

**MINUTES  
FACULTY SENATE  
THE UNIVERSITY OF ARIZONA®  
March 4, 2002**

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**1. CALL TO ORDER**

The meeting was called to order by Vice Chair and Presiding Officer Wanda Howell at 3:06 p.m. in the College of Law, Room 146.

Present: Senators Arabyan, A. Armstrong, Bickel, Burd, Caldwell, Copeland (formerly Price), Dahlgran, D. Davis, G. Davis, Esparza, Garcia, Hancock, Heinrich, Howell, Hurt, Impey, Jones, Kiefer, Larson, Marchalonis, Medine, Merkle, Mishra, Mitchell, O'Brien, Oxnam, Pintozzi, Regan, Romer, Schooley, Silverman, Spece, Tatman, Vierling, Warburton, Warnock, Witte, and Zwolinski. Richard Poss substituted for Senator Jenkins. Thomas Volgy served as Parliamentarian.

Absent: Senators N. Armstrong, Chandler, Corum, Eribes, Gonzales-Portillo, Jenkins, Joens, Judice, Kidd, Kurzer, Likins, Marta, Quinn, Quintero, Richardson, Smith, Songer, Szilagyi, Tal, Taren, Walsh, Weinand, and Wright.

**2. GPSC President Kirsten Price Copeland**

Hearing no objections, Vice Chair Howell invited Senator Copeland to give her report first to accommodate her class schedule. Senator Copeland reported that GPSC voted not to support the use of \$200K left over from last fall's planned tuition remission for Graduate Teaching assistants but the issue is still being considered and debated. The governor has proclaimed the first week in April as "Graduate Student Appreciation Week." UA's events will include an awards banquet to recognize outstanding graduate teaching assistants, research assistants, faculty, and graduate advisors. GPSC is still accepting nominations for these awards. GPSC elections are currently set for April 2<sup>nd</sup> and all positions are open. Voting will be conducted via online ballots.

**3. 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. Written statements submitted during Open Session are available in full at the Faculty Center.)

**Senator William Bickel (attachment)** – Senator Bickel expressed concern over an apparent circumvention of Committee on Academic Freedom and Tenure (CAFT) rules as reported in the minutes of the Question and Answer section of the February 4, 2002 Senate meeting. In response to his request for public records, Senator Bickel reported that he has learned that the amount of money the administration has spent on the Marguerite Kay case since October 2001 is \$36,296.04 in addition to \$1,350,000 as reported in the *Tucson Citizen*. He also noted that Senator Medine's February 18 proposed resolution to reinstate Dr. Kay was not placed on today's Senate agenda and declared that the Senate should be allowed to determine what issues it wishes to consider.

**4. REPORTS**

**4A. ASUA President Ray Quintero**

Senator A. Armstrong reported in Senator Quintero's absence that the ASUA primary elections are over and general elections will be held March 6-7. The ASUA ballot also includes a vote for a \$3 increase in student recreation fees. The Arizona Students Association (ASA) is kicking off a campaign, "Failing Our Future," to draw attention to the fact that the state legislature is not adequately funding higher education.

**4B. Vice Chair of the Faculty Wanda Howell**

Vice Chair Howell made three announcements: 1) General Faculty elections are currently taking place and ballots are due in the Faculty Center by March 8, which is also the due date for petitions for the second election for 16 remaining college representative seats in the colleges of Architecture, Agriculture and Life Sciences, Business and Public Administration, Education, Pharmacy, Social and Behavioral Sciences, Public Health, Non-college, and Arizona International College. The Committee on Committees also has two openings remaining for the second election. Petitions are available from the Faculty Center. 2) One Senate representative seat on the Senate Executive Committee will come up for election at the May 6 Senate meeting. Self-nominations are appropriate and may be submitted along with a biostatement to the Faculty Center. 3) Open session remarks are reflected in

the Senate minutes and, if submitted, the entire written text of all open session remarks are a part of the official record of the Senate proceedings and are available and housed in the Faculty Center.

**4C. Secretary of the Faculty Robert Mitchell**

No report.

**4D. Chair of the Faculty Jory Hancock**

No report.

