

MINUTES OF MEETING OF THE FACULTY SENATE OF THE UNIVERSITY OF ARIZONA
Monday, October 4, 1976 Kiva, Room 211 of the College of Education

The Faculty Senate convened in regular session on Monday, October 4, 1976, in the Kiva, Room 211 of the College of Education. Sixty-four members were present with Vice President McMillan presiding in the absence of President Schaefer.

SENATE MEMBERS PRESENT: Atwater, Boghosian, Briggs, Butler, Carr, Ceballos, Chin, Davis, DeWalt, DuVal, Edwards, Federhar, Garcia, Graham, Hawkins, Hetrick, Hull, Hyland, Inman, M. Johnson, R. Johnson, Kneebone, LaBan, Livermore, Lytle, Manes, Manning, Marchello, Matlock, McConnell, McCullough, McMillan, Meredith, Munroe, Myers, Nelson, Odishaw, Paplanus, Paulsen, Peacock, Peterson, Picchioni, Prosser, Rehm, Rosenblatt, Roubicek, Rush, Seibert, Selke, Sigworth, Sorensen, Stairs, Steelink, Svob, Thompson, Tomizuka, Townsend, Vanselow, Weaver, Webb, Windsor, Witte, Woloshin, and Wrenn. Dr. Robert Sankey was present as Parliamentarian.

SENATE MEMBERS ABSENT: Bartlett, Caldwell, Clark, Dresher, Fahey, Flores, Gaines, Gegenheimer, Heusinkveld, Ingram, Kassander, Laird, Lebowitz, Mitchell, Munsinger, Murphy, Nigh, Rhodes, Ridge, Rosenberg, Rusk, Schaefer, Wenders, and Wiersma.

APPROVAL OF MINUTES: The minutes of the meeting of September 13, 1976 were approved as distributed.

STATEMENT IN SUPPORT OF ASSURING DUE PROCESS FOR NONTENURED FACULTY MEMBERS, APPROVAL OF: Vice President McMillan recognized Faculty Chairman Steelink who said he had been distressed to find that in dialogue between representatives of the University of Arizona faculty and the Arizona Board of Regents concerning Regents approval of the proposed new Faculty Constitution and Bylaws, some Regents resisted incorporating in the Bylaws provision for due process of grievances of nontenured faculty members. In fact this situation has resulted in a stalemate in negotiations with the Regents, Dr. Steelink said. He said it was his conviction that grievances of nontenured faculty members should have a review. The hearing panels as presently provided for have been capable of separating valid from trivial claims, as the history of the University Committee on Academic Privilege and Tenure has shown during the last four years. To deprive a large segment of the faculty from due process proceedings would be unfair, would be untenable in a constitutional government, and would increase the litigation load of the courts and the University, he said. Such due process has been available at the University heretofore, being provided for in the 1973 Faculty Manual, Dr. Steelink emphasized. Such due process is provided for in the proposed revised Bylaws approved by the Faculty in May, 1975 and are called for in guidelines of the American Association of University Professors.

Dr. Steelink then moved that the Faculty Senate adopt the following statement:

"We are committed to the following three principles of due process. These are basic to faculty governance. They are incorporated in the 1973 Faculty Manual, the May 5, 1975 Faculty Bylaws and the AAUP Guidelines.

1. All members of the faculty have access to the review and grievance machinery of the Committee on Conciliation and the Committee on Academic Privilege and Tenure (CAPT).
2. In cases involving dismissal of tenured faculty, the burden of proof of the existence of adequate cause for a dismissal is on the appointing authorities. (Page 71, 1973 Faculty Manual and Section 7, b, iii, a 1975 Faculty Bylaws).
3. A nontenured faculty member may request a hearing before the Committee on Conciliation or the CAPT on a nonreappointment complaint, if the claim alleges violation of academic freedom or violation of policies on due process, race, sex, religion, or national origin. In such cases the burden of proof for these allegations is on the faculty member. (See 1976 Recommended Institution Regulations on Academic Freedom and Tenure, AAUP Bulletin, August 1976, Pages 189-90)"

Many seconds to the motion were heard.

Dr. Hetrick urged the Senate to adopt the motion by unanimous vote.

