whom shall be Trustees. The Chair of the Board shall also designate a secretary for such committees as he or she deems desirable, who need not be a member of the committee nor a member of the Board. A quorum for each Standing Committee, except the Executive Committee, shall be three Trustee members . . .

shall consist of . . . non-trustees: In the Board's committees on Development and Alumni Affairs, Educational Policy, External Affairs, Financial Policy, Grounds and Buildings, and Student Life, the non-trustees include one member of the Faculty, one student, and (usually) two alumni; these non-trustees are members (not guests) and have the basic rights of members in any organization, namely, the right to be present and the right to vote. (The

membership rights of the non-trustee members are potentially obscured by the Board's habit of referring to such persons as "Board associates"; they are associates of the Board but members of their committees.) They are not eligible to chair their committees; they may serve as secretary (though in practice they never do); they do not count in their committee's quorum.

[Board's Educational Policy Committee]

STATUTES, SECTION 47. The Committee on Educational Policy shall have the responsibility to consider and recommend policies for the long-range academic plan of the College and its various academic units; for faculty development, and staffing levels including compensation, recruitment, research and awards; for student admissions, financial aid and placement; and in general for the coordination of the educational activities of the College. The Committee shall have the responsibility to consider policies concerning the administration and supervision of the library and all literary, historical, art and other collections owned by the College.

See also Statutes, Section 60, regarding tenure and promotion.

student admissions: see also Statutes, Section 92, as to policy, and Statutes, Section 52, as to publicity.

[Board's Financial Policy Committee]

STATUTES, SECTION 48. The Committee on Financial Policy shall have the responsibility to consider and recommend policies for asset management of funds other than the endowment and similar funds, including custody and control, debt management, financial accounting, financial reporting, control of financial operation, purchasing and insurance, and, as requested by the Executive Committee or the Board, shall advise on matters dealing with financial long-range planning, budgeting, pricing and fees. The Committee shall have the responsibility for establishing the distribution method of endowment and similar funds of the College, subject to the applicable terms and conditions attaching to funds held by the College in a fiduciary capacity, and to the applicable terms and conditions attaching to endowment and restricted funds of the College.

See Statutes, Section 46, regarding voting rights in this committee.

[Board's Grounds and Buildings Committee]

STATUTES, SECTION 49. The Committee on Grounds and Buildings shall have the responsibility for developing and recommending a comprehensive campus plan in accordance with the defined long-range master plan of the College including new buildings, structures, roads, walks and utility service systems; for considering and recommending specifications, plans and contracts for new construction or alterations in existing buildings; for considering and recommending policies necessary to keeping the grounds and buildings in proper condition and repair; and for providing guidance in the acquisition, operation and disposition of real estate.

[Board's Student Life Committee]

STATUTES, SECTION 50. The Committee on Student Life shall have the responsibility to consider and recommend policies governing matters related to the comprehensive student experience, including cocurricular student learning, residential living, health, intercollegiate athletics and recreation, intercultural development, social and religious life, student organizations, and student conduct.

student conduct: see also Charter, Section I, Article VI, and Statutes, Sections 74 and 111.

[Board's Development and Alumni Affairs Committee]

SECTION 51. The Committee on Development and Alumni Affairs shall have the responsibility to consider and recommend policies for the fund raising activities of the College and to define and recommend methods to obtain the highest possible effectiveness in various forms of this activity in terms of long-range needs as well as particular times or periods and shall finally in this regard be responsible for assisting in the carrying through of the fund raising program as appropriate for voluntary leadership; it shall have the responsibility to consider and recommend policies which will make for a close working relationship between the College and the alumni and the Alumni Association and to coordinate the activities of the College in relation to the alumni and the Alumni Association.

[Board's External Affairs Committee]

STATUTES, SECTION 52. The Committee on External Affairs shall have the responsibility to consider and recommend the policies related to the general public affairs programs of the College including publications and periodicals, press and other media relations, major promotional events, admissions, marketing and communications, and other general communications of the College which pertain primarily to external constituencies.

periodicals and publications: see also Statutes, Section 92.

admissions: see also Statutes, Sections 47 and 92.

