

**MINUTES
FACULTY SENATE
THE UNIVERSITY OF ARIZONA®
February 5, 2001**

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1. CALL TO ORDER

The meeting was called to order by Vice Chair and Presiding Officer Jory Hancock at 3:03 p.m. in the College of Law, Room 146.

Present: Senators Aleamoni, Auxier, Bickel, Caldwell, D. Davis, G. Davis, Eribes, Hancock, Hogle, Houtkooper, Howell, Hurt, Ivey, Jenkins, Kidd, Likins, Merkle, Mishra, Mitchell, O'Brien, Parsons, Richardson, Rimsza, Romer, Schooley, Silverman, Songer, Tal, Taren, Walsh, Warburton, Warnock, Weinand, Witte, and Zwolinski. Thomas Volgy served as Parliamentarian.

Absent: Senators Armstrong, Becker, Benson, Dahlgran, T. Davis, DeYoung, Graff, Grant, Gruener, Hartman, Impey, Joens, Kosta, Kurzer, Larson, Marchalonis, Medine, Pepper, Perches, Pitt, Quinn, Regan, Sheridan, Smith, Spece, Szilagyi, and Zilm.

2. OPEN SESSION

Mr. Bruce Wright – Mr. Wright, Associate Vice President for Economic Development, reported on the Science and Technology Park. He noted the park is fully leased and is self-supporting and is home to 30 businesses and 6,000 employees. Mr. Wright distributed information detailing an ambitious and impressive 4-5 year expansion plan. The park's mission is to create an environment that fosters new technology and the transfer of that technology into the marketplace, which includes assisting small and start-up companies. It is intended to be truly a University research park, offering joint research or mentoring/consulting relationships between faculty members and companies, on-site classes, and student internships.

Senator Shirley O'Brien – Senator O'Brien described the College of Agriculture and Life Sciences's "New Faculty Tour" that highlights citrus groves, cattle ranches, dairy farms, pecan groves, and more. This tour has been recorded as a five-part special series produced for KVOA Channel 4. She invited Senators to view "Homegrown Arizona," beginning tonight on KVOA at 6:00 pm.

Mr. Mark Rivera – Mr. Rivera, a philosophy student and a member of Students Against Sweatshops (SAS), read a letter to NIKE's Vice President for Corporate Responsibility which SAS would like President Likins to endorse publicly. The letter expresses SAS' concerns about the reported worker abuses and walkout at the Korean-owned and operated Kukdong factory in Puebla, Mexico, and requests NIKE to take immediate, concrete action to end factory abuses and to ensure the workers' rights and safety.

3. REPORTS

3A. ASUA President Benjamin Graff

No report.

3B. GPSC President Jason Auxier

GPSC will be exhibiting the first and second place Student Showcase winners to legislators at the Phoenix Showcase before Pride Night. Senator Auxier thanked Senator Kidd for her extensive work promoting SB1417, the \$2M workload decision package to increase the funding for an additional 140 TA's. The State Senate decided to increase the request from \$2M to \$3M over two years, which would increase the number of TA's to 200. GPSC continues to attempt to secure tuition waivers for all Graduate and Teaching assistants, and this issue will be on ABOR's March agenda. Such waivers would increase the University's competitiveness for quality graduate students for teaching and research.

3C. Vice Chair of the Faculty Jory Hancock

Vice Chair Hancock welcomed Jennifer Rimsza, an ASUA-appointed Senator who is replacing Kelly Dalton this term, and thanked Bruce Wright for his open session remarks about the UA Science and Technology Park.

3D. Secretary of the Faculty Wanda Howell

No report.

3E. Chair of the Faculty Jerrold Hogle (attachments)

Chair Hogle reminded Senators that faculty election petitions for At-Large Senators and other offices and committees are due at 5pm on February 14 in the Faculty Center. Petitions are still available by calling the Faculty Center. He distributed SPBAC's Near-Term Budgeting Guidelines for 2001-2003 and requested Senators' feedback. SPBAC feels, in accordance with the Shared Governance Agreement, that it needs to make prioritization recommendations for the coming budget year. SPBAC Chair Andy Polk will return to the Senate on March 5 to accept additional input about the Strategic Plan. Chair Hogle reviewed bills affecting Arizona's public universities, which include HB2093 to provide funding for \$5.2M to UA and \$4.7M to Pima Community College to construct a joint campus on Tucson's northwest side. HB2417 appropriates funding for merit-based salary increases of 5% in January 2002 and another 5% in January 2003, plus a classified maintenance review for particular groups of university employees whose salaries are below the national averages. SB1384 is the Arizona Students' Association proposal for an increase from 1:1 to 2:1 in the State's match for the Arizona Financial Aid Trust Fund. SB1417 is the proposal to increase funding for graduate assistants. Another bill or amendment is being proposed to change the ABOR Optional Retirement Plans to lift restrictions preventing departing employees from cashing out their retirement funds. Sally Jackson headed a tri-university committee to draft the report "Developing an Operational Model for Arizona Regents University" (ARU). Based on recommendations from the State Task Force on Higher Education, the Regents want to consider a system-wide structure by which the universities could offer in-state distance education courses. The website azdistancelearning.org provides information about distance courses already offered by UA, ASU, and NAU. The committee recommends that ARU should make student access to Arizona higher education as seamless as possible and protect institutional integrity including faculty authority over curriculum and administrative authority over records and credentials. Chair Hogle said the process is still ongoing and requested faculty feedback for the Arizona Faculties Council to make recommendations to the Board of Regents in this area.

