

**MINUTES
FACULTY SENATE
THE UNIVERSITY OF ARIZONA
February 9, 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 Aleamoni, Casper, Clarke, Dahlgran, Davidson, Dvorak, Dyl, Emrick, Erlings, Ervin, Garcia, Gerber, Glittenberg, Gore, Gruener, Heckler, Hogle, Howell, Love, Maré, McCaslin, Medine, Miller, Mishra, Mitchell, Myers, Pitt, Poss, Reeves, Romer, Schiffer, Silverman, Spece, Sypherd, Szilagyi, Troy, Warburton, Weinand, Witte, and Zwolinski. Robert Sankey served as Parliamentarian.

Absent: Senators Atwater, Caldwell, Carlson, Chen, Coons, D. Davis, T. Davis, Emrich, Erickson, Feltham, Fericola, Hurt, Joens, Larson, Levy, Likins, Montanaro, O'Brien, Pepper, and Schooley.

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.)

Senator Witte announced the annual undergraduate poetry contest, which is open to UA and Pima Community College students; submissions are due to the Honors Center by Friday, Feb. 13. Prizes valued at approximately \$1,000 are being awarded by Senator Witte's family in honor of her parents.

3. REPORTS

3A. ASUA President Gilbert Davidson

Senator Davidson made several announcements: (1) Advising has become a "hot topic" around campus, with a subcommittee of the Strategic Planning and Budget Advisory Committee (SBPAC) and other campus groups looking into ways to improve advising, especially for freshmen and sophomores, and to incorporate more faculty in the advising/mentoring process. The formation of a task force to study the issue further is being considered. (2) Budget hearings in the State Legislature's House and Senate are scheduled for Feb. 17 and 18. ASUA will take students to Phoenix in the hope of testifying in support of budget increases for the University. (3) The Arizona Students Association (ASA) is organizing a legislative conference to be held on Mar. 5; students will have an opportunity to interact with legislators from all Arizona districts at the day-long event. (4) ASA is also shepherding two bills through the State Legislature: (a) ASPIRE, legislation to encourage young people (starting in the third grade) to maintain a good grade-point average, resist illegal drug use, and avoid legal problems; if they succeed in these efforts, they will be rewarded with a free four-year college education; (b) a work-study bill, in partnership with the private sector, that would match university students to appropriate work situations to provide them with experience related to their major fields. (5) The five-year strategic plan for ASUA, which would provide a vision for student government leaders, is currently being developed. Senator Davidson expressed the hope that it would be complete before he leaves office. (6) ASUA elections are well underway, with packets from potential candidates due to be completed and returned later today.

3B. Presiding Officer of the Faculty Senate Jeffrey Warburton

Presiding Officer Warburton welcomed a new observer from Sierra Vista, W. Jake Jacobs, who was elected by the Sierra Vista faculty. Senator Warburton also introduced Laura Casper, an ASUA representative who will replace Eric Nelson in the Faculty Senate. Other announcements: (1) The pilot test of the salary survey enclosed in today's Senate packet should be completed and returned to Senator Warburton by the end of today's meeting. (2) There have been 23 responses to date to Senator Warburton's request for input on the proposed agreement with Nike. This issue will be discussed at the Senate Executive Committee meeting on Feb. 16 and placed on the Senate agenda for Mar. 2. Chair Hogle added that President Likins also had read the responses, which should be very useful to him during his current trip to meet with Nike representatives. (3) Thursday, Feb. 12, is the deadline for returning nominating petitions for the upcoming faculty elections. Completed petitions should be submitted to the Faculty Center, along with biographical statements.

3C. Secretary of the Faculty Rose Gerber

Secretary Gerber reported that the Jan. 26 minutes are in process.

