

MINUTES OF MEETING OF THE FACULTY SENATE OF THE UNIVERSITY OF ARIZONA
Monday, March 1, 1976 Kiva, Room 211 College of Education

The Faculty Senate convened in regular session at 3 p.m. on Monday, March 1, 1976, in the Kiva, Room 211 of the College of Education. Seventy-one members were present with President Schaefer presiding.

SENATE MEMBERS PRESENT: Aamodt, Ares, Atwater, Bartlett, Boghosian, Briggs, Butler, Caldwell, Carr, Chin, Christensen, Demer, Dinowitz, ~~Dresher~~, DuVal, Edwards, Elliott, Fahey, Freundlich, ^{and} Gegenheimer, Graham, Halderman, Hetrick, Hull, Ingram, Inman, Jensen, Johnson, Kearns, LaBan, Livermore, Lytle, Malik, Manes, Manning, McConnell, McCullough, McMillan, McWhorter, Munroe, Munsinger, D. Myers, L. Myers, Nelson, Nigh, Noyes, Odishaw, Paulsen, Peacock, Peterson, Picchioni, Rhodes, Roby, Roemer, Rosaldo, Rosenblatt, Rush, Schaefer, Simpson, Sorensen, Steelink, Stubblefield, Svob, Tomizuka, Townsend, Trier, Vanselow, Weaver, Wiersma, Witte, and Woloshin. Student representatives present were Rickey Cooper, ^{and} David Hameroff, and Mark Webb. Dr. Robert Sankey was present as parliamentarian.

SENATE MEMBERS ABSENT: Capponi, Corrigan, Davis, Gaines, ~~Garcia~~, Kass, Kassander, Marchello, McCoy, Ray, Rosenberg, Stairs, Windsor, and Woods. Student representatives absent were Mike Ceballos, Edwin Darrell, ~~Andrew Federhan~~, Marion Feffer, Michael Flores, and Jan Sarro.

APPROVAL OF MINUTES: The minutes of the meeting of February 2, 1976 were approved as distributed to members.

COMMENTS BY THE PRESIDENT: President Schaefer said that there are several bills in the legislative hopper which were of concern to the various members of the University communities. Among these were a bill prohibiting the Board of Regents from writing a constitution which provides tenure to University faculty members, a bill concerning the allocation of student fees, a bill requiring prior approval from the Joint Legislative Budget Committee on research proposals asking for federal or other funding, a bill removing the faculties of the three universities from across-the-board increases granted other state employees and providing for merit increases, and a bill to fund the furnishings for the University Library.

President Schaefer further said that the joint hearings before the House and Senate subcommittees the previous week were the best in the past five years. Although this will be a difficult year financially for the state, there appears to be a better attitude of cooperation.

COMMENTS BY THE FACULTY CHAIRMAN: Dr. Steelink's remarks had been prepared in printed form and are attached to these minutes.

APPROVAL OF DEGREES COMPLETED DECEMBER 31, 1975: The Faculty Senate having been provided in advance of the meeting a list of the candidates for degrees who completed requirements on December 31, 1975 approved the awarding of those degrees. The list includes 822 bachelor's degrees, 385 master's degrees, 9 Juris Doctor degrees, 6 Doctors of Medicine degrees, 6 Specialist degrees, and 60 Doctor's degrees (A.Mus.D., Ed.D., Ph.D.), for a total of 1,288. A copy of this list is attached to the Secretary's official file copy of these minutes.

REPORT OF COMMITTEE OF ELEVEN CONCERNING GRADE CHANGE IRREGULARITIES: Dr. Edward L. Nigh, Jr., Chairman of the Committee of Eleven, presented a report of the Committee of Eleven on the 1974 grade change for a student athlete enrolled in Russian 100a. The report, being rather lengthy, had been distributed at the Senate meeting. (A copy of this report is attached to these minutes.) Dr. Nigh then gave the following chronological listing of activities by the Committee of Eleven:

"REPORT OF THE COMMITTEE OF ELEVEN
ON 1974 GRADE CHANGE
FOR STUDENT ATHLETE ENROLLED IN RUSSIAN 100A

"A) A chronological listing of activities by the Committee of Eleven

"In September, the Committee of Eleven studied the procedures by the University of Arizona for changing of grades.