[Faculty members indemnified unless derelict in performance of duty]

STATUTES, SECTION 55. Pursuant to the Pennsylvania Non-Profit Corporation Law of 1988 as amended, any person who shall be or who has been involved in or who has been made a party to any claim, action, suit or proceeding by reason of the fact that he or she, his or her testator or intestate is or was a Trustee, officer, committee member or employee of Lafayette College, whether or not then in office, and his or her executor, administrator, and heirs shall be indemnified by the College against all costs and expenses, including attorney's fees reasonably incurred by or imposed upon him or her in connection with or arising out of such claim, action, suit or proceeding or in connection with or arising out of any appeal therein (such expenses to include the cost of reasonable settlements made with a view to curtailment of costs of litigation). No person shall have the right to reimbursement, however, in relation to matters as to which he or she has been adjudged liable to the College if he or she was derelict in the performance of his or her duty as Trustee, officer, committee member or employee by reason of willful misconduct, bad faith or reckless disregard of the duties of his or her office or employment. Such right of indemnification shall not be exclusive of any other right or rights to which such Trustee, officer, committee member or employee may be entitled as a matter of law.

[Indemnification, continued]

STATUTES, SECTION 56. To the extent that the defense of the Trustee, officer, committee member or employee is not otherwise provided by insurance coverage, the Board of Trustees shall make provision to provide for such a defense. Any Trustee, officer, committee member or employee who is adjudged

derelict in the performance of his or her duty by reason of willful misconduct, bad faith, or reckless disregard of the duties of his or her office or employment shall be required to reimburse the College for the cost of defense.

[President's powers]

STATUTES, SECTION 60. The President shall be the executive head of the College, exercising such supervision and direction as will promote its usefulness and growth. He or she shall be the official medium of communication between the Faculty and the Board and also between the students and the Board. He or she shall recommend to the Board or to the Board's Committee on Educational Policy candidates for appointment as members of the Faculty, and shall recommend to the Board, after such consultation as he or she deems appropriate with officers and committees of the Board, candidates for appointment as members of the administrative staff. He or she shall have the general oversight and direction of the instruction, discipline, extracurricular interests and management of the College. He or she shall be the representative of the Board and administer the laws of the College. In all matters not committed to the Faculty, he or she shall be responsible to the Board.

official medium of communication: The Faculty's official communications with the Board are normally by motion "That the Faculty recommend to the President and the Board of Trustees that. . . ." When the Faculty has adopted such a motion, it is the President's duty to lay it before the Board (in writing) for the Board's consideration. Usually, the Faculty formally communicates with the Board only through the President, except that in recommending degree candidates, the Faculty communicates by letter from the Clerk to the Board's secretary. In only few extraordinary circumstances in recent memory has the Faculty directed the Clerk to communicate directly with the Board. That a Faculty motion begins "That the Faculty recommend to the President and the Board of Trustees" does not accord the President the option of not laying the Faculty's recommendation before the Board. The recommendation "to the President and the Board of Trustees" (a formula in rote use beginning only about 1990) simply reflects the Faculty's understanding that its recommendation to the Board will be advantaged if the President supports it and disadvantaged if he or she does not.

appointment as members of the Faculty: The Board would appear to have delegated to the Provost authority to make initial Faculty appointments, but the Educational Policy Committee considers recommendations for tenure and promotion. The Provost's authority to make appointments is subject to Faculty policy on searches.

general oversight and direction of the instruction: through the Provost and the department heads; this authority is shared with the Faculty.

discipline, extracurricular interests: through the Vice President for Student Affairs; this authority is shared with the Faculty.

laws of the College: an archaic term; formerly a publication usually entitled *Laws of Lafayette College* combined what is now known as the Statutes with regulations governing students.

matters not committed to the Faculty: The formulation implies that in some areas the President's role is to carry out the Faculty's decisions rather than to decide him- or herself. These areas presumably include the setting of admissions policy, the evaluation of students' academic performance, the recommendation of degree candidates, the adjudication of student discipline (subject to appeal), and (except in "rare instances") the evaluation of candidates for tenure and promotion.

[President's public role at Commencement, etc.]

