

The University of Iowa
FACULTY COUNCIL MINUTES 2000-01
Tuesday, April 10, 2001
Northwestern Room, Iowa Memorial Union 345

Members Present: Steven Aquilino, Jeff Cox, Vicki Grassian, Jean Jew, John Paul Long (Emeritus Council), Chuck Lynch, David Manderscheid, Gary Milavetz, John Moyers, Paul Muhly, Gene Parkin, Morton Pincus, Margaret Raymond

Members Absent: Ann Marie McCarthy

Members Excused: Caroline Carney Doebbeling, Lois Geist, Debora Liddell, Craig Porter

Faculty Senate Officers in Attendance: Carolyn Colvin, President; Amitava Bhattacharjee, Vice President, Teresa Mangum, Secretary; Jonathan Carlson, Ex-Officio President

Guests: Jim Andrews (Emeritus Faculty Council Liaison), Eric Andersen, (Law School and Head of the Judicial Commission), Lee Anna Clark (Office of the Provost), Charlie Drum (University Relations), Steve Hoch (Office of the Provost), Mike McWilliams (*Daily Iowan*), Steve Sanders (UI Foundation), Les Sims (Office of the Provost), Chris Squire (Associate Provost of Health Sciences), Jon Whitmore (Office of the Provost), Kathryn Wynes (Office of the Provost), Kristina Yows (Office of the Provost), Joyce Crawford (Secretary and Office of the Provost-Faculty-Senate)

I. Call to Order

II. Approvals

A. Meeting Agenda

President Colvin began by asking for an amended agenda. She proposed that under Old Business we would first return to the "unfitness policy" and then discuss a proposed change in the wording of the Tenure Review portion of the *Operations Manual*. We would next receive a report from the head of the Judicial Commission, Prof. Eric Andersen. At the end of our meeting, President Colvin recommended that we move to Executive Session for discussion of proposed changes in the collegiate and decanal review procedures and for a presentation on future funding activities, to be presented by Steve Sanders of the University of Iowa Foundation.

Prof. Raymond moved and Prof. Carlson seconded the following.

Motion: The Faculty Council approves the revised agenda. *The motion passed.*

B. Minutes

The minutes of March 27 were approved as amended by consensus.

C. Committee Replacements

On behalf of the Elections Committee, Vice President Bhattacharjee presented a slate of new committee appointments for the year 2001-2002 and made a motion to submit these names to the Faculty Senate. The motion was seconded by Prof. Jew.

Motion: That the Faculty Council shall submit the slate of officers recommended by the Elections Committee to the Faculty Senate for approval. *The motion carried.*

Faculty Senators will receive this slate of officers with their next mailing. Vice President Bhattacharjee encouraged Councilors to communicate appreciation to the faculty members who so generously agreed to serve on these Senate committees.

III. Old Business

A. Draft – “Unacceptable Performance of Duty Warranting Termination” Policy, presented by Jeff Cox, Committee Chair

President Colvin began by noting that discussions she and Prof. Cox have led around campus have been very illuminating for everyone who participated regarding tenure and the existing policy. Most faculty members support the revised policy although a few people have recently contacted her with concerns. She then turned the meeting over to Prof. Cox. Since appearing before the Council and Senate, he has met with Associate Provost Lee Anna Clark to be sure the most recent draft of the Unacceptable Performance of Duty Policy took into account the special circumstances of faculty members who have appointments in more than one college. Version 5 incorporates these changes.

Prof. Cox then surveyed two sections that his committee proposes to insert into the *Operations Manual*. The new section 10.1.c would appear in the *Operations Manual* at the end of the current section on awarding tenure. The second section, Human Resources 29.8, is the rewritten portion of the existing Unfitness Policy.

The new section 10.1.c does three things:

- ◆ makes a general statement about the importance of tenure and academic freedom

- ◆ cross references unchanged portions of the *Operations Manual* that refer to any procedure for termination of a tenured faculty member. (Prof. Cox said that these passages were not revised but need to be.)
- ◆ introduces a statement on financial exigencies in concert with the stance of AAUP. (In other words, the section specifies the protections afforded to faculty in case of budget cuts. Tenured faculty members are not laid off to solve a financial crisis unless the University is in danger of bankruptcy. Also, in the case of programmatic changes, the University must make a good faith effort to relocate the faculty members.)