Dr. Sigworth said he was appalled that it was necessary for Dr. Steelink to have to come to the Senate with such a resolution. Due process is a fundamental right of constitutional government. He said it should be pointed out that in the last four years five grievance cases by nontenured faculty members have been sustained by the Committee on Academic Privilege and Tenure. In other words the CAPT found in five cases that a nontenured faculty member in some way had suffered an injustice at the hands of an administrator. Considering the size of the faculty, five may not be an alarming number, he said, but it would have been unthinkable for these persons not to have had formal recourse under a procedure guaranteeing due process. How could the lack of due process be tolerated by any academic scholarly society which holds any allegiance to the United States Constitution? He said he disliked to think how many other cases of injustice there might have been without the restraint of the Faculty Manual, or how many there would be if that restraint were removed. He said he also hated to think of how many lawsuits the University would be involved in.

Dr. Sigworth pointed out that nontenured faculty members are not "half citizens". They are progressing toward tenure and their rights must be protected. If such protection were not provided, he said, we would fast become a third rate institution and faculty members here could hardly do otherwise than to urge colleagues at other institutions not to join the University of Arizona. He urged approval of the resolution.

Dr. McCullough said that at the September 13 Senate meeting Dr. Schaefer had remarked that though one concern troubling some Regents was the proposed requirement to give reasons in public for nonretention, he was sure the Regents did intend to provide appropriate grievance procedure for all personnel. How was this to be provided? Dr. Steelink said that in the version of the Bylaws approved thus far by the Regents there is no grievance procedure for nontenured personnel.

Dr. Hetrick said that in the faculty representatives' discussions about the Bylaws with Regent Dunseath regarding the rights of nontenured faculty members, the faculty representatives indeed pressed for inclusion of the very points Dr. Steelink was advocating. He said he feared Regent Dunseath may have interpolated something in the faculty members' position that was not there. When the faculty representatives advocated the rights of nontenured faculty members some Regents had responded they "did not approve of giving reasons" and the faculty members had tried to separate this position from the central issue. Perhaps the faculty's position had been misunderstood. At any rate that may have been the background to President Schaefer's remarks on September 13 alluded to by Dr. McCullough.

Dr. DuVal asked, referring to Dr. Steelink's motion, if it was intended that the statement apply to voluntary faculty, that is, individuals holding faculty appointments who are receiving no compensation. Dr. Steelink said he had not thought about that category of faculty persons. Dr. Myers said he thought the answer to Dr. DuVal's question was that if an individual was a faculty member in the sense of the Faculty Constitution he or she would be covered by this motion. Dr. DuVal referred to that part of Section 2 of Dr. Steelink's statement reading "... the burden of proof of the existence of adequate cause for a dismissal is on the appointing authorities" and asked who the appointing authority is. Is it the person actually making the decision to employ someone? Dr. Steelink responded that he thought ultimately the appointing authority was the President of the University. He said the wording in this particular paragraph was lifted literally from the Faculty Manual.

Dr. Myers emphasized that Dr. Steelink's motion would provide for no change whatever in present University policy but would simply reaffirm what has been University policy and procedure. He pointed out that Regent Dunseath, in negotiating with faculty representatives about the Constitution and Bylaws, had said repeatedly that it was not intended to develop a document which would "take anything away from what already exists".

The question on the motion was then called for and the motion carried with no dissenting vote.

APPROVAL OF CATALOG MATERIAL AS REPORTED IN "CURRICULUM" BULLETIN: On motion by Dr. Gerald Peterson, with several seconds heard, the Senate approved catalog material as furnished Senate members in Curriculum bulletin Vol.6, No.6 (issue date September 23, 1976) with the exception of the proposals concerning the Landscape Architecture program given on pages 13 and 14 of that bulletin. Dr. Peterson explained that the appropriate curriculum review bodies had not yet completed their consideration of the Landscape Architecture proposals.

REVISED REPORT FROM THE COMMITTEE ON THE OPERATION OF THE SENATE, APPROVAL OF: The Senate continued its consideration of the report from the Committee on the Operation of the Senate of which Dr. John Schwarz was chairman. Action on the report had been postponed at the September meeting when the committee had been asked to make certain revisions. Dr. Schwarz was asked by Mr. McMillan to discuss the report from the podium.