STATUTES, SECTION 61. He or she shall preside at the public exercises of the College, shall announce and confer degrees authorized by the Board and, unless some other person shall be officially designated by the Board or by the President, shall be the official representative of the College on all public occasions at home and at other places at which the College is invited to be personally represented.

public exercises: Commencement and other convocations; the term presumably formerly also included chapel services, Founders' Day convocations, etc.

announce and confer degrees: see Charter, Section I, Article VII above.

[President's role in Faculty meetings and Faculty committees]

STATUTES, SECTION 62. He or she shall preside at the stated meetings of the Faculty and have power to call the Faculty together whenever he or she deems it necessary or upon the request of five Professors. He or she shall publish and carry into effect the proper decisions of the Faculty, except when that duty is especially assigned to another. He or she shall lay before the Faculty such matters as he or she deems necessary for their attention, and may at any time take a vote upon any proposition submitted to the Faculty by him or her, and may call for the ayes and nays. He or she shall be entitled to serve as ex officio member of all Faculty committees.

stated meetings: regular monthly meetings. Faculty Handbook 5.1.1, apparently intended as a paraphrase of Statutes, Section 62, says that the President "presides at meetings of the Faculty," but the formulation in the Statutes appears to give the Faculty the authority to designate a different chair for a special meeting.

power to call the Faculty together: Clearly the President may call a special meeting; it is less clear that his or her assent is required in calling a special meeting if "five Professors" request it. Faculty Handbook 5.1 asserts the right of the Faculty at large to call a special meeting.

five Professors: Whether, as used here, the term *professor* includes assistant professors and associate professors has not so far as I know been tested.

publish and carry into effect: obliges the President to provide the necessary administrative support to carry out the Faculty's "proper" decisions.

proper decisions: that is, decisions duly arrived at and within the Faculty's purview.

proposition submitted to the Faculty by him or her: The President has the right to make a motion at a Faculty meeting and is not required to relinquish the chair when speaking to such a motion (since this section permits him or her to take the vote on such a motion, which he or she could not do without being in the chair). This section amounts to a special rule of order for Faculty meetings.

entitled to serve as ex officio member of all Faculty committees: The Board, by approving the current Faculty tenure appeal process (which entailed removing the President from the Promotion, Tenure, and Review Committee), brought the Faculty Handbook (5.4.1.1) into conflict with this provision of the Statutes. Nevertheless, the President's Faculty committee service has in recent years been limited to the Appeal and Grievance Committee and the Faculty Academic Policy Committee.

[President's emergency power to act for the Faculty]

STATUTES, SECTION 63. When in his or her judgment immediate action is required in the area of Faculty responsibility, he or she may decide any question which may arise and his or her decision shall be regarded as the decision of the Faculty unless revised at its next meeting at which the President is present, by a majority vote of the members of the Faculty.

unless revised at its next meeting: Implicitly the President is required to notify the Faculty promptly whenever he or she has exercised emergency power on behalf of the Faculty; and the President's notification should be made an agenda item at the next Faculty meeting.

[Appeals to the President]

STATUTES, SECTION 65. Appeals by any member of the College community from adverse decisions by any College agency must follow the pertinent appeal or grievance procedures where such procedures have been established. No appeal may be addressed to the Board except as specifically permitted in a Board-approved policy, and then only through the President of the College and only after the appeal process below the level of the Board has been exhausted. At his/her discretion, the President may hear appeals not covered by established appeal or grievance procedures.

only through the President: A Faculty member may appeal to the Board only when a Board-approved policy permits it; such policies, insofar as they apply to Faculty members, are published in the Faculty Handbook.

At his/her discretion: The President has the right, but not the duty, to consider appeals from Faculty members in areas not covered by Board-approved policies.

[“Officer of instruction” defined]

STATUTES, SECTION 70. Officers of instruction shall be classified and ranked according to the following titles: (1) Professors, (2) Associate Professors, (3) Assistant Professors, (4) Instructors, (5) Lecturers, (6) Associates and Assistants.

(5) Lecturers, (6) Associates and Assistants: The listing does not in fact exhaust the range of officers of instruction; there are also visiting professors, visiting associate professors, visiting assistant professors, visiting instructors, and (theoretically) visiting lecturers) as well as part-time instructors. Persons with the title “coordinator” (e.g. laboratory coordinator or coordinator of college writing) may also be officers of instruction.