**4E. Provost George Davis**

Provost Davis reported that the state senate's conclusions about this year's budget include a significant departure from the previously approved salary package for state employees. The Office of the Provost is suspending processing salary adjustments until the state budget is definite. The Senate's proposed adjustments would include \$1500 for all employees earning less than \$30K, 5% for employees earning between \$30-50K, and stepped down percentages for employees earning over \$50K until reaching the \$82,800 ceiling. UA has 642 FTE's earning over \$83K. Furthermore, the house has announced the possibility that 50% of the unused portion of personnel services dollars will be moved from vacant lines to the state general fund for the remainder of 2001-02 and for all of 2002-03. The senate's version calls for 12.5% return of these funds. Finally, the state may ask the university to return .25-.50% more than the 4.56%, creating a tremendous challenge for the university. Provost Davis observed that Arizona ranks 49<sup>th</sup> in the country for tuition standards. The Governor's Task Force on Higher Education Subcommittee on Funding has recommended that Arizona's universities incrementally move toward the top of the lower one-third of the tuition standards over the next three to five years. Arizona's campus leaders are contemplating how to persuade ABOR (Arizona Board of Regents) to increase tuition levels because such increases are going to be critical to sustain and retain high quality faculty and to support our educational enterprise.

**4F. President Peter Likins**

No report.

**5. QUESTION AND ANSWER PERIOD**

Senator Witte asked Vice Chair Howell about this historic dearth of candidates for the Faculty Senate. Vice Chair Howell believes the current environment is stressful to many faculty and that the low number of candidates may reflect changes and adaptations that our faculty members are making this year. Secretary Mitchell said he suspects these things may be rather cyclical as he noted similar concerns in a set of Senate minutes dated 1982.

Senator Witte expressed progressive concern about the brevity and sanitization of the Senate's minutes and asked Secretary Mitchell about the implications of shortening the minutes and removing Senators' direct quotations. Secretary Mitchell responded that several years ago the Senate agreed to follow Robert's Rules of Order, which does not permit naming Senators in the minutes. If the Senate wishes to revisit the issue, it can be placed on the agenda again.

Senator Silverman inquired how the administration interprets the Arizona Constitutional mandate that higher education should be as free as possible. Provost Davis believes this mandate is an admonition to be responsible about our access and affordability for students in Arizona. The annual tuition debates at ABOR's April meetings always involve discussions about what level of increase will allow us to continue to function, and to what degree that spike would impact accessibility of students entering the program as well as those already in the program. The guidelines indicate an 8% financial aid set-aside, and Provost Davis believes that President Likins would like to increase that percentage this year. If ABOR approves granting the universities more flexibility for managing scholarships, waivers and financial aid, Provost Davis believes that this will be helpful in assuring access.

Senator Silverman inquired whether the administration will attempt to fund some sort of raise for employees earning above \$83K. Provost Davis explained that the state senate's position is that no state funding would be available for salary adjustments for FTE's above \$83K, but UA may try to reallocate internally to find some level of adjustment for those employees.

Senator Jones inquired whether the administration had been planning to use some of the unused salary savings as a way to meet our 4.56% rescission. Provost Davis affirmed that the already identified 4.56% does include significant salary savings, so the legislature's targeting of those funds presents serious challenges and difficulties for the university.

Senator D. Davis inquired whether the proposed stepped raises for faculty earning between \$50-83K would preclude merit increases. Provost Davis said that the language describes fixed percentages so merit would be precluded.

Senator Witte asked whether it might not be appropriate for the Faculty Senate to consider the topic of tuition rate setting. She noted that the Governor's Task Force has no faculty representation, only business people and university administrators. She

asked that the Senate agenda for April or May 2002 include a discussion of the faculty's views of the level of tuition at UA, the faculty's interpretation of access, and its view of public education in general.

6. **APPROVAL OF THE MINUTES OF FEBRUARY 4, 2002.**

On behalf of Senator Szilagyi, Secretary Mitchell moved to amend Section 5, item 10) of the minutes of February 4, 2002 to read "Allowing another committee to override a Senate resolution may be unprecedented." The minutes of February 4, 2002 were approved as amended.