3F. Provost George Davis

Provost Davis announced that on January 8, Marjorie A. Isenberg joined the College of Nursing as Dean. She previously served as Dean of Academic Affairs at Wayne State, where she has held important leadership roles in areas of shared governance and has a record of establishing partnerships in Mexico. The search for the Vice President of Health Sciences and Dean of the College of Medicine is progressing with campus visits from a number of candidates. Following the January Board of Regents Study Session on Proposition 301, the Regents accepted the preliminary proposal for activities and budget distributions which was advanced jointly by the three Arizona universities. For the shared areas of biotechnology and information technology, the tri-universities' approach was complimentary. UA proposed fundamental research activities with clear applications in medicine and molecular agriculture, engineering hardware, software, and middleware, commerce connections, and the social science dimensions of living and working in this new electronic/technological environment. The Board has now requested specific, detailed proposals regarding the distribution of funds as well as the effect of Prop 301 dollars as they might leverage federal and private sector funds, and affect the outcomes of graduates moving into the workforce. The UA's water initiative will hopefully affect public policy planning for water quality and sustainability for the state. Framing a twenty-year budget for the Prop 301 monies is an immense challenge. The positive progress that has been made in the ARU vision is enhancing the three universities and reducing competition among them. The Board has also focused on the Arizona Faculties Council's recommendations about Learner-Centered Education. He also reported that the Board responded positively to a report on post-tenure review.

3G. President Peter Likins

President Likins reported that January was pivotal in the history of the University. The new legislature has a different set of attitudes, and the new role of the Regents in handling the Prop 301 money is still being developed. The Board had to be convinced that the universities knew how to work closely together to plan for the system and use the money in ways that are consistent with the Proposition's constraints. The provosts and their support teams worked extraordinarily hard to coordinate the presentations. President Likins credited Libbie Ervin, Sally Jackson, and Patti Ota for their efforts and noted the Regents' response was gratifying. Led by Sally Jackson, the universities presented a plan for use of the money. Commenting on the change in attitudes toward higher education within the legislature, President Likins described how the university presidents were first invited to the legislature to discuss their missions and contributions to society and then to present their budget proposals. Although the governor's and the JLBC's base budget proposals are already positive for the universities, President Likins did request additional funds for graduate teaching assistants, for the expansions of UA South and of Phoenix health sciences, and for other outreach activities. The outcome of the budget requests will not be known until the revenue projections are determined. Turning to the labor action at the Kukdong factory in Mexico that makes UA apparel for NIKE, President Likins said he has expressed his concerns directly to Phil Knight of NIKE. The Worker Rights Consortium (WRC) delegation invited UA to send a representative to the factory to investigate the alleged abuses. Jerry Morales, a Phoenix attorney who is an expert in Mexican business and labor operations and an adjunct professor at UA's College of Law, accompanied this delegation to spend three days in Puebla, Mexico. Some serious transgressions were discovered, proper concerns are being registered, and there will be a report and possibly a public panel discussion with Morales and representatives from WRC, SAS, FLA and others. President Likins does not share the sense of pace reflected today's SAS open session letter. It is difficult to ensure the workers' are properly represented by an elected labor union because of the enormously complicated circumstances involving deeply entrenched interests including political parties, the government-supported labor union CROC, and corporate interests. President Likins perceives this incident as an opportunity for SAS, NIKE, WRC, FLA, and UA, to work together to being pressures to bear to create changes in the worker environment at Kukdong, in greater Mexico, and perhaps elsewhere in the world.

4. QUESTION AND ANSWER PERIOD

Senator Schooley inquired why the second-year dollar amount total of the JLBC's budget proposal for a 5% salary increase is so much higher. Chair Hogle explained that the first-year salary increase will have to be annualized and therefore the second year total is higher.

Senator Schooley inquired whether some of the Prop 301 funds might be used as matching funds. Provost Davis affirmed that this is a clear possibility and in the spirit of the Governor's Task Force recommendation. President Likins explained that the public's general expectation is that every dollar spent earns money, but the university system is not accustomed to demonstrating the return on the investment. Also, not every investment yields tangible, documentable financial benefit, although improving quality of life does affect the economy by attracting people to the state.