"September-October - Interviews were held with the Chairman and past and present members of the University Athletic Committee to determine the function, composition and selection procedures of its members.

"November through February - the Faculty Senate referred the charges of Faculty Senator Peacock to the Committee of Eleven that concerned the alleged incidence of a grade change of a student athlete. This Committee has therefore devoted its two monthly meetings plus five special meetings in an attempt to investigate those charges. Besides the thirteen meetings, additional time was required on the part of individual members, working in pairs, interviewing various persons concerning the subject of the grade change. More than 175 hours of faculty time has been devoted to this inquiry.

"Individuals with whom the Committee or its members interviewed are as follows:

- 1) Mr. Dave Butler
- 2) Mr. Herman Carrillo
- 3) Vice-President Edwards
- 4) Mr. Lou Myers
- 5) Mr. Jack Cole
- 6) Director Dave Strack
- 7) Mr. Al Fleming
- 8) Coach Fred Snowden
- 9) Dr. Joe Malik
- 10) Mr. Paul Meyers
- 11) Mr. Jerry Holmes
- 12) Mr. Economidis, legal attorney, Mr. Vontsolos

"Conclusions from the inquiry of the grade change.

- 1) A signature other than the normal signature of Mr. Vontsolos did appear on the change of grade.
- 2) The student whose name appeared on the grade change had no knowledge of the change of grade and was in no way connected with the subject.
- 3) There were no mitigating circumstances that warranted change of grade; therefore, the manner in which the grade change was initiated and handled was quite irregular and wholly ill-advised.
- 4) The student's athletic eligibility was not in jeopardy even with the failing grade.
- 5) Vice-President Edwards investigated the ^{incident} ~~incidence~~ solely from the standpoint of possible student involvement and eligibility.
- 6) The inquiry into the ^{incident} ~~incidence~~ was conducted by the Athletic Department, not by the Athletic Committee.

While the mechanism for grade change appears reasonable and adequate, there appears to be some looseness in the system since the Registrar or Advisory Council does not have the time to adequately act on the large numbers of grade changes submitted each semester. Last semester, for example, the number exceeded 350.

"This Committee, without power of subpoena or to place witnesses under oath during questioning, concludes that it is impossible to ascertain who in fact was responsible for the signature that is on the grade change in question.

"We believe further attempts to resolve this issue would not be warranted. Nothing we have learned has persuaded us that there was any widespread assault on the grading system which justified a criminal investigation. The initial inquiry by Vice-President Edwards focused on the question of student involvement. Upon determining the student was not involved, the subject was considered closed. The inadequacy of the original investigation left several unanswered questions and doubt regarding the student athlete's involvement. Instead of protecting his reputation, it further cast doubt on his innocence and exposed him to public criticism.

"An unfortunate chain of circumstances has led to this Committee's involvement in the grade change controversy. A mechanism should be available that would allow a complete investigation of any matter which is deemed to be in the interest of the academic community. Hopefully, any similar ~~incidence~~ ^{incident} in the future would avoid the public allegations by any member of the faculty that concerns student names and grades.

"The amount of publicity generated by this grade change incident is incommensurate with its seriousness. If the matter had been handled more judiciously by all those involved, the resultant expenditure of considerable time and effort by this Committee would have been avoided."

Dr. Nigh then proposed that any further questions or discussion concerning the enclosed report be deferred until the next Senate meeting after Faculty Senate members had had time to read and understand the report.

