

**MINUTES
FACULTY SENATE
THE UNIVERSITY OF ARIZONA®
March 2, 1998**

**These minutes may be accessed electronically at:
<http://w3.arizona.edu/~senate/minutes.htm>**

1. CALL TO ORDER

The meeting was called to order by Presiding Officer Jeffrey L. Warburton at 3:00 p.m. in Room 146 of the College of Law.

Present: Senators Atwater, Caldwell, Carlson, Casper, Chen, Dahlgran, Davidson, D. Davis, T. Davis, Emrick, Erickson, Erlings, Ervin, Garcia, Gerber, Glittenberg, Heckler, Hogle, Hurt, Joens, Larson, Levy, Likins, Love, Maré, McCaslin, Medine, Miller, Mitchell, Montanaro, Myers, O'Brien, Pepper, Pitt, Poss, Reeves, Romer, Schiffer, Silverman, Troy, Warburton, Weinand, Witte, and Zwolinski. Robert Sankey served as Parliamentarian.

Absent: Senators Aleamoni, Clarke, Coons, Dvorak, Dyl, Emrich, Feltham, Fericola, Gore, Gruener, Howell, Mishra, Schooley, Spece, Sypherd, and Szilagyi.

2. OPEN SESSION

(Please note that speakers at the Open Session are expressing their personal opinion, which may not reflect the position of the Faculty Senate.)

Janolyn LoVecchio, a disabled classified staff member, provided another update regarding HB1168, which she said would restore equity in the payment of retirement benefits to disabled state employees: The bill passed the Springer committee 3-0 and the Finance Committee 8-0. Ms. LoVecchio and others testified at both committee hearings. Having passed the Rules Committee last week, the bill will go to the floor of the Senate for the final vote later this week. If it passes in the Senate, it will then go to the Government Operations Committee in the House of Representatives for a vote.

3. REPORTS

3A. ASUA President Gilbert Davidson

Senator Davidson, along with Senator Montanaro, explained the procedure for accessing teacher course evaluations online. The address is <http://w3.arizona.edu/~oce> (through Student Link). In order to access the evaluations, a faculty member will need a "u." e-mail account; the login name and regular password for e-mail must be entered. Evaluations can be found by either the name of the course or the instructor's name. Currently only evaluations for Fall 1997 are online. Senator Davidson's other announcements: (1) Last week the Arizona Board of Regents (ABOR) approved a \$1 student fee, effective Fall 1998, to be used to support KAMP, the UA student radio station, in its programming activities and plans to improve equipment. (2) John Lee of the Joint Legislative Budget Committee (JLBC) has proposed that a portion of revenue from student tuition be used to fund faculty salary adjustments. Senator Davidson noted that he was very concerned about this proposal, since it would "pit the students against the faculty;" he added that Chair Hogle would review the proposal in more detail during his report today.

3B. Presiding Officer of the Faculty Senate Jeffrey Warburton

Presiding Officer Warburton made several announcements: (1) Candidates are still needed for faculty elections. The Colleges of Science, Social and Behavioral Sciences, Nursing, and Pharmacy are lacking sufficient numbers of College Representative candidates. Nominating petitions for the second election, to be held in early April, are available from the Faculty Center, deadline for submitting petitions is Mar. 13. (2) The Sierra Vista Branch Campus has requested a voting representative to the Faculty Senate. This matter will be forwarded to the Committee on UHAP, Constitution, and Bylaws Changes, since revisions would be required in the Constitution and Bylaws in order to accommodate this request. (3) Please reserve Monday, Apr. 27, from 3:00 to 5:00 p.m., in case an additional Senate meeting needs to be convened to finish business before the end of the academic year. Senators will be advised if a meeting is definitely scheduled. (4) Today's agenda has a change in order—Item #7, discussion of the potential Nike agreement, has been moved to Item #9 on the agenda.

3C. Secretary of the Faculty Rose Gerber

Using overhead transparencies, Secretary Gerber briefly provided step-by-step instructions on how to access Faculty Senate minutes online. Presiding Officer Warburton reported that, to date, slightly more than 100 General Faculty members have requested to continue receiving the printed version of Senate minutes.