Senator Silverman indicated that members of the Senate Task Force for Monitoring Labor and Human Rights Issues are also quite concerned and will be discussing the situation at Kukdong at a meeting this week and may be involved in assembling the public panel discussion.

Senator Silverman also expressed an interest in learning more about the Science and Technology Park's financial and research relationships with the University. Senator Likins recognized Bruce Wright, who told the Senate that when ABOR purchased the park from IBM in 1994 for \$98M, the appraised value was \$115M, and today it is valued at \$750M. ABOR then created the Arizona Research Park Authority to float bonds which were then purchased by a division of IBM; IBM then leased back half of the Park to pay the debt on the bonds. If IBM withdraws from its lease, it will forgive the debt. Thus the entire transaction actually cost only \$700,000 in closing costs. The University of Arizona loaned \$5M in operating costs for the first five years, but the park actually became self-sufficient in 3.5 years and has already paid back \$1.5M of this loan.

Senator Auxier asked about the state-wide debate concerning whether Prop 301 was validly on the ballot. Provost Davis is aware of this issue but not informed of its status.

Senator Auxier also asked if the subject of registration fee waivers for graduate assistants was discussed at the legislative budget hearing. President Likins explained that the decision packages before the legislature include increasing the number of TA's as well as increasing TA stipends. Waiving registration fees (in-state tuition) for graduate assistants requires an action by the Board of Regents. Someone is probably computing the significant cost of this proposal to be presented at a future ABOR meeting.

5. **DISCUSSION (SECOND READING) OF GRIEVANCE POLICIES AND PROCEDURES FOR FACULTY DRAFT 2/5/01 (attachment)**

Academic Personnel Policy Committee Chair R. Mitchell referred Senators to the revised version on Senators' desks with new language in bold and deleted language lined out. On page one under Grievance Principles "I", the passage includes additional language to clarify that both grievant and respondent are permitted counsel to help them prepare for a hearing, but that if the grievant chooses not to be represented by counsel during the hearing, the respondent may not either, and that the grievant must notify the respondent within one week of the scheduled hearing whether he or she intends to have legal counsel present at the hearing. Senator Witte inquired whether these revisions are coming from the Senate or from the University Attorneys' Office and stated that Senators need to receive drafts in a timely fashion so as to compare and consider substantial changes such as these before taking action. Senator Mitchell replied that the Senate is not bound to vote today, and Vice Chair Hancock noted that, although there is no longer a quorum present for action, discussion may continue. Senator Witte noted that several of the original Grievance Principles developed by the Committee of Eleven to clarify and streamline the grievance process for faculty have been changed or removed from this document. Senator Mitchell volunteered to return to the APPC and the University Attorneys Office (UAO) with her concerns. Senator Witte perceives a serious conflict of interest with the UAO advising a faculty committee. Senator Mitchell responded that the Senate voted last September to require its standing committees to include all of the stakeholders in the process of drafting policies for the University. Turning to page 2, Grievance Principle "R," Senator Mitchell referred to an inadvertent omission, which should include the phrase "or continuing status" following the word "tenure." This passage was added to explain the circumstances for an exception. Although a faculty member is generally not permitted more than one internal grievance process on the same matter, there is an exception: a faculty member who alleges that an adverse decision concerning a faculty member's promotion, tenure or continuing status employment following an investigation by the Affirmative Action/Equal Opportunity Office was based on unlawful discrimination is entitled to a CAFT hearing. Senator Witte protested that this clause restricts faculty members' rights because some grievances are complex and may have many facets in which a number of grievances could be filed; she would prefer to omit this. The addition came from the University Attorney's Office, and APPC believed the language would reinforce the Grievance Clearinghouse's ability to guide faculty to the best place to pursue their grievances. Senator Silverman shared Senator Witte's concern but said he interprets the word "generally" as less of a restriction and more of a guiding principle. However, if "generally" becomes part of the Constitution and Bylaws, it may have to be formally interpreted at some later date. Senator Walsh commented that it is in the best interests of a faculty member with a complicated grievance issue to present a unified rather than a piecemeal approach to the case. Senator G. Davis suggested that the word "however" might be used to link the first and second sentences of this passage. Referring to pages 3 and 4, "Informal Resolution Procedures," Senator Silverman suggested that the APPC add language to differentiate the ombudsperson procedure and the conciliation committee, process, and procedure. On page 7, Number 5, Senator Silverman suggested that the APPC consider rewording the passage to say that outside counsel should always be employed to advise CAFT because of the potential for conflict of interest for the University attorney's involvement in a case, such as by being asked to advise the president about his final decision or to represent the University in as civil suit following an adverse decision against the grievant. Senator Witte seconded this suggestion and asked whether or not an outside attorney would be given an absolutely free mandate to rule and to provide advice for the committee that may not benefit the administration. Senator Hogle also urged that the APPC consider this suggestion and noted that outside counsel is currently being provided for CAFT. On page 8, Number 6, Senators Witte and Silverman questioned the University's power to require a faculty member to appear and testify at internal hearings. Senator Hogle read from the Bylaws Article IV, Section 9, Procedures (d), which awards power of subpoena to the chair of the panel to require the attendance of witnesses and for the production of books, records, documents and other evidence, but noted the wording that faculty will "consider it as an obligation" to appear and testify. The language of the Bylaws should be substituted for Number 6 on page 8. Senator Witte would also like to add to the obligation that faculty members' testimony should be "fair and truthful." Senator Aleamoni noted on page 6, e, the second