FACULTY BYLAWS COMMITTEE REPORT TO THE FACULTY SENATE: Dr. Charles Weber, Chairman of the Faculty Bylaws Committee, presented the Bylaws Committee's report regrading Section 5 of the report of the ad hoc committee to review the action in the summer of 1974 by thirteen department heads and the faculty of the College of Medicine concerning members of the Department of Surgery (Toma Report). At its meeting of October 6, 1975 the Faculty Senate had accepted the first four sections of the Toma Report but had referred the fifth section to the Faculty Bylaws Committee for recommendation.

Dr. Weber presented the following report:

"FACULTY BYLAWS COMMITTEE
REPORT TO THE FACULTY SENATE

"As we understand Paragraph 5 of the Report of the Ad Hoc Committee (Toma Committee) dated October 6, 1975 and the action of the Faculty Senate taken on that date, the Bylaws Committee has been directed to determine the effect of the implementation of the recommendations of Paragraph 5 on present procedures for handling grievances and to propose such changes in the Faculty Bylaws as may be necessary and advisable. The premise of Paragraph 5 of the report is that the Faculty Manual, Constitution and Bylaws do not provide adequate procedures for handling 'admonitions, disputes, and grievances between and within groups in one or several colleges.'

"After a review of relevant procedures we conclude that the recommendations of Paragraph 5 of the ad hoc committee report should not be adopted. Our reasons are the following:

- A. Disagreements, grievances or disputes between and among groups of faculty members are by nature problems of departmental, college and university governance. They can and should only be handled under the governance processes existing in the separate faculty units and the University. In many cases, no doubt, final resolution will require administrative decisions, ultimately by the President and even the Board of Regents. We believe that the procedures presently available are adequate if the groups involved are prepared to follow them. If there are deficiencies, they may lie in the procedures within some departments and colleges and should be corrected there.

The process we describe here is a political process in the highest sense of the term, not an adjudicative one. We believe the fallacy implicit in Paragraph 5 lies in its confusing group disputes over governance with the kind of personal grievances that can be adequately resolved in an adjudicative proceeding. We turn now to the latter problem.

- B. Some disputes involve conduct by faculty members which is regarded by other faculty members as violative of university regulations or as unprofessional conduct. Normally, allegations of such conduct, if substantial, will result in administrative action against the offending faculty member or members and the issue then will be one between the charged faculty member and the appropriate administrator. If the faculty member is dissatisfied with the action taken, he or she may then resort to the grievance procedure provided by the Constitution and Bylaws.

The suggestion by the Toma Committee, as we understand it, is that procedures should be created to permit a faculty member, or a group of faculty members who feel themselves aggrieved by the conduct of another faculty member or members, to file a complaint and have the matter adjudicated as a grievance.

The first question to be answered is whether a process is now available. The General Faculty Bylaws Section 12 (a) (ii) authorizes the Committee on Conciliation 'at the discretion of the President or at the request of the faculty of any college, or of any individual faculty member affected,' to 'investigate promptly any important problem involving any faculty member in his relationship to the University.' Similarly, Section 12 (b) (ii) provides that the Committee on Academic Privilege and Tenure 'shall concern itself with complaints and grievances by members of the faculty in ways designed helpfully to supplement the regular administrative process of adjusting such matters.' Further, the committee is authorized to 'receive complaints in writing from individual members of the faculty or from groups of faculty members,' to 'investigate such complaints, hearing, receiving, and recording testimony' and to make 'such recommendations for solutions of (sic) adjustments of the matters involved to the President of the University.'

"While these sections might properly be read to apply only to complaints by faculty members against adverse administrative action, it is possible to construe them as encompassing cases in which a faculty member claims to be aggrieved by the conduct of another faculty member or group of faculty members. As a matter of fact, we are informed that the Committee on Academic Privilege and Tenure has so construed its authority and has considered a few such cases. We think it might be well for the Senate directly to address the question of whether it believes it appropriate that the Committee on Conciliation and the CAPT exercise jurisdiction over disputes between faculty members. If it does so desire, the mechanisms now in existence in the form of the Committee on Conciliation and the CAPT seem adequate to the task. Any doubt about their availability could be resolved by a few simple amendments of Section 12 of the Bylaws. In that case, there seems to be no need for the additional grievance procedures outlined in Paragraph 5 of the ad hoc committee report.