Major changes in the new UPOD policy include clarifying the responsibility for initiating the procedure and imposing additional standards on collegiate deans for justifying a complaint and demonstrating previous attempts at remedying the problem. The new policy specifies the process for consulting with the departmental consulting group and asks the provost to report her or his reasons for assenting to the procedure.

President Colvin also reminded the Council that the policy has undergone a name change. The committee now proposes calling it Unacceptable Performance of Duty Warranting Termination.

The Council then discussed the two sections. Prof. Muhly asked if he might offer an amendment regarding the “Alternative Conclusions” section (III. 29.8 A. 2). He wants the sentence to clarify that academic officers should not use this policy for anything less than termination. Prof. Cox replied that the committee had tried to address this issue by removing the dean’s choice to recommend any alternative to termination using this procedure. However, the committee chose to leave the Alternative Conclusions section so that shifting to mediation would remain an option throughout the process.

Prof. Muhly made a motion to add additional emphatic language to the Alternative Conclusions policy and Prof. Jew seconded:

Motion: That the Alternative Conclusions Policy, III. Human Relations. Section 29.8 2, be revised to emphasize this procedure should only be used in extreme cases in which termination is the desired outcome.

Prof. Milavetz offered an editorial suggestion as a friendly amendment so that the passage would read as

"The procedures set forth in this section are only intended for cases in which dismissal for unacceptable performance of duty is contemplated; they may, however, at any time terminate short of dismissal. For example, the procedures may result in a change of the faculty member's assigned duties, a reallocation of

effort, appointment to another principal unit, or other adjustments in the terms and conditions of the faculty member's employment."

The motion carried.

Prof. Carlson then asked Associate Provost Clark to describe the process in the case of a faculty member with a joint appointment. In that case, Clark explained, the dean would ask the DEO in each unit to provide a report. If the joint appointment existed in two colleges, the complaining dean would contact the dean of the second college. This second dean would ask her or his DEO and DCG to prepare a report. The second dean would then write a cover letter and include it in the report to the dean who initiated the procedure. Prof. Lynch and Prof. Moyers asked that the document specify that each dean should provide a separate report. Prof. Raymond then focused on a procedural problem. The complaining dean would contact the second dean at the "requesting" stage, not the "complaint" stage. How might we clarify what would be appropriate at each stage? Prof. Cox asked for permission to allow the committee to edit the language in this section.

Prof. Aquilino asked, if a faculty member has a joint appointment in two colleges and only one college deems the person unfit, what happens? Would the individual just move into the approving college? Provost Whitmore said this might be one option. Prof. Cox added that the committee had discussed various hypothetical situations, and they assumed the Provost would need to intervene.

Prof. Parkin said that his own college, engineering, had expressed reservations about the new policy. Faculty members were especially concerned about the language "falling below standards of performance" when the document does not state who would set those standards. Prof. Cox said that he thought it was ill advised for departments to write standards. Those standards should be determined from discussion about past practices and standards of the unit. Prof. Cox added that he believed it would be damaging to academic freedom to sit down and try to define the unfit person in fantasy. Prof. Parkin said his engineering colleague had also asked why, if this policy has been applied so infrequently, we are spending so much time working on it? Why not just list the protections in the current policy? What are the motivations? Prof. Cox replied that the Senate had been asked by the administration to review the policy. His committee decided the policy was seriously flawed. It does not specify who brings a complaint or how past records will be used. It has no mechanisms for consultation with peers and does not provide an obligation for the dean to state reasons for the grievance. Also, it allows but does not *require* a review of action by the provost.

Prof. Jew also responded. When we initially talked about the question of whether the Faculty Council and Senate would revise the policy, she recalled, we considered worst case scenarios and carefully added language to emphasize unfitness could only be charged in extreme cases. Why, then, do engineering

faculty members see the proposed version applying to more rather than fewer faculty members? Possibly general nervousness caused by the phrase "unacceptable performance," Prof. Parkin replied.

Prof. Cox then asked for the perspective of AAUP members. Prof. Andrews said that the AAUP strongly supported the revised document and believed it to be a great improvement. He also praised the Cox committee for their hard work.

Questions were raised about time limits for the different parts of the process. Prof. Jew suggested allowing thirty days for a faculty member to review a redacted copy of the first round of reports and then, again, a second thirty days to review the redacted report after the dean had responded to it with the dean's redacted comments attached.