7. **RATIFICATION OF COLLEGE OF ARCHITECTURE, PLANNING AND LANDSCAPE ARCHITECTURE SENATOR ADRIAN ESPARZA**

It was moved and seconded [Motion 2001/02-11] that the Senate ratify Dr. Adrian Exparza of the College of Architecture, Planning, and Landscape Planning as a college representative Senator for the remainder of the this term. Motion carried.

8. **ACTION ON CONSENT AGENDA ITEMS FORWARDED AS A SECONDED MOTION FROM INSTRUCTION AND CURRICULUM POLICY COMMITTEE (attachment)**

Both consent agenda items detailed at the end of these minutes were approved [Motion 2001/02-12 and Motion 2001/02-13].

9. **INFORMATION ITEM: PROCEDURES FOR PLACING ITEMS ON THE SENATE AGENDA (attachment)**

Vice Chair Howell asked the Senate to read the attachment in today's packets as it will be placed on the Senate agenda for discussion and possible action at the April meeting.

10. **DISCUSSION AND ACTION, FACULTY GRIEVANCE POLICY (attachments)**

Senator Mitchell opened the seconded motion from APPC [Motion 2001/02-14] to approve the "Draft Faculty Grievance Policy approved by APPC 1/11/02" which was distributed at the January 14 and February 4, 2002 Senate meetings and which includes changes to the policy adopted by APPC as a result of "Roy Spece's suggestions re Grievance Policy" for discussion. Senator Mitchell noted that Amy Williamsen, Chair of APPC, is now on official medical leave for the remainder of the semester and will not be here today. He thanked her and the rest of APPC for the great work that they've done through last fall and this spring in finalizing the Faculty Grievance document before the Senate today. In the packet for today's meeting are two memoranda from APPC, one of which outlines changes to the policy adopted by APPC as a result of reviewing Senator Spece's proposals. The changes made by APPC come to the Senate as seconded motions to amend the original draft and are now a part of the official draft being considered today. APPC suggested compromise language to two more of Senator Spece's proposals. These also come as seconded motions and are now a part of the official draft being considered today. The second memorandum from APPC in the packet for today's meeting outlines APPC's reasons for rejecting the other five proposals Senator Spece distributed at the last Senate meeting.

Referring to four documents labeled, "Draft Faculty Grievance Policy approved by APPC 1/11/02," "Roy Spece's suggestions re Grievance Policy" distributed at the February 4, 2002 Faculty Senate meeting, and the two memos dated February 22, 2002 from Robert Mitchell and the APPC re: "Changes to Draft Faculty Grievance Policy based on Senator Spece's Suggestions," and "APPC's Decision to Reject Several Of Senator Spece's Amendments to the Draft Faculty Grievance Policy," Senator Spece discussed why he believes that outside counsel must "affirm in writing that his or her role is to how best to fulfill the goals that the committee articulates, and that his or her role is not to represent the interests of the University as such." Senator Spece said he is afraid that the outside attorneys aren't familiar with the academic culture and this would educate them and make sure they understand that their role is to advise the committee, not to sit and help decide what is in the best interest of the person. The attorney would be helping the committee to fulfill its obligation rather than to serve the interests of the university, which after all, pays the bill. This arrangement sets up a possible conflict of interest for the attorney. Senator Mitchell explained that with court-appointed attorneys, the bill is paid by the state, but the client is very clearly the client. He would hope most attorneys would know who their client was and that this is not a situation unique to the academic culture. Senator Silverman suggested and Senator Spece accepted an amendment to eliminate the words "affirm in writing." Senator Spece moved [Motion 2001/02-15] to amend "Grievance Hearing Procedures" Section 7.b.xii (6)(b) of the "Draft Faculty Grievance Policy approved by APPC 1/11/02" to read: "The role of outside counsel is to advise the committee as to how best to fulfill the goals that the committee articulates, and that his or her role is not to represent the interests of the University as such." Motion was seconded and failed, with 15 in favor and 19 opposed.