"We therefore recommend as follows:

1. Paragraph 5 of the ad hoc committee report should not be adopted for the reason that it is unnecessary.
2. The Senate should determine whether the jurisdiction of the Committee on Conciliation and the Committee on Academic Privilege and Tenure should extend to grievances by one faculty member against another faculty member or members, as well as grievances resulting from adverse administrative action. If so, Sections 12 (a) ii and 12 (b) ii should be amended by adding the following sentence to each: 'The jurisdiction of this committee extends to complaints by a faculty member that he or she has been prejudiced by the conduct of another faculty member which violates his or her academic freedom or other rights as a faculty member.'

Charles Ares
Henry Butler
A. F. Gegenheimer
Currin Shields
Charles Weber, Chairperson"

Dr. Gegenheimer moved that the current Faculty Bylaws, Sections 12 (a) ii and 12 (b) ii (Bylaws 7 (a) ii and 7 (b) ii in the proposed Bylaws) be amended by adding the following sentence to each: "The jurisdiction of this committee extends to complaints by a faculty member that he or she has been prejudiced by the conduct of another faculty member which violates his or her academic freedom or other rights as a faculty member." This motion was seconded by Dr. Woloshin.

Dean Livermore asked what the purpose of this recommendation was. Dr. Ares replied that the present chairman of the Committee on Academic Privilege and Tenure had told him that at least two cases and possibly more where faculty members had a complaint against another faculty member had been brought before the committee. The committee's opinion was that they had the jurisdiction to hear such cases. Dr. Ares replied that he was not at all sure from the reading of the bylaws that such jurisdiction did exist. However the Bylaws Committee wished to present the question to the Senate and ask that body to determine whether such procedure would be proper.

Dr. Lytle said he was concerned about the tremendous amount of time and energy the Committee on Academic Privilege and Tenure must now devote. He asked what was the rationalization of going outside the department or dean to handle what seemed to him to be internal departmental difficulties. Dr. Schaefer replied that there is great concern about trying to give all individuals the due process to which they are entitled and said this is why the Committee on Academic Privilege and Tenure has now become involved in cases which traditionally have been settled on the departmental or college level. Dr. Schaefer asked Dr. Hetrick if he would care to speak on this matter.

Dr. Hetrick said he recalled two cases where internal disputes had been brought to the Committee on Academic Privilege and Tenure. The committee had felt that there was no doubt that this was their responsibility.

Dr. Steelink stated that the Board of Regents is now reviewing proposed Bylaw 7 and Professor Hetrick is helping to rewrite this. He suggested that senators should give their opinions to Dr. Hetrick.

Dean Ares stated that he was quite troubled by this. If we explicitly say that jurisdiction extends to these intradepartmental disputes it enlarges the workload and responsibility of the Committee on Academic Privilege and Tenure tremendously. He further said that he was not clear that there was a real need for this change in the bylaw. He asked if the Senate could be given specific details about what types of disputes have been heard. Dr. Hetrick replied that he could speak only in a general way because he would not identify individual cases or faculty members but generally there were instances where one faculty member had charged another faculty member with interfering with academic freedom.

Dr. Ares said he did not understand how this could be if both faculty members were acting privately. Dean Livermore said that he believed that this amendment was an invitation to get an independent referee for every internal dispute and he would vote against this unless he saw a serious problem arising.

Dr. Inman stated that the committee to study the operations of the Faculty Senate would be having a proposal which may affect this situation. Therefore she moved to table consideration of this motion until this other committee reports. Dr. Gegenheimer rose to a point of order stating that a bylaw change could not be made today in any event since it must be voted on at two consecutive meetings.

The motion to table was passed. (Secretary's note: No action was taken concerning the recommendation that paragraph 5 of the Toma Committee report not be adopted as proposed.)