Prof. Aquilino moved and Prof. Muhly seconded the following motion:

Motion: That the Unacceptable Performance of Duty policy shall grant an accused faculty member thirty days to review the first unfitness report and another thirty days to review the dean's report in response to the initial report. *The motion carried.*

Prof. Carlson moved and Prof. Muhly seconded the following motion:

Motion: That the Faculty Council shall forward Draft 5 of the Unacceptable Performance of Duty Warranting Termination Policy to the Senate, along with revisions proposed in this Council meeting. *The motion carried.*

President Colvin said the committee would try to make an amended copy available on the Senate website by Thursday morning. It will also be sent in the packet for the next Senate meeting.

B. Proposed changes to the Tenure and Promotion section in the *Operations Manual* 10.5.

Currently, the *Operations Manual* states that untenured faculty members will be reviewed for tenure at the end of the sixth year. In practice, the tenure review begins in the beginning of the sixth year. This revision simply brings policy into line with practice.

Prof. Long asked if promotion and tenure were always conferred simultaneously? If promoted from within, yes, but a faculty member recruited from outside at the level of associate or senior professor can be hired without tenure for up to three years. Prof. Grassian asked whether these questions would not be covered in an offer letter? Yes, answered Associate Provost Clark. This clarification is helpful simply because it covers cases in which the offer letter is unclear or when the

letter fails to specify the tenure clock because a person is first hired as an instructor.

Prof. Muhly moved and Prof. Moyers seconded the following:

Motion: That the Faculty Council accepts the revised wording of the policy and forwards it to the Faculty Senate for discussion and approval. *The motion carried.*

IV. New Business

A. Annual Report from the Faculty Judicial Commission--Presented by Eric Andersen, Presiding Officer, Judicial Commission

Prof. Andersen attended Council to present the annual report of the activities of the Judicial Commission. This academic year, four cases have been brought to the Judicial Commission. Other disputes arose but were resolved before going to the Commission. Generally, the Commission hears cases dealing with tenure and promotion denials and appeals. This year was rather unusual. The Commission heard one such case, which is now settled. Two of the cases focused on ethics violations, and one case involved an unfitness grievance (it is still in process). Since 1994 twenty-five cases have been brought to the commission. Nineteen were tenure and promotion appeals; of those, seven were settled or withdrawn prior to being ruled upon by the judicial panel. In four cases, the panel ruled against the faculty member on all grounds. In eight cases, the panel ruled in favor of the faculty member on at least one ground. In four of those cases the President agreed the faculty member had been treated unfairly and in two the President disagreed with the panel. Going back to 1994, this is the only unfitness case Prof. Andersen recalls. Also, since 1994, there have only been three ethics violation cases, including the two brought this year. The panel also sometimes hears grievances against an administrative action. Several other cases are still in process but have not yet moved to the Judicial Commission.

Vice President Bhattacharjee asked whether deadlines were imposed for the grievance process? Prof. Andersen replied that such deadlines would be impossible because of the complications of scheduling witnesses, lawyers, and making settlement attempts throughout the process. Prof. Jew asked how effective the mediation process had been before a case gets to the judicial panel. Fairly ineffective, Prof. Andersen lamented.

President Colvin thanked Prof. Andersen for his hard work.

Prof. Carlson moved and Prof. Muhly seconded the following:

Motion: The Faculty Council shall move into Executive Session. *The motion carried.*

Prof. Muhly moved and Prof. Jew seconded the following:

Motion: That Jim Andrews and Kristina Yows be invited to remain for the Executive Session. *The motion carried.*

V. Executive Session

A. Brody Award

President Colvin reported that the Brody Awards committee had met and prepared a slate of proposed recipients of the awards for the approval of the Council. The committee members were Carolyn Colvin, chair, Debora Liddell, Teresa Mangum, Anne Marie McCarthy, Gary Milavetz, and Craig Porter. The nominees were Amitava Bhattacharjee, Jean Jew, Doug Jones, Shelly Kurtz, Warren Piette, and Robert Yager. Commending the outstanding accomplishments of every nominee, the committee asked the Council to confirm Jean Jew, Shelly Kurtz, and Robert Yager as the recipients of the 2000-2001 Brody Award.