Senator Spece moved [Motion 2001/02-16] to amend "Grievance Principles" Section 4.t to read: "No faculty member should be disciplined unless there is clear and convincing evidence of all facts predicate to the discipline. Otherwise the standard of proof shall be by a preponderance of the evidence." Motion was seconded. Senator Spece argued that in recent court cases the standard of proof in a disciplinary proceeding for professionals has been for clear and convincing evidence. He said the courts must attempt to balance the interests of the individual against the interests of the state. When we discipline professionals, we take away their reputation and, in extreme cases, their right to practice. When professionals sit in judgment of their peers, there exists a possibility of erroneous deprivation and wrong decision-making due to competition, jealousy, or ignorance about subspecialties,

and we also take away the benefits that these professionals offer to society. Faculty members, as guardians of academic freedom, should adopt the constitutionally mandated standard of clear and convincing proof. Senators' comments included: 1) The Arizona Board of Regents Policy Manual (ABOR-PM) requires a lesser standard, "the preponderance of the evidence" in the most serious cases involving dismissal or suspension without pay. The Senate's vote in favor of "clear and convincing evidence" could indicate to ABOR to raise its standard. 2) We have to take a strong stand that we take the highest standard, we work to the highest standard, and we expect to be judged according to the highest standard. 3) We should separately pursue changing the ABOR-PM. 4) Is it generally uniform among universities or does any precedent exist among other universities moving to this clear and convincing standard? 5) The Board of Regents remains all the more culpable by having this section of the ABOR-PM that is unconstitutional. 6) ABOR policies are sometimes changed and passed ad hoc as a result of lawsuits, and these changes are not always communicated to the campuses. The Constitution and academic freedom should go beyond ABOR policy. 7) Grievances are filed in all directions, by faculty against administrators, by administrators against faculty, and by faculty peers against peers. An attempt to weigh the rules in one direction or the other could backfire. Motion passed, with 18 in favor and 13 opposed.

Senator Spece moved **[Motion 2001/02-17]** to amend "Informal Resolution Procedures" Section 6.c.ii by adding the word "improper" before "actions" in the phrase "within 6 months of the knowledge of the actions which form the basis of the complaint." Motion was seconded. Senator Spece reasoned that a grievant may become aware of adverse actions without learning about underlying misconduct. He said the law is manifestly unjust in this instance because the statute of limitations may have expired before a grievant discovers this misconduct. Senators' comments included: 1) Shouldn't a reasonable statute of limitations be imposed? 2) APPC wants the clock to start when the faculty member discovers something has happened, without prejudging the issue. 3) Adding "improper" doesn't really change anything because it still requires knowledge of the actions. Senator Spece said he would accept a friendly amendment adding: "and this faculty member should act with reasonable diligence." Motion failed.

Senator Spece moved **[Motion 2001/02-18]** to amend "Grievance Hearing Procedures" Section 7.b.xii(3) by adding the term "bona fide" before the word "reasons" in the phrase "Unless overriding reasons under law or ABOR policy are given . . . ." Motion was seconded. Senator Mitchell reasoned that the term bona fide" is redundant. Senator Spece explained that the courts sometimes need to hear explicit, redundant language. Motion failed.

Senator Spece moved **[Motion 2001/02-19]** to delete section (a) from "Grievance Procedures" Section 7.b.xi(6) which reads: "If neither party is advised or represented by counsel, and a university attorney has not been involved in the case on behalf of either party, then a university attorney may provide legal advice to the grievance committee upon request." Motion was seconded. Senator Spece reasoned that this provision creates an inherent conflict of interest. Senator Mitchell explained that deleting this section could put an unfair burden on CAFT, and that the language neither permits unsolicited advice from University attorneys nor requires CAFT to seek advice from university attorneys; it simply provides CAFT the option. Senators' comments included: 1) For many years CAFT neither consulted with university attorneys nor received any evidence *in camera*. If both parties agree that the university attorneys may advise the grievance committee, then it should be all right. Faculty members who are knowledgeable about academic freedom and faculty rights should be advising in grievance hearings. 2) This issue is a hands-off issue. The motion protects everyone, the attorneys, the faculty, the administration and the Regents. 3) If both parties would like to seek the advice of the university attorneys, that should be permitted. 4) CAFT should have the opportunity to consult with either the university attorneys or outside counsel, as it so chooses. 5) CAFT should determine whether the UAO is precluded and the policy should explicitly state that. CAFT will be overburdened if it has to decide whether the UAO is precluded. It is preferable for CAFT to always seek outside counsel. 6) During the early stages of a grievance, informal consultation on procedural grounds with people who are familiar with the academic community would be very advantageous. 7) This provision is most serious because it has been added to our grievance policy and it gives official status to the university attorneys. The Committee of Eleven made certain that no reference to the university attorneys was included in its initial drafts of the grievance policy. 8) This provision was added after consultation with the university attorneys. Motion failed, 11 in favor, 16 opposed.