[Appointment letter]

STATUTES, SECTION [70.]A. Appointment. The terms of all appointments to the Lafayette College Faculty shall be in writing.

[“Tenure” defined]

STATUTES, SECTION [70.]B. Tenure. Tenure as described in the following paragraphs is defined as continuity of service, the institution having relinquished the freedom it normally possesses to terminate appointment, except for cause and subject to provision of the College with respect to retirement.

with respect to retirement: The College no longer has a mandatory retirement age.

[Initial appointments of professors]

STATUTES, SECTION [70.B.]1. The initial appointment of Professors to the Lafayette College Faculty may be with tenure or for a probationary period not to exceed three years. This probationary period may be extended if the candidate uses the parental option or the catastrophe option outlined in the Faculty Handbook. The probationary period shall be followed by appointment with tenure or termination of employment.

[Initial appointments of associate professors]

STATUTES, SECTION [70.B.]2. The initial appointment of Associate Professors to the Lafayette College Faculty may be with tenure or for term appointments not exceeding five years in total. This five-year probationary period may be extended if the candidate uses the parental option or the catastrophe option outlined in the Faculty Handbook. The probationary period shall be followed by appointment with tenure or termination of employment.

[Appointments of assistant professors]

STATUTES, SECTION [70.B.]3. Assistant Professors shall not have tenure except under unusual circumstances. The provisional period is seven years of full-time service with the rank of instructor or above at Lafayette College. However, a maximum of two years teaching in the rank of Assistant Professor

or above at other institutions of higher learning will be counted toward the seven-year period. The provisional period for Assistant Professors shall be followed by appointment with tenure or by termination of employment.

[Non-tenure-track appointments]

STATUTES, SECTION [70.B.]4. Instructors, Lecturers, Associates and Assistants shall not have tenure. They are appointed on an annual or shorter basis. Their total period of employment shall normally not exceed five years.

[Notice of tenure or denial of tenure]

STATUTES, SECTION [70.B.]5. Notification about Tenure Status. For those not on tenure a decision must be reached by September 1 of the last probationary year as to whether or not tenure will be granted, and the individual must be notified of this decision. In no case, however, will tenure be granted by default. It is the responsibility of the individual concerned to notify his or her Department Head of a failure to receive written notification with regard to his or her continued employment.

[Notice of non-reappointment]

STATUTES, SECTION [70.B.]6. Notification about Decision not to Reappoint. If it is decided not to recommend a Faculty member for reappointment upon expiration of his or her current term, the Department Head, the Provost or the President notifies him or her in writing at the earliest opportunity. Notice is given (1) no later than March 1 if an appointment is to be terminated after one year of service, (2) no later than December 15 of the second year if an appointment is to be terminated after two years of service, and (3) no later than September 1 of the terminal year if the appointment is to be terminated after three or more years of service.

Statutes 70.B.6 = Faculty Handbook 4.3.8.4.

[Resignation from the Faculty]

STATUTES, SECTION [70.B.]7. Notification about Intent to Resign. A Faculty member may terminate his or her appointment effective at the end of academic year provided that he or she gives notice in writing at the earliest opportunity, but not later than May 15. The Faculty member may request a waiver of this requirement of notice in case of hardship or in a situation where he or she would otherwise be denied substantial professional advancement or other opportunity.

[Dismissal of a tenured member for cause]

STATUTES, SECTION [70.]C. Termination of a Tenured Member of the Faculty. Termination of a tenured member of the Faculty may be effected by the institution only for adequate cause pursuant to the procedures approved by the Board of Trustees and set forth in the relevant appendices of the Faculty Handbook.

Faculty Handbook: currently the only reference to the Faculty Handbook in the Statutes.
See also Statutes, Section 71.

[Salary year]

STATUTES, SECTION 71. The yearly salary assigned to each officer of instruction who shall be appointed, or who shall return from leave of absence, after June 30, 1945, shall begin with July 1 and be paid in monthly installments. In case of removal by the Board for cause, the College shall not be liable for salary beyond the salary earned through the month in which the removal occurs.

who shall be appointed, or who shall return from leave of absence, after June 30, 1945: every current officer of instruction is a member of this class.