APPROVAL OF HONORARY DEGREES: The Senate considered and approved four honorary degrees to be conferred at the 1976 Commencement. These next will be acted upon by the General Faculty of the University.

FURTHER CONSIDERATION OF PROPOSED REVISED VERSION OF CHAPTER VIII: Dr. Gegenheimer presided over the continuing discussion of the proposed revised version of Chapter VIII of the Faculty Manual. Dr. Peterson stated that much as he was reluctant to do so he must have the Senate go back to section 8.06 because there were some explicit errors in that section. The fourth line of paragraph 2 in section 8.06 which currently reads "... (see sections 2.51 and 8.18) ..." should be changed to read "... (see sections 2.51 and 8.16) ...", and the fifth line which now reads "... sections 8.20 through 8.24 ..." should be changed to read "... sections 8.17 through 8.24 ...".

Dr. Peterson further said that since the last sentence of that paragraph appeared to be a duplication of something contained in section 8.17 he moved to delete that portion of the sentence which reads "or because of inability to continue to serve effectively." This motion was seconded and passed.

Dr. LaBan said that he must also have a clarification of the last sentence of the next to last paragraph of section 8.05 which reads, "At the

time any recommendation is transmitted hereunder, the faculty member shall be advised in writing of the recommendation." Does this mean that at each step in the review procedure the individual concerned is informed of the recommendation? Dr. Gegenheimer replied that that is precisely the intent of the committee and the individual must be advised in writing if the recommendation is positive or negative -- that is the extent of the necessary advice. Dr. Schaefer said he was personally concerned that with the passage of time this would be interpreted that the faculty member should be provided with a detailed recommendation of what had occurred rather than whether it was a simple positive or negative recommendation.

Dr. Witte said that according to last month's minutes the last paragraph of section 8.05 had been tabled and she now wanted to put it on the agenda for the April meeting. She further said that she felt that we should not be discussing the last sentence of the previous paragraph without discussing this one because they were quite similar. Dr. Gegenheimer replied that they were not similar but quite separate items since the last paragraph of section 8.05 only spoke to when the final decision had been made and if the final decision was negative.

After further discussion it was moved that the words "of the nature" be inserted before the words "of the recommendation" in the last sentence of the fourth paragraph of section 8.05. The sentence would now read, "At the time any recommendation is transmitted hereunder, the faculty member shall be advised in writing of the nature of the recommendation." The motion was passed.

Dr. Myers then stated that he still had some question about whether the entire Chapter VIII had been previously approved by the Senate. Dr. Gegenheimer said that based on the minutes and the tape of the May 1975 Senate meeting that was his impression. However he also had the impression that the Senate wished to once again go over the entire Chapter VIII, which they were now doing. He further said that since there was some question concerning the dismissal portions of this Chapter perhaps we should hold up on the discussion of those sections but proceed with the others. Dr. Weaver said that we had a directive from the Board of Regents that all dismissal procedures must go by the thirteenth edition of the Faculty Manual.

Dr. Gegenheimer pointed out that the three tenured faculty members referred to in section 8.08 need not be members of the particular department concerned because some departments may not have three tenured faculty members. He further explained that the committee should be a standing committee in order to prevent charges that a department head may skew a committee in a particular direction. He also said that standing committees do not mean permanent committees, but committees with a term of perhaps one year and this procedure does not prevent the inclusion of other persons to the committee in particular instances. Dr. Gegenheimer then described the particular situation that pertained in the Department of English.

Dean Livermore asked if section 8.08 applied for extension of employment of persons beyond normal retirement age. Dr. Gegenheimer replied that it did not.

Dr. Bartlett asked if section 8.08 precluded nontenured members from serving on this committee provided there were three tenured members already on the committee. Dr. Gegenheimer stated that it was his opinion that the committee should be composed entirely of tenured members of the faculty.

Dr. Bartlett then said that since this dealt with other matters other than the awarding of tenure, such as retention, promotion, etc., he would object if nontenured members were excluded from serving on this committee.