Senator Garcia moved **[Motion 2001/02-20]** to amend "Grievance Hearing Procedures" Section 7.b.xii (6)(b) of the "Draft Faculty Grievance Policy approved by APPC 1/11/02" by adding the term "as determined by CAFT" to the end of the phrase "because of a conflict or for other reasons." Motion was seconded. Senators' comments included: 1) The University attorneys should be allowed an opportunity to self-identify. 2) Other parties should be allowed to identify a conflict of interest. 3) Attorneys are under an ethical obligation to reveal a conflict of interest. 4) An ethics violation complaint can be filed with the Bar for an attorney who fails to reveal a conflict of interest. Motion passed, 25 in favor, 0 opposed, 3 abstentions.

Senator Spece moved **[Motion 2001/02-21]** to amend "Grievance Hearing Procedures" Section 7.b.xii (14) of the "Draft Faculty Grievance Policy approved by APPC 1/11/02" by replacing "pursuant to the provisions of the Administrative Review Act, Arizona Revised Statutes, Section 12-8901 et seq." with "*de novo*, insofar as Arizona law does not prohibit that." Senator Spece reminded the Senate that it accepted this language in the policy passed a year ago. He explained that this issue is significant because it deals with the conflict of roles. In our current grievance procedures, the president makes the ultimate decision following all CAFT hearings. In most judicial proceedings, however, a judge's initial ruling might be overturned but would not go back to the same judge, because there is an inherent conflict of interest. Campus hearings, however, do not provide for a different judge or for a jury trial. In order to protect academic freedom, faculty members should have the right to a jury trial. Motion was seconded. Senator Mitchell pointed out that the language contained in today's draft is exactly the same as in the policy passed by the Senate last March

2001 and noted that Section 4 (g) of the “Grievance Principles” addresses the appeals process. He explained that by Arizona law, appeals of agency decisions fall under the Administrative Review Act. Senator Spece argued that whereas other state employees have an independent board, the State Personnel Board, to hear appeals of decisions made by supervisors who would have a conflict of interest, university employees are exempt from the State Personnel Board. In the university, the president is placed in the position of ruling on appeals and must rule in the best interest of the institution. Senators’ comments included: 1) *De novo* doesn’t necessarily mean a jury trial; it means that when the matter goes before the Superior Court, rather than someone merely reading the record and making a ruling, the case is heard again as if there was no previous decision, and all witnesses would reappear. Such a hearing could be by bench trial or jury. 2) The president of the university is ultimately the supervisor for all faculty. CAFT is merely advisory. 3) Faculty grievants are precluded from appealing to ABOR. 4) *De novo* ultimately means staring over, thus ignoring the CAFT panel’s findings and recommendations. 5) Arizona law may prohibit *de novo*. 6) *De novo* goes too far by requiring a new investigation, because the university’s policy provides knowledgeable people such as CAFT to be in control of the fact-finding procedure, and this is sufficient. 7) The procedure of appealing only to the president does need to be considered. 8) There are no restrictions preventing the President from deferring to CAFT. 9) Administrators on this campus listen very carefully to and often defer to faculty committees’ recommendations. 10) Whatever our policy reads will not influence what happens in the civil courts and the applicable laws. 11) The civil courts often do review our internal policies. 12) The proposed amendment might prevent the President from imparting specific useful information to a grievant following his final decision. The original language refers to a specific law that applies to judicial review of agency decisions. 13) We should clearly articulate our policies in English, not in other languages. Motion failed, 9 in favor, 21 opposed, with 1 abstention.