3D. Chair of the Faculty Jerrold Hogle

A summary of Chair Hogle's comments: (A) Legislative Study Committee on Faculty Roles and Rewards - Also called the Burns-Bowers committee after its co-chairs, this group met most recently this morning. Today's meeting was much less contentious than the previous one, and the group has "starting doing business" by working on a meaningful salary package for 1998-99. Using overhead transparencies, Chair Hogle reviewed the four types of salary increases that the Legislature approved for two years (1997-98 and 1998-99)—general adjustment (sometimes called cost-of-living adjustment or COLA), classification maintenance review (CMR), merit, and incentive (distributed through the Teaching Incentive Plan, or TIP, in 1997-98). Although there was a general adjustment for the first year (distributed in October 1997), there currently are no plans for a general adjustment for 1998-99. However, according to John Lee of the Joint Legislative Budget Committee (JLBC) staff, there will be a much greater amount available for CMR—perhaps \$3 million for the UA, with \$1.3 million of that requested for faculty and the remainder to be distributed to staff, appointed personnel, and graduate assistants. The faculty share is expected to solve 43% of the salary compression problem in the ranks of assistant, associate, and full professor at the UA (i.e., the situation in which faculty earn less than more recent hires in the same rank). Details of the merit increase are still being negotiated. At this point, it appears that it will be similar to last year (2.5% of the total state salary base), but the Governor's office has considered 3.5%. There will definitely be an incentive plan ("Son of TIP"), but the goal is to make it as different from the original TIP as possible. The new incentive plan will be based on principles agreed upon by the Burns-Bowers committee: (1) Each university in 1995 developed a merit compensation plan that recognizes teaching, research, and professional service; any teaching incentive funds should be above and beyond the merit funds appropriated for all state employees; (2) any teaching incentive plan must recognize both quality and quantity; (3) incentive funds should be distributed to units that increase instructional productivity, and the units would then allocate funds to individuals; (4) any teaching formula should recognize assigned independent study, as well as assigned classroom teaching; (5) potential recipients of incentive funds should be involved in the development of the system to allocate the funds, so that they are invested in the plan's success; and (6) ABOR and the universities should continue to enhance the quality and success of educational programs and collect data regarding the outcomes of their efforts (i.e., universities pledge to be accountable for the quality of the undergraduate experience and the faculty's involvement in it). Chair Hogle again invited input for further discussion with the Burns-Bowers committee. (B) Voting Faculty List - The Committee on Faculty Membership met recently to review the Voting Faculty list in preparation for the faculty elections; the list has been undergoing a detailed and lengthy update which began with the faculty census (a poll of all units with faculty) last October. The committee will meet again on Feb. 12, after a few minor revisions have been made to the list, in order to ensure its accuracy before ballots are mailed. Using an overhead, Chair Hogle briefly described the ongoing process for updating the Voting Faculty list: Departments submit to Human Resources the appropriate source documents regarding new hires, terminations, changes of status, and the like for faculty in their units; Human Resources notifies Systems Control of these changes, so that they can be entered into PSOS (the electronic database containing information on all UA employees). Several times a year CCIT personnel pull information from PSOS to prepare an updated electronic file that Printing Services uses to print mailing labels for the Voting Faculty. Chair Hogle emphasized several points: The Voting Faculty list is in virtually constant flux, and any printed list represents a snapshot of a particular day. Although the General Faculty Constitution and Bylaws call for an annual faculty census by Oct. 1, it makes more sense for this process to be completed just before elections in the spring, since many changes can occur between October and February. The extensive review that the Voting Faculty list has just undergone helps to assure the voting rights of all eligible faculty and the fairness of the upcoming election. Dr. Hogle concluded by expressing his confidence in the validity of the Voting Faculty list and inviting anyone with specific questions to meet with him.

3E. Provost Paul Sypherd (Attachments)