Dr. Schwarz said that the latest revisions in the report, a copy of which had been furnished each Senate member in advance of the meeting,

referred to how the Senate's standing committees would be chosen. At the September Senate meeting some senators had objected to a contradiction between the proposed new Constitution and the Report on the Operation of the Senate so far as these two documents concern the selection of members of Senate standing committees. The new Constitution provides for the selection to be made by the Committee on Committees. The report of the committee provides for the Senate Executive Committee to make the selection.

Dr. Schwarz explained that the proposed revision of Section 1, Executive Committee of the Senate, under "Titles and Jurisdiction of Proposed Senate Standing Committees", was intended to correct this situation. Instead of reading "1. Executive Committee of the Senate To appoint members of the committees of the Senate; ..." the opening phrase would now read "To recommend the names to be furnished by the Faculty Committee on Committees to the Presiding Officer of the Senate for appointment to the standing committees of the Senate; ...". The other revisions now proposed, Dr. Schwarz said, under "Committee Membership, Procedure, and Organization" were designed to bring conformity with the above-mentioned change. Dr. Schwarz pointed out that select committees would be chosen by the Executive Committee on its own authority, without involving the Committee on Committees. The Constitution calls for the involvement of the Committee on Committees only in the selection of standing committees.

Dr. Myers moved that the Report of the Committee on the Operation of the Senate, incorporating the latest revisions presented by Dr. Schwarz, be officially adopted by the Senate. Several seconds were heard and the motion carried. The complete revised report as finally adopted is attached to these minutes.

REVISED REPORT FROM COMMITTEE REVIEWING UNIVERSITY POLICY WHICH RESTRICTS HIGHER ADMINISTRATIVE OFFICERS AND CERTAIN FACULTY MEMBERS FROM WORKING FOR ADVANCED DEGREES AT THIS UNIVERSITY, CONSIDERATION OF: Mr. McMillan recognized Dr. Mitchell Vavich, Chairman of the Committee Reviewing University Policy Which Restricts Higher Administrative Officers and Certain Faculty Members from Working for Advanced Degrees at this University. Dr. Vavich reminded the Senate that when the committee's report was presented to the Senate on April 12, 1976 by Dr. Sigworth, in Dr. Vavich's absence, the Senate had discussed the report. The Senate then had referred the report back to the committee for further review, taking into account the Senate discussion. Senate members had also been asked to send additional comments they had about the report in writing to the committee. Eight members of the Senate had written to the committee. The committee had reviewed the Senate discussion and the points raised by the senators in letters and now was submitting a revised report.

The following proposed revised statement of Section 2.04 of the Faculty Manual was submitted to the Senate by the committee:

2.04 ADVANCED DEGREES FOR FACULTY AND STAFF MEMBERS

1. (a) Incoming instructors and lecturers who plan to work toward an advanced degree in the Graduate College are permitted to do so only if they declare their intent within one year of undertaking their initial appointments at this University and if they actually start graduate work within this one-year period. Such persons are required to complete such degree programs within six years of initiating the work.

- (b) Instructors or lecturers who have held faculty rank one year or more may enroll for a graduate program provided that the department in which rank is held is so remote from the department in which graduate work is proposed that no reasonable possibility exists for collusion or influence in terms of budget, academic policy, faculty assignments, or evaluation of examinations and other academic performance. In any event a decision to permit such a person to work toward an advanced degree is to be made by an ad hoc committee as described below.
 - (c) University policy does not permit members of the faculty with the rank of assistant professor or higher to take advanced degrees at this University.
2. Staff members or other persons of whatever rank who in any capacity have or may appear to have control or influence, whether directly or in an advisory capacity over any matters of academic personnel, academic budget, academic policy, or faculty assignments will not be admitted to graduate programs in the University. Any decision to permit such a person to work toward an advanced degree is to be made by an ad hoc committee as described below. Should such a person be admitted to a graduate program and his or her position or job description be subsequently changed, a review by an ad hoc committee is required with a view to determining whether such a person may continue in a graduate program.
 3. In cases where an ad hoc committee is required in conformity with the above paragraphs, this committee shall be convened by the Dean of the Graduate College, and after a thorough investigation shall make a recommendation to the Dean. Such a committee shall consist of one member of the Graduate Council acting as chairman, one member of the graduate faculty of the department in which the graduate work is proposed, and one other member of the graduate faculty. In the case of a person with an academic appointment, the third member shall be from the department in which the applicant holds rank.