Senator Witte asked about closing a grievant’s options related to the role of the Grievance Clearinghouse Committee and also the provisions for arbitration. She noted that in the current draft policy, the role of the Grievance Clearinghouse Committee’s advisory status has been elevated to that of a decision-making body, which limits a faculty member’s option to choose to pursue a grievance through Conciliation or some other procedure. Concerning the issue of arbitration, she believes that if both parties represented by counsel is insufficient, the arbitration must be agreeable to both parties. Another issue concerning arbitration is that the records are sealed. She cautioned that CAFT might decide to use a hearing officer and that this could be contrary to a grievant’s interest but that the grievant would have no recourse. Senator Mitchell affirmed that the draft policy provides CAFT with the discretion to choose to use a hearing officer. Senators’ comments included: 1) Opposition to the option for arbitration because it is not currently in our grievance policy. 2) The hearing officer would simply conduct the hearing but not participate in the ruling. 3) If both parties are represented by counsel, CAFT may feel more comfortable with a hearing officer to conduct the hearing. 4) Using a hearing officer does not convert the hearing into an arbitration and the record of the hearing is no more secret than that of a regular CAFT hearing.

Senator Hancock called the question on the seconded motion from APPC [Motion 2001/02-14] to approve the “Draft Faculty Grievance Policy approved by APPC 1/11/02” to vote on the “Draft Faculty Grievance Policy approved by APPC 1/11/02” including the changes to the policy adopted by APPC as a result of “Roy Spece’s suggestions re: Grievance” and as modified by the amendments approved by the Senate today. Senator Witte requested a roll call vote with results recorded in the minutes. Senator’s comments included: 1) Faculty members should know which Senators voted for and against actually reducing the rights and privileges of the faculty. 2) Senators voting in favor of this motion are voting for a clear and unambiguous protection of faculty and not diminution of any rights of faculty. 3) The word “discretion” should be spelled correctly in “Grievance Hearing Procedures” Section 7.b.xii (6)(c) of the “Draft Faculty Grievance Policy approved by APPC 1/11/02.” Motion passed 28-5 with one abstention.