[Duty to be present; leaves of absence; implied contract]

STATUTES, SECTION 72. All officers of instruction are expected to be present for duty throughout the academic year. Applications for leave of absence of not more than seven days shall be made to the Provost or the President; for more than seven days to the Board or its Executive Committee through the Provost or the President. An officer of instruction, in accepting an appointment from the College, thereby contracts to conform to all regulations adopted by the Faculty and approved by the Board.

academic year: defined in Faculty Handbook 4.2.1.

contracts to conform to all regulations: The placement of this proviso in Section 72 probably indicates an intention to stiffen the requirement that an officer of instruction must be "present for duty." This proviso also confirms that the Faculty is empowered to make regulations governing not only members of the Faculty but also those officers of instruction who are non-members: lecturers, assistants, and associates.

regulations adopted by the Faculty: this phrase implicitly authorizes the Faculty to make regulations that govern officers of instruction (see following note).

adopted by the Faculty and approved by the Board: This proviso is probably intended to grant contractual force *both* to Faculty regulations *and* to regulations adopted by the by the Board; a different construction of the syntax would grant contractual force only to regulations that have been adopted *both by* the Faculty *and by* the Board. The latter construction is unlikely to be correct, since it would mean that Board regulations not approved by the Faculty (the Statutes, for example) did not bind Faculty members, surely not the intended meaning.

[Department heads' annual report]

STATUTES, SECTION 73. Officers of instruction who shall have received appointments as heads of departments shall, before July 1 of each year, furnish such report of the work in his or her department as may be requested by the President.

requested by the President: department heads' annual reports currently go to the Provost.

[Faculty service responsibilities]

STATUTES, SECTION 74. It shall be the duty of each officer of instruction to bear an active part in the immediate government of the College and to discharge the particular duties of the chair or rank which he or she occupies in accordance with the regulations of the Faculty and the Board. Each officer of instruction is enjoined to maintain an attitude of loyalty to the fundamental principles and the government of the College, to bear a share of the general work of this institution, to attend the public exercises and to render such exceptional services as may be assigned to him or her by the Faculty or the Board. The welfare and government of the students are especially commended to the officers of instruction as individuals and to the Faculty as a body. The President of the College and the Faculty shall have supervisory authority over the students and over matters affecting the general welfare of the student body and shall do all that is necessary in meeting this responsibility in ways consistent with the Charter,

Statutes, and policies of the Board. Each officer of instruction is required to take part in the discipline of the College, to report delinquencies and violations of the rules and regulations of the College and is urged to promote, by precept and example, honesty, integrity, and commitment to the high purposes of the College.

immediate government: service in general, and in particular leadership and supervision of the students (note the reference later in this section to the “government of the students”). These responsibilities, as they relate to students, are elaborated in Faculty Handbook 7.0.

duties of the chair or rank: This requires senior members of the Faculty to take part in, for example, the personnel evaluation of members at lower ranks.

public exercises: see Statutes, Section 61.

such exceptional services as may be assigned to him or her by the Faculty: This clause is taken as indicating that in general a Faculty member may not refuse to serve when elected or appointed to a Faculty committee or when elected to chair such a committee. (See further Faculty Handbook 5.4.1.6.3, 5.4.2, 5.4.3.10.5).

The President of the College and the Faculty: The Administration and the Faculty share oversight of student conduct and responsibility for student welfare. See also Charter, Section I, Article VI, and Statutes, Sections 74 and 111.

take part in the discipline: Each member of the Faculty is authorized to act as a deputy of the deans, reporting student infractions observed; each member is equally required to exemplify integrity to the students and to support the College’s “high purposes.”

[Restrictions on outside employment]

STATUTES, SECTION 75. No officer of instruction shall, without the express permission of the Board, engage in any pursuit or occupation, with or without compensation, which shall interfere with the faithful discharge of his or her duties as a teacher, or with his or her punctual attendance upon the meetings of the Faculty and the public exercises of the College, or with such miscellaneous duties as are involved in his or her relations to the students as an officer of instruction.

which shall interfere: interference is defined in Faculty Handbook 4.2.3.

faithful discharge of . . . duties as a teacher: implicitly required.

punctual attendance upon the meetings of the Faculty: Attendance at Faculty meetings is required (see Section 92).

public exercises: see Statutes, Section 61.