The applicant may appeal the decision of this committee to the Graduate Council. The decision of the Graduate Council shall be final.

Dr. Vavich explained that Sections 1 (a) and 1 (c) are similar to provisions in the present manual statement. Section 1 (b) is an expanded statement which attempts to describe policy in language that is clear and easily understood. Section 2 explains the limitation on the eligibility of staff members to work toward advanced degrees. Section 3 provides that the Graduate Council shall be the appeal body to review decisions that are appealed and also provides that the decision of the Graduate Council shall be final.

Mr. McMillan said that the report came before the Senate as a motion. Several seconds were heard.

Dr. Weaver said that it should be pointed out that instructors or lecturers granted permission to work toward advanced degrees may not count the years during which they are working toward an advanced degree as years applicable toward gaining tenure.

Vice President Johnson said he was troubled by the fact that the proposed procedure outlined in Section 2 provides for the Dean of the Graduate College to be the convener of ad hoc committees being formed to consider the cases of individuals having or appearing to have control or influence over matters of academic personnel, academic budget, academic policy, or faculty assignments. What about cases where the graduate dean had already been involved in determining whether the individual had or appeared to have "control or influence". He moved an amendment to provide that the ad hoc committee be convened by the President of the University. Mr. Windsor seconded the motion.

Dr. DuVal said he could appreciate Mr. Johnson's concern and said he felt there was a lack of definition in the words "... who in any capacity have or may appear to have control or influence". Dr. Sigworth said it was Dean Rhodes who had suggested that the words "or may appear to have" be included.

Several senators wondered if an individual could be assured of absolutely fair treatment if he was appealing to a committee convened by the Dean of the Graduate College when the Dean might have been involved earlier in the decision whether or not the person concerned had control or influence in academic matters. Dr. Vavich said the committee had not looked at the subject in that way.

Mr. Johnson said if the graduate dean has already acted, that is, helped decide that an individual has influence in areas of academic concern, then the individual has been denied due process, it seemed to him, if the same individual later convenes the ad hoc committee. Dr. Peterson said he thought that Mr. Johnson was misinterpreting the language. He said an ad hoc committee would be convened in any instance if there was any question at all about the individual's involvement in academic matters in his University position.

Mr. McMillan noted that Dean Rhodes was not present and he then asked Associate Dean Curtis Merritt who was in the gallery to speak to the point. Dr. Merritt said that by means of an orderly audit that is regularly conducted by the Graduate College office, faculty and staff members who are working toward an advanced degree are identified. The graduate dean then writes the student explaining that he or she may be in conflict with University policy and invites the student to come to the office to have his or her case reviewed. If it is determined that there seems to be a conflict the case is referred to the Graduate Council. A determination is made by the Graduate Council but when an individual is found by the Graduate Council to be ineligible he or she is given the right to appeal the decision to the Advisory Council. Never, Dean Merritt said, has Dean Rhodes made any ruling on his own.

Dr. Inman asked why an ad hoc committee was provided for. Why not establish a standing committee to handle such cases? Dr. Vavich said that in the judgment of the committee it would be better in each case to have the committee include one person from the graduate faculty of the department in which the graduate work was proposed. Further, in the case of a person with an academic appointment it was felt that the third member should be from the department in which the individual was a faculty member. Dr. Inman said she thought that such persons could be available as consultants but that it would

be preferable to have a standing committee. Dr. Vavich said to provide for a standing committee would be one way to proceed. The committee, however, had preferred an ad hoc arrangement as proposed.

Dr. LaBan asked if an applicant's application were denied by the Graduate Dean's office, would the case then go to an ad hoc committee? Dr. Vavich replied that if there was any doubt at all about a student's eligibility, no action would be taken. Rather, the case would go to the ad hoc committee for determination. Mr. Johnson said he did not feel the language clearly indicated such procedure.

Dr. Peterson said he now saw Vice President Johnson's objection and recognized that the report was deficient in this respect. The wording indeed should be changed, he said. Dr. DuVal said that there was ambiguity in the language of the provision, although not ambiguity in the intent.