3D. Chair of the Faculty Jerrold Hogle (Attachments)

Chair Hogle discussed three topics: (1) Faculty Websites - At Dr. Hogle's request, Secretary Gerber and Senators Atwater and Caldwell have formed an *ad hoc* committee to coordinate the Websites maintained by various faculty groups. The committee, which will meet through the end of the Spring 1998 semester, will take steps to assure that the sites are as clear and as accessible as possible. (2) Voting Faculty List - Chair Hogle called attention to the two lists distributed on Senators' desks—Voting Faculty by Voting Code and Voting Faculty by College. He also noted that a complete Voting Faculty List is on hand today, if anyone cares to review it; the list will also be available in the Faculty Center. (3) "Son of TIP" - Chair Hogle noted the "shock, dismay, and anger" felt by faculty leaders and some Regents when John Lee's latest proposal regarding faculty salaries was distributed at the ABOR meeting on Feb. 27. Mr. Lee has suggested that 40% of revenue realized from ABOR-approved increases in student tuition be deposited in the Faculty Teaching Incentive Program Fund (TIP). Dr. Hogle stressed that this is not a final proposal; it was inserted as a "place saver" or footnote in the appropriation bill on faculty salaries, which is currently being discussed by a subcommittee of the House Appropriations Committee. Although the Legislative Study Committee on Faculty Roles and Rewards has been working on a new faculty salary plan, no one on the committee, including its Co-chair, Senator Rusty Bowers, had seen the proposal before it was presented to the Regents. According to Chair Hogle, neither Senator Bowers nor the other legislators on the committee are sure they agree with the proposal. He added that faculty leaders are universally "violently opposed" to the proposal, because it could give faculty an incentive to favor tuition increases in order to fund faculty raises, thus pitting faculty against students, as Senator Davidson said earlier. Other language in the footnote may also be problematical because it would allow the JLBC to micromanage the universities, Dr. Hogle said, but the Legislative Study Committee on Faculty Roles and Rewards has been told it will have at least two more meetings to draft a faculty salary plan. Chair Hogle concluded with three points: (a) Currently ABOR and the Legislature are struggling over control of the universities, and it would be to our advantage to have the Regents have greater power, since we can work with them and help them understand what we do; (b) although some compromises may be necessary, faculty leaders hope to secure a faculty salary plan that is much fairer, more broad-based, better defined, and more closely related to regular merit procedures than last year's plan; and (c) Dr. Hogle welcomes ongoing e-mail input from Senators and other faculty members regarding the salary plan.

3E. Provost Paul Sypherd

No report, since Provost Sypherd was unable to attend.

3F. President Peter Likins

President Likins reported that he is continuing to be educated about the political process in Arizona, an education that he described as exciting. He noted that "there is no point in going to war with the Legislature;" we need to learn how to speak the language that enables us to succeed in the legislative environment, being both firm and respectful, ultimately persuading legislators of the wisdom of investing in universities. Dr. Likins also commented that we have made substantial progress in the last year; increasingly, the Regents are "weighing in on our side of the struggle," rather than presenting a united front with the Legislature. He credited faculty leaders with helping to develop the confidence of the Regents in the faculty. Dr. Likins also noted his concerns regarding the strategic plans the state's universities are required to develop annually: Although a great deal of effort goes into the plans, the universities have virtually no input and no control with regard to revenue. Unlike private industry or private universities, public institutions in Arizona are expected to plan their expenditures, while someone else calculates what the revenue will be after the fact. Thus, as universities have been denied adequate resources in recent years, the strategic planning documents have become an effort to interpret where cuts can be made. The Regents must understand the universities' need to play a more forceful role in influencing the revenues that come to them, President Likins said. Other comments: (1) Students, faculty, and administrators need to develop a collective "we," a voice with enough harmony so that the Regents and others are persuaded that a common vision for the UA exists. (2) With regard to the whistleblower legislation, the presidents of the three state universities "are willing to create a level of appeal beyond presidential judgment in a whistleblower case." The three presidents are also united in their desire to have the whistleblower process remain within the academy (i.e., within the domain of the Regents, rather than with the state government). (3) While the discussions and negotiations regarding TIP are frustrating, we are nevertheless in a better position than we were last year. (4) The extension of shared governance is being constructively discussed on campus. We need to imbed in the UA's culture, top to bottom, the importance of cooperative processes in which faculty, staff, and students are consulted before decisions that will impact their lives are made by administrators. This process does not mean that the President cedes authority, but that he commits himself to the dialogue that precedes decision, so that when he must make a decision, it is an informed one.