**RESULTS OF 3-4-02 FACULTY SENATE ROLL CALL VOTE ON MOTION 2001/02-14**

- |   |   |  |
|---|---|--|
| 1. <u>Yes</u> (A) Arabyan, Dr. Ara          | 22. <u>absent</u> (C) Jenkins, Dr. Jennifer | 43. <u>absent</u> (E) Richardson, Dr. R.   |
| 2. <u>absent</u> (S) Armstrong, Ms. Amy     | 23. <u>absent</u> (C) Joens, Dr. Lynn A.    | 44. <u>Yes</u> (C) Romer, Dr. Frank E.     |
| 3. <u>absent</u> (C) Armstrong, Dr. Neal    | 24. <u>Yes</u> (A) Jones, Mr. Douglas E.    | 45. <u>Yes</u> (C) Schooley, Dr. Larry C.  |
| 4. <u>No</u> (C) Bickel, Dr. William S.     | 25. <u>absent</u> (S) Judice, Ms. Angelle   | 46. <u>Yes</u> (C) Silverman, Pr. Andy     |
| 5. <u>Yes</u> (A) Burd, Dr. Gail D.         | 26. <u>absent</u> (S) Kidd, Dr. Kameha      | 47. <u>absent</u> (C) Smith, Dr. Steven E. |
| 6. <u>Yes</u> (A) Caldwell, Dr. Roger L.    | 27. <u>Yes</u> (A) Kiefer, Dr. Frederick    | 48. <u>absent</u> (A) Songer, Dr. J. Glenn |
| 7. <u>absent</u> (A) Chandler, Dr. Vicki L. | 28. <u>absent</u> (C) Kurzer, Dr. Paulette  | 49. <u>No</u> (A) Spece, Pr. Roy G., Jr.   |
| 8. <u>absent</u> (S) Copeland, Ms. Kirsten  | 29. <u>Yes</u> (C) Larson, Dr. Dennis L.    | 50. <u>absent</u> (A) Szilagyi, Dr. Miklos |
| 9. <u>absent</u> (S) Corum, Mr. Curtis A.   | 30. <u>absent</u> (E) Likins, Dr. Peter     | 51. <u>absent</u> (C) Tal, Dr. Kali        |
| 10. <u>Yes</u> (C) Dahlgran, Dr. Roger A.   | 31. <u>No</u> (C) Marchalonis, Dr. John J.  | 52. <u>absent</u> Taren, Dr. Douglas L.    |
| 11. <u>Yes</u> (C) Davis, Dr. Donald R.     | 32. <u>absent</u> (S) Marta, Mr. Dennis     | 53. <u>Yes</u> (A) Tatman, Dr. Neil        |
| 12. <u>Yes</u> (E) Davis, Dr. George        | 33. <u>No</u> (C) Medine, Dr. Peter E.      | 54. <u>Yes</u> (A) Vierling, Dr. Elizabeth |
| 13. <u>absent</u> (E) Eribes, Dr. Richard   | 34. <u>Yes</u> (C) Merkle, Dr. Carrie J.    | 55. <u>absent</u> (C) Walsh, Dr. J. Bruce  |
| 14. <u>absent</u> (A) Esparza, Dr. Adrian   | 35. <u>Yes</u> (A) Mishra, Dr. Shitala P.   | 56. <u>Yes</u> (C) Warburton, Pr. Jeffrey  |
| 15. <u>Yes</u> (C) Garcia, Dr. J.D.         | 36. <u>Yes</u> (E) Mitchell, Mr. Robert     | 57. <u>Yes</u> (A) Warnock, Dr. John P.    |
| 16. <u>absent</u> (C) Gonzales-Portillo, G. | 37. <u>Yes</u> (A) O’Brien, Dr. Shirley J.  | 58. <u>absent</u> (C) Weinand, Dr. Martin  |
| 17. <u>Yes</u> (E) Hancock, Pr. Jory        | 38. <u>Yes</u> (A) Oxnham, Ms. Maliaca      | 59. <u>No</u> (A) Witte, Dr. Marlys        |
| 18. <u>Yes</u> (A) Heinrich, Dr. Juan C.    | 39. <u>Yes</u> (C) Pintozzi, Ms. C.         | 60. <u>absent</u> (A) Wright, Dr. J. E.    |
| 19. <u>Abstain</u> (E) Howell, Dr. Wanda    | 40. <u>absent</u> (C) Quinn, Dr. David M.   | 61. <u>Yes</u> (A) Zwolinski, Dr. Malcolm  |
| 20. <u>Yes</u> (C) Hurt, Dr. Charlie        | 41. <u>absent</u> (S) Quintero, Mr. Ray     |  |
| 21. <u>absent</u> (C) Impey, Dr. C.         | 42. <u>Yes</u> (C) Regan, Dr. John W.       |  |

**S = Student Senator**  
**A = At-Large Senator**  
**C = College Representative Senator**  
**E = Ex-Officio Senator**

11. **RESPONSE TO SENATOR MEDINE'S REQUEST FOR AGENDA ITEM (attachment)**

Vice Chair Howell explained that the Senate Executive Committee believes that Senator Medine's request for an agenda item, a resolution "that the administration undertake to negotiate an out-of-court settlement and a reinstatement of Dr. Marguerite M. B. Kay to full faculty status as Regents Professor, Professor of Microbiology and Immunology and Professor of Medicine" to be placed on the Faculty Senate agenda is a continuation of an item that was fully addressed previously by the Senate on December 4, 2000, and furthermore, it is also regarding an ongoing legal procedure. Therefore, the Senate Executive Committee decided not to place this item on the agenda. Vice Chair Howell noted that in the "Procedures for placing items on the Senate agenda" distributed in today's packet, any Senator may move to override the Senate Executive Committee's decision at any time.

12. **EXECUTIVE SESSION**

The Senate recessed at 4:52 to go into Executive Session.

13. **ADJOURNMENT**

There being no further business, the meeting was adjourned at 5:10 p.m.

Robert L. Mitchell, Secretary

**Appendix\***

1. Senator William Bickel's Open Session Statement: "Bickel Faculty Senate Statement 3/4/2002."
2. Consent Agenda items forwarded from the Instruction and Curriculum Policy Committee.
3. "Procedures for placing items on the Senate agenda, February 18, 2002.
4. Memorandum dated February 22, 2002 from Robert Mitchell and the APPC to the Faculty Senate re: "Changes to Draft Faculty Grievance Policy Based on Senator Spece's Suggestions."
5. Memorandum dated February 22, 2002 from Robert Mitchell and the APPC to the Faculty Senate re: "APPC's Decision to Reject Several Of Senator Spece's Amendments To The Draft Faculty Grievance Policy."
6. February 18, 2002 "Request for Faculty Senate agenda item received from Senator Peter Medine."