Provost Sypherd distributed copies of "Higher Education: A Good Investment for Arizona," a brochure prepared in support of the UA's request for additional funding for 1998-99. He noted that additional copies are available through Sharon Kha's office and at the Faculty Center. Using overhead transparencies, Dr. Sypherd made the following points: (1) Erosion in University funding has occurred over time, as shown in a graph comparing current vs. constant revenue dollars per FTE student from 1986 to 1995. When adjusted for inflation, the real dollars the University has to spend have declined during that period. He noted that this decline, as well as the increase in the ratio of students to faculty over the past 22 years, have both contributed to the problem of faculty salary dislocation, because they have resulted in fewer dollars being available to support faculty. He characterized faculty salaries and research space as two of the most severe problems at the UA. (2) Compression is one form of salary dislocation, and it may be the only salary problem that can be addressed with the CMR (now called Classification Salary Adjustment, or CSA) increase for 1998-99. A total of approximately \$2.4 million would be required to resolve the compression problem, with \$617,000 of that for those in the rank of full professor. (3) Another serious problem with UA faculty salaries is their erosion over time (i.e., the leveling off after several years in rank and the failure to keep pace with ideal career growth figures); this could be considered a "loyalty tax" for staying at the UA. One way to ameliorate the situation would be to institute a merit-step system similar to that used in the University of California system. (4) In the last two years the UA has received \$11 million from the state and has reallocated \$15 million of internal resources to fund employee salary adjustments. (5) The basic problem comes down to underfunding of the universities in Arizona. We are not well served by anyone who tells the State Legislature that the UA's funding is adequate but is being mismanaged, Provost Sypherd concluded.

3F. President Peter Likins

No report, since President Likins was unable to attend.

4. **QUESTION AND ANSWER PERIOD**

Senator Szilagyi asked Senator Sypherd who pays for the distribution of what he characterized as “junk mail.” Senator Sypherd responded that campus clubs can assess fees and dues, which they can use to pay for the printing and distribution of literature through the campus mail system.

With regard to the principles upon which a teaching incentive plan will be based, Senator Witte asked Chair Hogle “how we got painted into this corner” of using the expression “instructional productivity” rather than something like “educational value.” Senator Hogle said he did not like the term, either, but this kind of language helps to move the process forward. The Burns-Bowers committee is currently negotiating on that issue; perhaps if we give legislators the words they want, they will give us the concepts we want, he said.

Senator Witte also asked Chair Hogle if a list of the Voting Faculty, including totals by rank and voting code, could be made available by the next Senate meeting. Dr. Hogle responded that it was his intent to provide such a list at that time. This information will also be available for review at the Faculty Center, he said.

Citing the example of a faculty colleague who claimed 30-40 independent study students in order to qualify for the original TIP funds, Senator Maré asked Chair Hogle if the new TIP would monitor independent study credit for quality as well as quantity. Senator Hogle replied that this concern had already been raised and is currently under discussion.

Senator Medine asked Chair Hogle if the compression being discussed in the Burns-Bowers committee refers to the short-term, classic compression in the assistant professor ranks, or the longer-term compression of full professor salaries. Senator Hogle responded that the CMR request addresses both types of compression.

Senator Schiffer asked if there had been any discussion of using the teaching component of the annual performance evaluation as an index for allocating TIP funds. Chair Hogle said that had been discussed extensively, and the hope is to incorporate such a provision in the final TIP agreement.

Senator Glittenberg thanked Provost Sypherd for his frank discussion of funding issues. She asked if there is something Senators, or perhaps the Strategic Planning and Budget Advisory Committee (SPBAC), can do to counteract messages going to the Legislature regarding internal mismanagement of UA funds. Dr. Sypherd noted that proposals like TIP ignore the ample evidence that the UA is providing a better experience for its undergraduate students. Despite the fact that the UA is rated highly by many ranking systems, it continues to receive funding at the lowest level of public universities in America, he said.

Senator Myers asked Provost Sypherd what the dominant reason for inadequate funding of the University seemed to be—concerns about productivity or the general reluctance to spend money on state institutions. Dr. Sypherd said, although he could not speculate on motives, the percentage of the state budget used for higher education becomes smaller each year. It seems that some legislators view universities as state agencies, like the departments of corrections or transportation. It is important to convince legislators that money used for education is invested in Arizona, he said.

5. **DISCUSSION AND ACTION ON ACADEMIC CALENDAR FOR 2001-02 (Attachment)**

UA Registrar Jack Farrell briefly discussed the academic calendar for 2001-02. He explained that it came forward to the Senate slightly later than usual this year due to his arrival at the UA in April and the need for some adjustments to provide sufficient teaching days for Wintersession. He also noted that the proposed calendar meets Senate guidelines for number and pattern of instructional days.

It was moved [Motion 1997/98-29] and seconded that the academic calendar for 2001-02 be approved.