[The Faculty as a deliberative body]

STATUTES, SECTION 90. The Faculty shall consist of the President, Professors, Associate Professors, Assistant Professors, Instructors, and such other Officers as the Board or the Faculty may assign seats therein.

See also Faculty Handbook 4.1.

[Curriculum, admission, schedule, graduation requirements, and degrees]

STATUTES, SECTION 91. Subject to the approval of the Board, the Faculty shall determine the courses of study, with the requirements for admission thereto, arrange the order of studies, the time to be devoted to each subject and appoint the hours of recitation, lectures and other College exercises. They shall examine applicants for admission, judge their qualifications, assign their exercises and, at such times as they may appoint, determine their promotion to higher standing, and at the termination of their course recommend such as they deem worthy to the Board for appropriate degrees.

approval of the Board: It appears unlikely that the Board would intervene in any of the listed matters, which are for the Faculty to “determine.” Motions on these subjects should not be couched as recommendations to the President and the Board of Trustees.

courses of study: major and minor requirements and degree requirements.

requirements for admission thereto: i.e., for admission to a given major or minor.

the order of studies: i.e., the courses to be offered. Although the Faculty approves course proposals, department heads in effect say what courses will be offered in any given term.

time to be devoted to each subject: meaning presumably the graduation requirements—what we now call the Common Course of Study plus the requirements to complete particular majors.

appoint the hours of recitation: The Faculty has delegated to the Registrar authority to determine the class schedule (motion 67-18).

other College exercises: possibly chapel services, when there were chapel services. In any case, this phrase is blanket authority for the Faculty to schedule events, if scheduling supervision seems to be called for. (The Faculty has asked the new administrative cultural and co-curricular activities group to examine scheduling problems and make recommendations.)

examine applicants for admission, judge their qualifications: presumably, their qualifications for admission. Almost certainly the Faculty has delegated this activity to the Director of Admissions ever since there has been a Director of Admissions, though within living memory the Faculty’s committee on admissions or enrollment planning has assisted with this evaluation. The rationale for assigning the Faculty responsibility for admissions is presumably that the Faculty is best able to know which applicants are qualified (or if there is an oversupply of applicants, best qualified) to receive the education that the Faculty is prepared to offer.

assign their exercises: teach them—give them assignments and assess their work in courses.

determine their promotion to higher standing: i.e., determine (by assessing their academic progress) when students attain sophomore standing, junior standing, etc. The Faculty has delegated this determination to the Academic Progress Committee and (in practice) to the Registrar.

recommend such as they deem worthy: The deeming occurs by vote on a recommendation of the Academic Progress Committee at the last regular Faculty meeting each year.

[Faculty organization and meetings]

STATUTES, SECTION 92. The Faculty shall make such rules for its organization and conduct of business as it may deem best, provided they are not inconsistent with the Charter, Statutes, and policies of the Board. It shall be the duty of every member of the Faculty to attend the stated meetings unless formally excused from attendance. Fifty percent plus one of the members of the Faculty entitled to vote at Faculty meetings shall constitute a quorum for the transaction of business. No change in the policy of the College in respect to the requirements for admission, the course of study, the conditions of graduation or the religious exercises shall be made without the concurrence of the President, unless the proposed changes shall be adopted at two stated meetings of the Faculty by a majority vote of the Faculty members entitled to vote. In the absence of the President, the Provost shall preside at Faculty meetings; and in the absence of the Provost, a Professor appointed by the President of the College, or, if this is impossible, then a Professor appointed by the Provost.

not inconsistent with the . . . policies of the Board: On 1 October 1997, I was assured by Philip Schroeder, then administrative secretary to the Board, that at that time there were no Board policies limiting the Faculty’s ability to arrange its own organization and conduct of business, other than the policies expressed in these Statutes. To my knowledge, the Board has since adopted no such policies, except for the references to Faculty committee membership and procedure in the various Faculty personnel policies it has approved; all of these are published in the Faculty Handbook.

formally excused from attendance: There is presently no mechanism for seeking or receiving such a formal excuse. In an earlier era, the Clerk encouraged attendance by listing absentees by name in the minutes (sometimes marked “excused”), but for a long time the Faculty has been too large for the Clerk to identify those absent.