sentence should read "reconsidered" in place of "reconsideration." Senator Silverman suggested that on page 6, h, the Bylaws should not contain time limits that are in the control of other agencies because they can change. Senator Hurt suggested not crafting specific language into this policy as if it were a stand-alone policy, but rather to reference the master policy (such as the Constitution and Bylaws) whenever appropriate. Referring to Number 13 on pages 8-9, Senator Mitchell explained that because of a recent State Supreme Court ruling, the decision of president is not final because an employee may request a consideration based on several grounds such as irregularities in the proceedings or newly discovered evidence. Senator Witte objected to "eleventh hour revisions" suggested by the University attorneys. Senator O'Brien stated that each of the suggestions coming from UAO were given careful consideration and sometimes modified and that in some cases, the APPC would not have had the complete information necessary to draft the policy without the UAO's assistance. Senator Witte repeated her objection to the conflict of interest inherent in the UAO's interpretation of the laws and rulings and suggested the committee obtain an independent attorney's opinion on behalf of the faculty. Senator Richardson noted a typo in the third line on page 10, n, 1; this should read "as designated vice president," not "s designated vice president."

6. **DISCUSSION AND POSSIBLE ACTION ON FACULTY CONSTITUTION AND BYLAWS REVISIONS**

Senator Howell deferred this committee's report until the March 5 Senate meeting.

7. **CONTINUED DISCUSSION OF ARIZONA UNIVERSITY SYSTEM WHISTLEBLOWER PROTECTION POLICY (attachment)**

Senator Hogle reminded the Senate of the Board of Regents decision to assemble a university system-wide whistle-blower policy, with faculty input from the Arizona Faculties Council. Senator Hogle is chairing the drafting committee consisting of faculty, staff, and attorneys from the other institutions. The committee is still requesting and accepting advice and input on this policy. The draft policy is attempting to create a university system policy that is parallel to and consistent with ARS 4110-62, the statute that applies to other state employees. On page 11, for example, the draft policy provides 30 days after an adverse personnel action for filing a whistleblower complaint. This time limit is derived from ARS 4110-62. This policy also provides for a university-designated officer or a committee to hear a whistleblower complaint. Senator Hurt suggested the committee consider aligning its timelines with the proposed new federal government whistleblower standards, since most whistleblower complaints from UA has been in an area where the federal government has some role. The Board is also considering a separate policy for students who are not employees. Turning to page 14, Senator Hogle pointed out that, no later than 20 days after receiving the request for a hearing, the designated university officer or committee will determine whether the complaint qualifies for an external hearing. UA's policy provides for an automatic appeal hearing for anyone who complains but is not awarded whistleblower status. Senator G. Davis observed that 30 days is a more realistic and workable limit for this response. Senator Hogle said the committee is working on a definition of conflict of interest, and he is requested continuing input from faculty via email at hogle@u.arizona.edu.

8. **OLD BUSINESS**

Senator Bickel requested to know of whom he might inquire whether a date and place for the CAFT Kay hearing has been chosen and who is on the panel. Chair Hogle advised Senator Bickel to call the current chair of CAFT.

9. **NEW BUSINESS**

10. **ADJOURNMENT**

There being no further business, the meeting was adjourned at 5:11 p.m.

Wanda H. Howell, Secretary

Appendix*

1. "The University of Arizona Science and Technology Park – Technology's Best Address" packet
2. Open Session Statement/Letter to NIKE's Dusty Kidd read by Mark Rivera for Students Against Sweatshops
3. "Chair of the Faculty's Report, February 5, 2001 outline"
4. "Near-Term Budgeting Guidelines 2001-2003 December 22, 2000 – Revised 1/25/01"
5. "Bills Affecting Arizona's Public Universities First Regular Session –45th Legislature (2001)"
6. "Developing an Operational Model for Arizona Regents University"
7. "Grievance Policies and Procedures for Faculty draft 2/05/01"
8. "ABOR Executive Summary, Protection for Employees from Retaliation for Whistleblowing" dated January 25 & 26, 2001

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

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