Senator Dyl asked whether the UA has more instructional days than comparable institutions. Mr. Farrell responded that the number of UA instructional days is in the same range as those of the University of California schools.

Motion 1997/98-29, to approve the academic calendar for 2001-02, was carried unanimously.

6. **DISCUSSION ON WHISTLEBLOWER POLICY (Attachments)**

Senator Troy, Co-Chair of the Academic Personnel Policy Committee (APPC), reported that the APPC had been asked to review this issue in terms of current UA policy and procedures, state personnel board policies, the proposed legislation, and how it will affect processes now in place. Currently, the UA is exempt from the state whistleblower law, which protects state employees from retaliation for disclosing information in matters of public concern, because the UA has its own internal procedures in place to handle such situations. The proposed legislation would make the Arizona Board of Regents responsible for protecting whistleblowers and would allow University employees to seek protection from the state personnel board. Senator Troy said that the APPC had gathered data, studied the issue, and decided the best course of action was to present all of the information to the Senate (enclosed in Senate packets for today’s meeting), then open the matter up for discussion on the Senate floor. He added that several resource people had been invited to attend today’s meeting and were present to answer questions if necessary: Dr. Carol Bernstein, President of the

Arizona State Conference of the American Association of University Professors (AAUP) and supporter of the proposed legislation (HB2182); Dr. Thomas Cetas, present Chair of the Committee on Academic Freedom and Tenure (CAFT); Dr. Steven McLaughlin, Chair of the Committee on Conciliation; and Dr. Mary Wetzel, Chair of CAFT last year. Mr. J. Gregory Fahey, Associate Vice President for State Relations, and Mr. Thomas Thompson, interim General Counsel for the UA, were also invited but were unable to attend. Senator Troy briefly reviewed definitions, procedures, and other information contained in the informational packet distributed to Senators with their agendas, and he concluded his introduction by emphasizing that the APPC would like to avoid discussion of specific cases and focus instead on existing procedures relevant to whistleblowing.

Senator Witte asked about an item in the informational packet—the draft from the Arizona Faculties Council (AFC) for publication in the *AAUP Advocate*. The draft stated that the AFC could not support any legislation that reduces the ability of the Arizona Board of Regents to govern the University system or that threatens the current faculty grievance structure. Senator Aleamoni, an AFC member, said he recalled that the draft was discussed but not voted upon. Senators Hogle and Warburton, the UA's other AFC representatives, said the group did vote to publish a shortened version of the draft in the *AAUP Advocate*. Senator Hogle added that the group did not necessarily oppose all aspects of the legislation; it had concerns with two areas—the 30-day deadline to appeal to the state personnel board (compared to the 90 days allowed by internal grievance procedures) and the apparent usurping of ABOR's authority by the state. Senator Szilagyi asked whether the AFC represents ABOR or the faculty. Chair Hogle said that the AFC does not represent ABOR; however, if legislation such as this goes beyond ABOR, it tempts the state to micromanage in other areas such as TIP. Senator Szilagyi questioned whether the AFC are the recognized, elected representatives of the faculty in the Arizona university system. Senator Warburton noted that the UA Faculty Senate had voted to create the AFC, and Senator Garcia confirmed that this took place in 1991. Senator Witte said it seemed presumptuous for faculty chairs from the three universities to take a position on the whistleblower legislation when none of the Senates at the universities had discussed it.

Senator Spece asked if anyone had gathered statistics on grievances. He said it is his perception and that of others that the internal grievance system may not be working. He suggested that the APPC collect data on all types of grievance cases to see how many have been decided in favor of faculty members.

Senator Myers said it is important to remember that the *University Handbook for Appointed Personnel* (UHAP) does not apply to all University employees, and that CAFT procedures are not accessible to all employees, either.

Senator Medine asked if there had been an increase in CAFT cases over the past several years. Dr. Cetas said that CAFT currently has four panels (i.e., formal cases) pending; other situations have been dealt with informally. He said that seems to be 2-3 times the normal caseload.