Fifty percent plus one: This clumsy formula was undoubtedly intended by the drafters to be legalese for “a majority,” but it is the tradition of the Clerks to calculate 50 percent, then add 1, then round up to the next whole number if the sum is fractional, in order to avoid having doubt cast on the quorum. It is to be hoped that a future revision of the Statutes will substitute “a majority” here.

the Policy of the College: This sentence confirms that the Board has authorized the Faculty to make College policy on admissions requirements, the course of study (see Statutes, Section 91), the graduation requirements, and the religious exercises (of which there currently are none). The Board has also authorized its Educational Policy Committee to “recommend policies . . . for student admissions” (Statutes, Section 47).

without the concurrence of the President: This section in effect gives the President a veto over Faculty action on admissions requirements, the course of study, and graduation requirements and gives the Faculty a means of overriding the veto: a vote in which the majority is at least equal to the quorum, at two different regular monthly meetings. (I do not know that such a veto has ever occurred.)

the absence of the Provost: In the unlikely event that both the President and the Provost were absent without having appointed a chair, the Faculty would follow the process specified in *Robert’s Rules of Order*: the Clerk would conduct an election for a chair *pro tem*.

[Catalogs and other publications; records; other Faculty business]

STATUTES, SECTION 93. The President and Faculty shall publish periodically such catalogs and other publications as they deem appropriate which may contain the names of the officers and students, the courses of study, the requirements for admission, the College charges, the annual calendar and/or such other information as they see fit. They shall also make such arrangements for the keeping of the records, the making of reports and the carrying on of other College business related to the educational program as may be necessary and proper.

President and Faculty shall publish periodically: the President because the Administration has the resources, the Faculty because it knows what courses it is prepared to offer. The Faculty’s role in College publications, though for several decades delegated (or relegated) to the Administration, offers a means to guard against the danger that the Catalog and view books may sell a curriculum that the Faculty is not prepared to deliver. In recent years, the Faculty’s Information Technology Advisory Committee has asserted that this statute gives the Faculty authority over the College website. See also Statutes, Section 52.

annual calendar: it was formerly customary for the Board to approve the academic calendar (including the dates of holidays and of Commencement), but in recent decades the calendar has been left entirely up to the Faculty.

other publications: extending conceivably to all admissions publicity, to the campus directory, etc.

the records: the student records kept by the Registrar, presumably, but also the records of the Faculty meetings (kept by the Clerk and the College Archivist; see Statutes, Section 94 and Faculty Handbook 5.2.4-5) and of its committees (kept by the College Archivist with the cooperation of committees concerned).

the carrying on of other College business related to the educational program: blanket authorization to the Faculty to do what is “necessary and proper” to carry out the educational program.

[Clerk’s duties]

STATUTES, SECTION 94. The Faculty shall appoint, with the concurrence of the President, a Clerk who shall keep a record of the minutes of the Faculty and such other records as the Faculty shall determine and perform such other duties appropriate to the office as the Faculty shall from time to time designate and appoint; the Clerk shall be an active member of the Faculty and shall receive such salary for his or her services as the Board shall provide.

with the concurrence of the President: The President may veto the Faculty’s choice for Clerk.

such other records: At present the Clerk is not responsible for any other records.

other duties: Though most of what the Clerk does is not enumerated here or in any Faculty directive, the Clerk’s other duties include membership in the Faculty Academic Policy Committee and the Governance Committee and attending meetings of the Board.

active member: this is taken as preventing an emeritus member or an administrator from serving as Clerk. Faculty Handbook 5.2.2.a says that the Clerk must be tenured.

such salary: Within living memory, no salary has been paid, though since 1998 the Clerk has received a course release each semester.