Parliamentarian Sankey here pointed out that the discussion was not relevant to Mr. Johnson's motion to substitute "the President of the University" for "the Dean of the Graduate College" in Section 3. Mr. Webb moved the question on the amendment and the motion lost.

Dr. McCullough said he could see that the language must be clarified and he moved that the report be referred back to the committee for further reworking in the light of today's discussion. Several seconds were heard and the motion carried.

DAY OF TUCSON RODEO PARADE AS UNIVERSITY HOLIDAY INSTEAD OF WASHINGTON'S BIRTHDAY, APPROVAL OF: The chair recognized Mr. Townsend who said he wished to reopen the matter of the University calendar for 1977-78 - 1978-79 as approved by the Senate at the September meeting.

He said the University of Arizona needs friends, particularly the friendly support of the community of Tucson. Constantly the University is asking the Tucson community for its help in a countless number of projects. He felt it would be appropriate for the University to reciprocate by lending support to an important Tucson community project, that is, the annual "Fiesta de los Vaqueros", by not holding classes on the day of the annual Tucson Rodeo Parade. He proposed that the University have a holiday on the Thursday of the Tucson Rodeo Parade each February, rather than on the Monday observed as Washington's Birthday. Washington's Birthday was a holiday included in the calendars for the next biennium approved at the September Senate meeting.

Mr. Townsend pointed out that class attendance on the day of the Rodeo Parade in recent years has not been good. Large numbers of students cut classes so they may see the parade. The University band always leads the parade. Many students take two holidays, that is, officially they observe Washington's Birthday and unofficially they cut classes the day of the parade.

Mr. Townsend then moved that the University hold classes on Washington's Birthday in February 1978 and February 1979 and observe a University holiday each of those years on the February Thursday on which the Rodeo Parade is held. Several seconds to the motion were heard.

Dr. Hetrick said that the University used to follow the very practice proposed by Mr. Townsend. Why had it been changed? Several senators said that

they thought the change had been made when Washington's Birthday was permanently placed on Monday, because it was felt that a majority of students and faculty would prefer to have a three-day weekend.

Dr. Myers said that when it had been proposed at a recent Senate meeting that the date of the Honors Convocations be changed, the answer had been that it was too late to change. It was explained that that reference had been to the date of the Honors Convocations for the year 1976-77. Mr. Townsend's proposal referred to the calendar for the years 1977-78 and 1978-79.

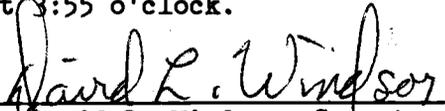
Dr. Peterson said it was his understanding that the calendar had already been set by the Board of Regents and the Senate now could not do anything about it. Mr. Windsor explained that the Board of Regents set the opening and closing dates of the semesters, so that the three Arizona universities would be on similar calendars. However, internal dates, such as those for special holiday observances, were left to the discretion of the individual institutions.

Dr. Steelink said he feared that if the holiday came on a Thursday students would take Friday as well as to give themselves a four-day holiday. Professor Davis said faculty members could control this by scheduling tests on Friday. Mr. Windsor asked if a student's cutting class on Friday when the official holiday was on Thursday was any worse than a student's cutting class on Thursday for the parade when the official holiday was on Monday.

Dr. Peterson said that if the holiday were on a Thursday rather than a Monday it would provide better balance in sectioned courses between the Monday-Wednesday-Friday sequence and the Tuesday-Thursday sequence.

The question was called for and the motion carried.

The meeting adjourned at 8:55 o'clock.



David L. Windsor, Secretary



David Butler, Assistant Secretary

MOTIONS PASSED AT MEETING OF OCTOBER 4, 1976:

1. Approval of Minutes of September 13, 1976
2. Approval of statement supporting provision in Faculty Bylaws for due process for nontenured faculty members
3. Approval of "Curriculum" bulletin Vol. 6, No. 6, with the exception of material relating to Landscape Architecture
4. Approval of report from Committee on the Operation of the Senate.
5. Approval of change in University calendar for 1977-78 - 1978-79 to observe holiday on day of Tucson Rodeo Parade rather than on Washington's Birthday

ACTION ITEMS PENDING:

1. Review of University policy which restricts higher administrative officers and certain faculty members from working for advanced degrees at this University (referred back to committee).