Prof. Carlson moved and Prof. Lynch seconded:

Motion: That the Faculty Council endorses the committee's recommendation to confer the Brody Award on Jean Jew, Shelly Kurtz, and Robert Yager. *The motion carried.*

President Colvin noted the committee would like to make a few minor changes in the awards procedure, for example, to include clinical faculty members among possible nominees. They will present suggestions to the Senate in the fall.

B. Recommended revisions of the Decanal and Collegiate Review Process

Provost Whitmore then reviewed the changes he encourages the Faculty Senate to support in the collegiate and dean's reviews. He thinks these changes would make two improvements. First, at present collegiate and decanal reviews are supposed to take place simultaneously. This is rarely possible; decoupling the two would square policy with practice. In other words, his first goal is to review a dean at the time specified by her or his offer letter without being forced to institute a collegiate review if it were unnecessary. (He noted that two separate committees handle these reviews.) Second, Provost Whitmore hopes the revised policy would save time. The current process is cumbersome and imposes unreasonable demands on committee members, he believes. He offered several examples of two and three year reviews in which he felt the departmental self-study was already out of date by the time the external reviewers came to campus for their part of the review process. Provost Whitmore noted that he had incorporated many of the Council members' suggestions from an earlier meeting into this

version of the review procedures. He emphasized that he is not seeking a larger role in the process; he just wants reviews to run more smoothly and quickly. He also noted the need for further revision if the Council supports these procedures, for example to account for the review procedures of other academic officers.

President Colvin told the Council that the senate officers had looked at these documents and felt that they were very promising but wished to have Council respond to them. Along with Vice President Bhattacharjee, she recommends that an ad hoc committee be appointed to work on these documents over the summer. That committee would report to the Council in the fall.

In response to the Provost's concern that several reviews of deans are due to be initiated this fall, Prof. Muhly asked whether the current process allows supplementary reviews? Yes, answered Provost Whitmore, if initiated by a faculty member or unit administrator, such as himself. While this would be one way to move forward on the impending decanal reviews, noted Provost Whitmore, he would like to use a revised procedure, even if only as a pilot program. Provost Whitmore added that usually when a dean is appointed, the appointment letter specifies a five-year term, concluding in a review. Several of these are due in colleges that do not need to be reviewed at present. Also, some colleges prefer to coordinate reviews with accreditation procedures. Prof. Grassian expressed skepticism that the revised document would enable a speedier review. Provost Whitmore countered that the page limit would be one example. He also hopes a "site visit" format will condense the process. Prof. Long noted that reviews moved efficiently or slowly depending on the chair of the review committee. Prof. Grassian queried whether condensing the process might make the committee work more rather than less onerous unless the committee members were given some release from other duties? Prof. Muhly reiterated this suggestion. Prof. Jew pointed out that in some cases the slower pace of the self-study portion of the review allowed a College to implement changes through the review procedures so that the slower pace could actually have advantages. She also expressed concern that decoupling the decanal and collegiate review could increase the workload since both kinds of reviews required similar information.

Prof. Carlson suggested removing specific targets for the review. The particulars would be so distinctive to each college that anticipating details would not be helpful. Prof. Cox asked what kinds of information would be available in the data bank of questions? Provost Whitmore suggested that in consultation with experts on questionnaires, a faculty committee could compile a list of suggested questions for students, staff, alumni, faculty, and administrators. Prof. Muhly wished to go on record opposing questionnaires in general. Prof. Moyers noted that when the central administration pinpoints a few issues for focus in a review process, the review moved more smoothly. Vice President Bhattacharjee suggested that all these concerns be passed along to the ad hoc committee.

President Colvin then asked Councilors how they wished to proceed. Councilors agreed they were not yet prepared to send these documents to the Senate. Instead, Vice President Bhattacharjee suggested that the Council approve the Provost's request to move forward with the reviews he needs to conduct this fall while sending the revised policies to an ad hoc committee for further revision over the summer.

Prof. Muhly moved and Prof Manderscheid seconded the following:

Motion: That the Faculty Council recommends that Provost Whitmore proceed with the necessary decanal reviews this fall under the provisions of the supplementary review option and the provisions of the current review policy. In addition, the Council recommends that an ad hoc committee be appointed to review both the decanal and collegiate review procedures. *The motion carried.*

C. Steve Sanders from the Foundation, Future Funding Plans

Mr. Sanders described the plans underway in preparation for the upcoming Capital Campaign.

VI. Adjournment

Respectfully submitted,
Teresa Mangum
Secretary