[Faculty committees]

STATUTES, SECTION 95. The Faculty may organize such councils and committees as it may deem wise and delegate to such councils or to standing committees such part of the powers committed to the Faculty by the Board as the Faculty and the President may determine.

councils and committees: The term “council” is not in current Faculty use, but the Faculty Academic Policy Committee was formerly called the “Academic Council.”

delegate . . . powers: It is explicit that the Board has delegated (“committed”) some of its powers to the Faculty and further that the Faculty may give some of its powers to one of its committees. In the normal case, where Faculty powers are concerned, a Faculty committee can only make recommendations to the Faculty. In a few instances, the Faculty has created committees “with power” (as *Robert’s Rules of Order* terms it)—committees that can exercise the Faculty’s authority. The Academic Progress Committee has the authority to determine the academic standing of individual students, impose probation, remove a student for insufficient academic performance, and, in cases where the Faculty’s authority is not exercised by the Dean of the College, adjudicate academic dishonesty charges. (In an earlier day, all these matters came to the Faculty from the predecessor committee as recommendations.) Similarly the Student Conduct Committee and the Student Appeals Committee have the Faculty’s authority to adjudicate disciplinary infractions in cases where the Faculty’s authority is not exercised by the Vice President for Student Affairs. (Again, in an earlier day, disciplinary committee’s findings came to the full Faculty.) The Faculty’s authority to make personnel recommendations to the President is in effect delegated to the Promotions, Tenure, and Review Committee and to the Appeal and Grievance Committee. The Academic Research Committee has the power to make recommendations to the Provost on, for example, the allocation of grant funds and on scholarly misconduct.

as the Faculty and the President may determine: The wording may imply that the President has a veto over the Faculty’s decision to give its powers to a committee, though I am not aware that such a veto has ever been exercised.

standing committees: The Faculty is not authorized to create ad hoc committees “with power.”

[Faculty’s authority over student conduct and student affairs]

STATUTES, SECTION 111. Recognizing that basic student freedoms require attention also to student responsibility and conduct, the Board shall enact from time to time such basic policy statements governing the rights, responsibilities and conduct of students as the Board deems appropriate, and otherwise shall delegate to the President and the Faculty, on a continuing basis the responsibility for supervising student affairs.

basic policy statements: The Statement on the Rights and Responsibilities of Students is the obvious example.
to the President and the Faculty: This responsibility is shared.

[Faculty authority over Student Government]

STATUTES, SECTION 112. The student body may establish for itself a government which is representative of at least all full-time students and is responsible to the Faculty and thereafter to the President. With the approval of the Board, the President and Faculty may delegate to the Student Government a share of the authority and responsibility for matters related to the general welfare of students. The duties of the Student Government may include:

- A. The allocation of funds made available by the Board to the student body for student activities;
- B. Those duties specifically delegated to Student Government through resolutions of the Board, the Faculty, and the President;
- C. The representation of the students of Lafayette College to the community outside the College;
- D. Any other duties agreed upon by the student body or the Student Government not inconsistent with the Charter, Statutes of the Board, or other controlling policy statements of the College.

responsible to the Faculty and thereafter to the President: In practice, the Student Government's main responsibility to the Faculty is to provide student members for a number of Faculty committees. These members are currently appointed by the Vice President of Student Government. Implicit in this wording, however, is that the President is authorized to intervene in the relationship of Student Government to the Faculty.

Faculty may delegate to the Student Government: see Faculty Handbook, Appendix H.

[Student Government's right to petition and counsel the Faculty]

STATUTES, SECTION 113. The formal governance structure of the College requires that students, acting through their Student Government representatives, should petition the Faculty or the President of the College, as appropriate to the subject, on matters related to the general welfare of students or of the College generally and which, in the opinion of Student Government, should receive attention by the Faculty, the Administration, or the Board. Similarly, in matters affecting the general welfare of the College community, and specifically of the student body, the Board, Administration and Faculty, as they deem appropriate, shall endeavor to seek the counsel and guidance of student representatives.

should petition the Faculty: as has occasionally occurred.

seek the counsel and guidance of student representatives: normally through the participation of the student members in Faculty committees.

[Degrees]

STATUTES, SECTION 120. The Board shall authorize the awarding of such honorary degrees and Bachelor's degrees in course as the Board from time to time shall determine. In exceptional circumstances the Board may also authorize the awarding of such Master's degrees in course as the Board may determine.

See also Charter, Section I, Article VII.

[Conferring of degrees]

STATUTES, SECTION 121. The President of the College is authorized to confer at the annual Commencement or at such other times as the Board may determine, appropriate degrees in course on all candidates who shall be certified by the Clerk of the Faculty as having completed the requirements for the respective degrees and approved by the Board.

certified by the Clerk: In a letter from the Clerk to the Board secretary, accompanied by a listing of each candidate recommended by the Faculty.