4. QUESTION AND ANSWER PERIOD

Senator Garcia asked Chair Hogle if the UA had set a precedent for using student tuition for faculty raises several years ago. Chair Hogle said did not know, since he was not involved in faculty governance then, but he had not heard anyone refer to this type of precedent.

Senator Garcia commented to President Likins that there would continue to be considerable sentiment in favor of the whistleblower legislation, until and unless the appeals process for staff is improved. Senator T. Davis agreed that staff and student whistleblowers definitely need to be protected. President Likins commented that the presidents of the three state universities are prepared to make any concessions to keep the process within the academic community.

Senator Silverman asked whom Greg Fahey, the UA's Associate Vice President for State Relations, represents in his dealings with the Legislature. He noted that Mr. Fahey had taken a position opposing the whistleblower legislation, despite the fact that a significant segment of the faculty favors the legislation. President Likins responded that Mr. Fahey is quite clear that he does not make policy himself, but instead takes directives from others, most immediately from the UA President. Dr. Likins also described a recent briefing that government affairs people held following a Regents' meeting to advise participants on the status of various legislation and negotiations. Included in this briefing were representatives from all three campuses (administrators, faculty leaders, staff, and students) and several Regents; all of the participants had the opportunity to provide input.

Senator Mitchell asked Secretary Gerber how long after a Senate meeting the minutes would be posted on the Webpage. Secretary Gerber replied that the current procedure calls for the minutes to be posted online after they have been approved by the Senate. In response to a second question, Secretary Gerber noted that online access to the minutes is not restricted to UA personnel.

Senator McCaslin and others asked why the totals on the two Voting Faculty lists distributed to Senators did not exactly match by category. Senator Witte asked specifically about the codes YY and NT and who is included in those categories. Chair Hogle said he would provide answers at the next Senate meeting.

5. **APPROVAL OF THE MINUTES OF JAN. 26, 1998**

The minutes of the Senate meeting on Jan. 26, 1998, were approved as distributed. In response to a question from Senator Myers, Presiding Officer Warburton noted that the transparencies Provost Sypherd used during his report are listed in the appendix for the minutes and are available upon request from the Faculty Center.

6. **APPROVAL OF CONSENT AGENDA ITEMS FORWARDED FROM INSTRUCTION AND CURRICULUM POLICY COMMITTEE** (Attachment)

Presiding Officer Warburton reminded Senators that the three consent agenda items come as seconded motions from the Instruction and Curriculum Policy Committee (ICPC); however, if any Senator wants to discuss any of the items at length, it can be pulled from the consent agenda and treated as a regular agenda item. The motions are:

Motion 1997/98-31, to change the name of the African American Studies Program to Africana Studies.

Motion 1997/98-32, to change degree name from B.S. in Hydrology to B.S. in Environmental Hydrology and Water Resources.

Motion 1997/98-33, approval of a recommendation that the M.S. and Ph.D. programs in Mining Engineering be consolidated with the M.S. and Ph.D. programs in Geological and Geophysical Engineering to form new M.S. and Ph.D. programs in Mining, Geological, and Geophysical Engineering.

With regard to the first motion, Senator Schiffer asked what "Africana" means and why the change was requested. Senator Dahlgran, ICPC Chair, read the rationale provided by the requesting department: The new name would (a) represent more accurately a global perspective; (b) conform more closely with naming conventions at other institutions; and (c) reflect more appropriately the black population origins and new directions in the discipline.