Dean Vanselow said that in the College of Medicine there is a standing committee in the college and the department committees are ad hoc which enables the department head to get the required expertise needed relative to a particular decision. Therefore he moved that Paragraph 8.08 be amended by adding an additional sentence at the end. This sentence would read, "If there exists a college-level standing committee to deal with these matters, then the department-level committee shall be selected on an ad hoc basis." This motion was seconded. Dean Vanselow offered this motion, he said, in order to limit the proliferation of standing committees at all levels of the University.

Dr. Witte said she wished to speak against the motion because she had been the victim of this situation in the College of Medicine, and in her opinion it was very unfair to have secret or ad hoc committees whose members were not known by those individuals whom they were considering. In her opinion it was much better to have a standing committee that would operate in the open and would be identified by all members of the faculty. Dr. Peacock said that traditionally in the Department of Surgery all the tenured professors serve as a standing committee for promotion and tenure. It has come to their attention that one member of the department, unsure that he apparently could present his candidate to that committee as he wished to, went off without the rest of the department knowing it--certainly without the standing committee knowing about it--and set up his own committee and ran his thing through. When the department went to the dean and asked him about it, he pled that because Chapter VIII was not yet settled that anybody in the department had a right to go out and set up their own little committee and deal directly with him rather than with the departmental standing committee. Dr. Peacock further said that in his judgment this was causing chaos in the College of Medicine and strongly suggested that the motion be defeated.

In response to a comment by Dr. Myers, Dr. Gegenheimer stated that the rationale behind the standing committee was that all persons in the period of the committee's tenure would receive equitable treatment by being considered by the same committee.

Dean Vanselow stated that he did not wish to reply to Dr. Peacock's charges since the Faculty Senate was not the forum for hearing interdepartmental or college grievances. He would simply like to say that in the College of Medicine any faculty member has the right to go directly to the standing college committee.

Dr. Garcia said he could not possibly see why there would be any objection to having standing committees on the department level. Dr. Ingram

said it was essential to have knowledge of who the members of committees were in order to insure due process. Several other senators spoke in favor of defeating the motion on the floor.

Dr. Simpson asked if under the proposed procedure the department head would determine the manner in which the committee is appointed. Dr. Gegenheimer stated that the committee may be appointed differently in different departments.

At this point Dr. Vanselow stated that he wished to withdraw his motion if the seconder would also withdraw his second. Dean Fahey agreed to withdraw his second and the motion was withdrawn.

Dr. Bartlett then moved that the Senate adopt Section 8.08. Dean Drescher seconded this motion and it was carried.

Dr. Gegenheimer stated that since the only sections left to discuss were those which were currently being considered with the Regents by Dr. Thompson and Dr. Steelink, that we postpone discussion on these items until a report is received from the Regents. Dr. Jensen asked where the issue of retention over age 65 was dealt with. Dr. Gegenheimer stated that it was not dealt with in this document and reminded the Senate that this was not an issue when the committee started its deliberations, nor was it an issue when it completed its deliberations.

Dr. Schaefer said this was an excellent point. Dr. Jensen suggested the Senate keep it in mind for further discussion of Chapter VIII.

Dr. DuVal asked if there was a requirement that the college have a standing committee. He did not find one in Chapter VIII. Dr. Gegenheimer said that the college committee was not mandated but the dean has the option, of course, of setting up a committee if he wishes or of seeking advice from any source.

Dr. DuVal further pointed out that under section 8.19 when a dismissal of a faculty member is to be considered, it must be submitted to the standing committee as provided for in section 8.08. However, section 8.08 indicates that the committee shall deal with matters concerning faculty reappointment, nonretention, promotion, and tenure and does not speak specifically to dismissal. Dr. Gegenheimer replied that since section 8.19 specifically cited 8.08, the committee felt that this was sufficient reference.

The meeting adjourned at 4:50 p.m.

David Butler

David Butler, Secretary pro tem