Dr. Terence Burke, Associate to the President, gave a brief summary of CAFT cases since 1982: The number of cases varied from year to year, but during the entire time period, a total of only 3 or 4 CAFT decisions were overturned by the President. He also said he could not recall a single instance in those 15 years when whistleblowing was a central consideration in a CAFT case. Senator Witte commented that the Senate needs to see the actual statistics, rather than relying on a summary by Dr. Burke, whom she described as an advocate of the administration.

Senator Aleamoni said the central issue is whether the whistleblower legislation would erode the faculty governance system in any way, or would it provide an additional option to faculty? He also noted that the universities were at one time subject to the whistleblower law, but the exemption was later instituted. Senator Troy reported his understanding that the exemption began during President Koffler's tenure.

Senator Garcia said the UA should be thinking in terms of providing greater protection for whistleblowers, both faculty members and other categories of employees. He said during his tenure as Chair of the Faculty, he received a number of inquiries from people who had observed what appeared to be wrong-doing and were exploring their options for reporting it. He also said he personally knew of cases where there was retaliation against whistleblowers, but nothing was done about it.

Dr. Bernstein read the condensed version of the AFC statement that appears in the *AAUP Advocate*. She also discussed what she described as positive aspects of the whistleblower legislation: The current law provides whistleblower protection only to someone who reports mismanagement to the Provost; the new legislation would afford protection to anyone who reports alleged abuses to several other people, including the President, a dean, or a chancellor, or in the context of a public meeting. The new legislation also expands the definition of reprisal to include such things as suspension with pay, inappropriate performance evaluations, and a significant change in responsibilities.

Senator Sypherd said he spoke from two perspectives—that of Provost and of faculty member. As Provost, he said whistleblower cases, although rare, are “a pain to deal with,” and he would be happy to have someone else handling them. However, as a faculty member, he is reluctant to turn this area over to a state board that has very little idea of how universities operate. If our internal system is inadequate, we can fix it, and we can also ask ABOR to change their policies, he said.

Senator Clarke commented that the Senate does not have enough information to take an informed position on the whistleblower legislation. He also reported that an attorney had told him that administrators tend to “cover one another's flanks,” because they are caught in the chain of command. Thus, faculty members could have the impression that the cards are stacked against them. He asked how many times a dean had ruled against a subordinate administrator.

Senator Spece made several points: (1) The state law would broaden protection for whistleblowers; (2) a faculty member could file a complaint simultaneously with CAFT and with the state board, in order to avoid the problem of the different deadlines; and (3) given that a legislative committee will vote on the bill tomorrow, the Senate should not take a position at this late date. He suggested that individual Senators communicate their thoughts on the bill to legislators.

Chair Hogle said that the Senate could take a position of objecting to portions of the bill without opposing the entire bill.

Senator Witte moved [**Motion 1997/98-30**] to table discussion of the whistleblower legislation. Motion was seconded and passed.

Senator Garcia reiterated his hope that the UA can strengthen protection for non-faculty whistleblowers.

7. **ADJOURNMENT**

There being no further business, the meeting was adjourned at 5:02 p.m.

Rose M. Gerber, Secretary

Appendix*

1. Copies of four overhead transparencies from Provost's Sypherd's report: (1) Current vs. Constant Dollar Revenues per FTE Student, FY 1986 - FY 1995; (2) Changes in Student:Faculty Ratios at The University of Arizona, 1975-1997; (3) Salary Compression Analysis, January 1998, After TIP/Merit Implementation; and (4) Average Salaries of Tenure Track Full Professors with Academic Appointments.
2. Academic Calendar, 2001-02.
3. Whistleblowing orientation kit, containing summary sheet; UHAP Chapters 2 and 6; Arizona Revised Statutes 38-531, 38-533, and 41-785; Title 2, Chapt. 5 of the Arizona Administrative Code; draft position paper of the Arizona Faculties Council; latest draft of HB2182; and cover memo from APPC Co-Chairs dated Jan. 27, 1998.
4. Faculty Salary Survey, Spring 1998, along with cover memo from Chair Hogle dated Jan. 28, 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 Feb. 9, 1998

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| 1997/98-29 | Motion to approve the academic calendar for 2001-02; seconded and carried unanimously. |
| 1997/98-30 | Motion to table discussion of whistleblower legislation (HB2182); seconded and passed. |