All three consent agenda items [Motions 1997/98-31, 1997/98- 32, and 1997/98-33] as detailed above, were passed, with three votes opposed and one abstention.

7. **DISCUSSION AND ACTION ON PROPOSAL FOR UNIVERSITY ENHANCED REVIEW BOARD (UERB)** (Attachments)

Senator Atwater, Co-chair of the Academic Personnel Policy Committee (APPC), reported that this proposal comes as a seconded motion [Motion 1997/98-34] from the APPC. The proposal outlines a process for forming a University Enhanced Review Board (UERB), a University-level faculty group that a faculty member may select to perform an enhanced review, in the event that the faculty member receives an overall unsatisfactory rating in his or her annual performance review. Citing provisions in the *University Handbook for Appointed Personnel*, Senator Atwater explained that a faculty member receiving an overall unsatisfactory rating has three options for an enhanced review: (1) by a unit-level committee, (2) by a committee at the next higher level; or (3) by an elected peer committee at the University level, which is what the proposed UERB would be. Other sections of the proposal deal with UERB's composition, method of selection of members, and the review process itself.

Senator Medine asked about the rationale for having the Chair of the Faculty and the Provost nominate candidates for UERB Chair and Vice Chair during the first year. Senator Atwater explained that the Chair of the Faculty and the Provost would jointly propose two nominees each for UERB Chair and Vice Chair from among the UERB membership elected by college advisory councils; UERB members would then elect their Chair and Vice Chair from that slate. In subsequent years, the UERB Chair and Vice Chair would be elected by the UERB membership from among those UERB members who have served at least a year. She said that the proposal for the first year is based on the following considerations: (1) When the UERB is first established, individual members will not be familiar with the process. (2) Since the entire review process ultimately resides in the Provost's office, it makes sense to involve the Provost in the selection of the first candidates for UERB Chair and Vice Chair. (3) The proposal for the first year seems to comply with the spirit of shared governance without being intrusive. Chair Hogle likened the first-year process to the narrowing of the initial field of CAFT candidates by the President and the Chair of the Faculty.

In response to other questions, Senator Atwater made the following points: (1) UERB will be comprised of approximately 30 members; the UERB Chair will appoint panels of 3-5 members each to deal with individual appeals. (2) Panel members will be chosen from colleges other than the one in which the appealing faculty person is a member. (3) According to the shared governance agreement, college advisory councils are to be elected.

Motion 1997/98-34, to approve the proposal for the establishment, composition, and procedures of the University Enhanced Review Board as outlined in the attachment, was carried, with two votes opposed.

8. **INFORMATIONAL ITEM ON PROMOTION AND TENURE INSTRUCTIONS** (Attachments)

Senator Atwater briefly reviewed the information included in Senators' meeting packets regarding the preparation of promotion and tenure dossiers. Noting that this agenda item is informational only, not an action item, she pointed out a few changes from the P&T instructions issued by the Provost's office in previous years (indicated by underlining in the document). She noted that the Provost's office would like to receive all input and feedback to the material no later than Mar. 15, because the P&T instructions and other information will be issued in final form on Apr. 1.

Senator Weinand asked if the analogous packet for personnel on continuing appointment is also available. Senator Atwater said she would have to check with the Provost's office.

There was some discussion regarding the conflict of interest provisions in the instructions. Senator McCaslin suggested that the sentence, "Colleges may wish to establish their own protocols to deal with these issues," is too loose, potentially opening the door for complaints from disgruntled faculty when decisions are not to their liking.