\*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 March 4, 2002**

**2001/02-11** Motion to ratify Adrian Esparza, college representative Senator from the College of Architecture, Planning, and Landscape Architecture. Motion carried.

**2001/02-12** Motion to approve the request to move the existing BS with a major in optics from University College to the College of Engineering and Mines, and to change the name of the degree and major to the BS in Optical Sciences and Engineering with a major in optical sciences and engineering. The Optical Sciences Center will continue to administer the program at the department level, as detailed in the proposal dated 22 Oct 2001. Projected effective date: Fall 2002. Effective for catalogs 2002 and later. Motion carried.

**2001/02-13** Motion to approve the College of Pharmacy's request to apply up to 67-units of community college transfer credit to the pre-pharmacy portion of UA's 209-unit pharmacy program. The proposed exception to UA policy would apply at time of degree-audit, only to students graduating with a Pharm. D, and only to the pharmacy curriculum. Projected effective date: Fall 2002. Retroactive for all catalogs with 64-unit maximum. Motion carried.

**2001/02-14** Seconded motion from Academic Personnel Policy Committee to adopt "Draft Faculty Grievance Policy approved by APPC 1/11/02" which was distributed at the January 14 and February 4, 2002 Senate meetings including the changes to the draft policy adopted by APPC as a result of reviewing Senator Spece's proposals as noted in the attached February 22, 2002 memo to the Faculty Senate entitled "Changes to Draft Faculty Grievance Policy Based on Senator Spece's Suggestions" from Robert Mitchell & APPC. Motion carried as modified by approved amendments described in motions 2001/02-16 and 2001/02-20.

**2001/02-15** Motion to amend "Grievance Hearing Procedures" Section 7.b.xii.(6)(b) of the "Draft Faculty Grievance Policy approved by APPC 1/11/02" to read: "The role of outside counsel is to advise the committee as to how best to fulfill the goals that the committee articulates, and that his or her role is not to represent the interests of the University as such." Motion failed.

**2001/02-16** Motion to amend “Grievance Principles” Section 4.t of the “Draft Faculty Grievance Policy approved by APPC 1/11/02” to read: “No faculty member should be disciplined unless there is clear and convincing evidence of all facts predicate to the discipline. Otherwise the standard of proof shall be by a preponderance of the evidence.” Motion carried.

**2001/02-17** Motion to amend the “Informal Resolution Procedures” Section 6.c.ii of the “Draft Faculty Grievance Policy approved by APPC 1/11/02” by adding the word “improper” before “actions” in the phrase “within 6 months of the knowledge of the actions which form the basis of the complaint.” Motion failed.

**2001/02-18** Motion to amend “Grievance Hearing Procedures” Section 7.b.ii (3) of the “Draft Faculty Grievance Policy approved by APPC 1/11/02” by adding the term “bona fide” before the word “reasons” in the phrase “Unless overriding reasons under law or ABOR policy are given . . . .” Motion failed.

**2001/02-19** Motion to delete section (a) from “Grievance Hearing Procedures” Section 7.b.xi (6) of the “Draft Faculty Grievance Policy approved by APPC 1/11/02” which reads: “If neither party is advised or represented by counsel, and a university attorney has not been involved in the case on behalf of either party, then a university attorney may provide legal advice to the grievance committee upon request.” Motion failed.

**2001/02-20** Motion to amend “Grievance Hearing Procedures” Section 7.b.xii (6)(b) of the “Draft Faculty Grievance Policy approved by APPC 1/11/02” by adding the term “as determined by CAFT” to the end of the phrase “because of a conflict or for other reasons. Motion carried.

**2001/02-21** Motion to amend “Grievance Hearing Procedures” Section 7.b.xii (14) of the “Draft Faculty Grievance Policy approved by APPC 1/11/02” by replacing “pursuant to the provisions of the Administrative Review Act, Arizona Revised Statutes, Section 12-8901 et seq.” with “*de novo*, insofar as Arizona law does not prohibit that.” Motion failed.