9. **INFORMATIONAL ITEM ON POTENTIAL AGREEMENT WITH NIKE CORPORATION** (Attachments)

President Likins began by commenting that the prospect of an all-sports contract with the Nike Corporation had prompted him to think more deeply about the general issue of corporate relationships with universities. He outlined the reasoning process he undertook before deciding that the UA's negotiations with Nike could continue. He also described his recent visit, along with ASU President Lattie Coor, to Nike CEO Phil Knight to discuss possible agreements with the two universities. At that meeting, Mr. Knight enthusiastically agreed to include a clause in any contract with a university, stating that if Nike deliberately violates its own code of conduct or knowingly allows violations of it by subcontractors, the agreement will be null and void. A summary of President Likins' additional remarks: The UA already has corporate relationships in abundance; in these times, universities need many different sources of funding in order to operate successfully. If one accepts that certain university-corporate relationships are appropriate, criteria need to be developed to determine the acceptability of any given relationship. Those criteria should be consistent for all potential corporate relationships. Thus, the fact that Nike outsources its work (i.e., uses foreign suppliers to reduce manufacturing costs) should not disqualify Nike from consideration for an agreement, unless we are willing to hold all potential corporate relationships to the same standard. Describing outsourcing as quite pervasive in corporate America, Dr. Likins noted that he personally believes in the practice, not only as a profit maximization strategy, but also as a global development strategy. When considering the concerns expressed about Nike in the context of his own personal standards and sense of integrity, President Likins said the arguments against cheap labor and corporate logos on "human billboards" are not persuasive. For him, the crux of the matter is whether the Nike code of conduct is a genuine credo that the company is making a sincere effort to follow. The UA has a responsibility to ensure that it does not advantage any corporation that may be systematically abusing its workforce, he said. In the case of Nike, there is anecdotal evidence that, although such abuse by Nike subcontractors occurred in the past, it has been eliminated or substantially reduced. In defining abuse, we must also decide whether we should adapt ourselves to local cultures and laws or whether we should insist on the preservation of American standards of compensation and labor practices, he noted. All of these are very complex issues, Dr. Likins said, but he has satisfied himself that if Nike is following its own code of conduct and performing as stipulated in it, a continuing relationship with the corporation is worth considering. He also noted the advantages of an all-sports or all-school contract from the perspective of the Athletic Director: It is an appealing "equity management strategy" for spreading benefits among all UA sports teams. President Likins concluded his remarks by emphasizing that he has not seen any contract or draft contract with Nike, and that he is committed to a full discussion of the issues before he considers signing any agreement.

UA Athletic Director D. James Livengood commented briefly on the proposed relationship with Nike, noting that negotiations have been underway for one-and-a-half years. The agreement is not just about money, he said. It has to do with sharing any benefits derived from such a contract among all 18 UA athletic teams; currently, only a few high-visibility sports have the advantage of having individual contracts with corporations like Nike, Reebok, and Speedo. He also noted that there is ample evidence that Nike has improved conditions for its workers, and he suggested that it would be short-sighted to reject the possibility of an all-school contract with Nike without at least looking at the facts available.

President Likins commented that he would not agree to any contract that would "muzzle" UA personnel (i.e., prohibit them from criticizing a corporate "benefactor").

Senator Emrick asked if a UA student athlete could request to wear a uniform displaying only the UA logo and not the Nike "swoosh." President Likins and Mr. Livengood said this could be possible, but this specific issue had not yet been discussed with Nike personnel.

Senator Silverman suggested that an *ad hoc* committee or task force be formed to address questions of corporate sponsorships and advertising. He also noted several concerns: (1) Advertising on "human billboards" is different from painting a logo on the floor of McKale Center. Student athletes attend the UA to participate in sports, not necessarily to advertise for various sponsors. (2) Although Nike's willingness to incorporate its code of conduct into contracts with universities is a step in the right direction, monitoring to assure that Nike is actually adhering to the code of conduct would be difficult. (3) The suggested language for the proposed contract (a provision that the relationship would be severed if Nike "deliberately violates" its own code of conduct or "knowingly allows its subcontractors to do so") is problematical, since it would be difficult to prove whether the violation is deliberate, and it also would be advantageous for Nike not to know what its subcontractors are doing. (4) The \$3 million estimated value of an all-sports contract with Nike could be considerably overstated if it is based on retail pricing. (5) What other benefits will UA coaches derive from this arrangement (e.g., travel and personal fees)?

Senator T. Davis agreed that a committee should be established to study this "hugely difficult" issue.

Mr. Livengood commented that the UA Intercollegiate Athletics Department has declined more offers than one might imagine because of University policy or moral considerations (e.g., agreements with beer companies).

Senator McCaslin stated that the model of the Nike code of conduct has disturbing similarities to achievement motivation and social responsibility models that emerged in Germany after World War II. She noted her distress that there is "no responsibility for knowledge acquisition," but simply responsibility for acting on knowledge once obtained. If there is no criteria for knowledge acquisition, a passivity model is easy to support, she said. She also commented that most student athletes are legally minors who deserve to be protected from the pressures of opposing powerful corporations by refusing to wear certain apparel. Mr. Livengood responded that, to his knowledge, most UA student athletes favor Nike gear. President Likins said it would be healthy to provide UA student athletes an opportunity to express their views on the issue confidentially.

Senator Garcia echoed earlier suggestions by calling for the establishment of a committee to study not only the proposed Nike agreement, but also the larger corporate affiliation issue, and to develop a framework within which such agreements can be considered. He added that the UA has a responsibility to the public to investigate these matters carefully and to set a course which "does not appear to have given up the public good in favor of some particular monetary gain." Chair Hogle said that, with the approval of the Senate, he and Presiding Officer Warburton would begin to formulate such a committee, which would include representation from Senators, students, the University Attorneys' Office, and the Intercollegiate Athletics Department. He said they would take nominations starting immediately and would report back to the Senate on their progress at the next meeting.

Senator Witte thanked several Senators and the students who brought the Nike issue to the attention of the Senate. She again likened the proposed contract to the American Medical Association's product endorsement fiasco. Noting that conflict of interest should apply not only to individuals but also to the institution, she said that this is an issue of conflict of the public interest.

Senator D. Davis commented that the Athletics Department frequently uses equipment, such as footballs, with corporate logos on them. He said that using a particular product does not necessarily mean "giving it the Good Housekeeping Seal of Approval."

Presiding Officer Warburton recognized and yielded the floor to Ms. Monica Wilson, co-founder of Students Against Sweatshops and one of several students in attendance. Ms. Wilson praised Senators for looking critically at the proposed Nike deal. She also noted that Nike has not lived up to its own code of conduct, and she said the UA needs to press for independent monitoring of Nike facilities.

10. **RECESS**

The Senate meeting recessed at 5:02 p.m. to go into Executive Session.

Rose M. Gerber, Secretary

Appendix*

1. Voting Faculty by Voting Code and Voting Faculty by College, both dated Feb. 11, 1998.
2. Consent Agenda for Faculty Senate Meeting, Mar. 2, 1998.
3. Process for Formation of University Enhanced Review board (UERB), with cover memo from APPC dated Feb. 16, 1998.
4. Memo regarding Promotion and Tenure Process and Preparation of Dossiers 1998-1999, with cover memos from APPC (dated Feb. 18, 1998) and Elizabeth Ervin (dated Feb. 10, 1998).
5. Nike Code of Conduct, with cover memo from President Likins dated Feb. 16, 1998.

*Copies of material listed in the Appendix are attached to the original minutes and are on file in the Faculty Center.

Motions of the Meeting of Mar. 2, 1998

- | | |
|------------|--|
| 1997/98-31 | Seconded motion from the Instruction and Curriculum Policy Committee to change the name of the African American Studies Program to Africana Studies; motion carried. |
| 1997/98-32 | Seconded motion from the Instruction and Curriculum Policy Committee to change degree name from B.S. in Hydrology to B.S. in Environmental Hydrology and Water Resources; motion carried. |
| 1997/98-33 | Seconded motion from the Instruction and Curriculum Policy Committee to approve a recommendation that the M.S. and Ph.D. programs in Mining Engineering be consolidated with the M.S. and Ph.D. programs in Geological and Geophysical Engineering to form new M.S. and Ph.D. programs in Mining, Geological, and Geophysical Engineering; motion carried. |
| 1997/98-34 | Seconded motion from the Academic Personnel Policy Committee to approve the proposal for forming the University Enhanced Review Board, as described in the minutes and the attachments listed in the appendix; motion carried. |