

FACULTY COUNCIL
Tuesday, August 30, 2011
3:30 – 5:15 pm
Seminar Room (2520D), Old Capitol Centre

MINUTES

- Councilors Present: D. Black, E. Ernst, S. Gardner, N. Grosland, B. McMurray, J. Murph, J. Pendergast, G. Penny, S. Schultz, J. Solow, K. Tachau, E. Wasserman, S. Wilson.
- Officers Present: C. Bohannan, E. Dove, R. Fumerton, L. Snetselaar.
- Councilors Excused: N. Nisly.
- Councilors Absent: D. Bonthius, S. Clark, S. Kurtz, K. Sanders.
- Guests: J. Carlson (College of Law), D. Drake (Office of the President), D. Finnerty (Office of the Provost), B. Ingram (Office of the Provost), J. Reiland (*Daily Iowan*), T. Rice (Office of the Provost), L. Zaper (Faculty Senate).

I. Call to Order – President Fumerton called the meeting to order at 3:32 pm,
<http://www.uiowa.edu/~facsen/archive/documents/Agenda.FacultyCouncil.08.30.11.pdf>.

II. Approvals

- A. Meeting Agenda – Professor Pendergast moved and Professor Penny seconded that the agenda be approved. The motion carried unanimously.
- B. Faculty Council Minutes (April 12, 2011) – Professor Tachau moved and Past President Dove seconded that the minutes be approved. The motion carried unanimously.
- C. Draft Faculty Senate Agenda (September 13, 2011) – Professor Pendergast moved and Past President Dove seconded that the agenda be approved. The motion carried unanimously.
- D. Committee Replacements (Linda Snetselaar, Chair, Committee on Committees)
- John Solow (Economics) to fill the unexpired term of Matt Billett (Finance) on the Faculty Council, 2011-13
 - Bob McMurray (Psychology) to fill the unexpired term of Johanna Schoen (History) on the Faculty Council, 2011-13
 - John Murry (Marketing) to fill the unexpired term of Matt Billett (Finance) on the Faculty Senate, 2011-13
 - Catherine Ringen (Linguistics) to fill the unexpired term of Johanna Schoen (History) on the Faculty Senate 2011-13
 - David Hasan (Neurosurgery) to fill the unexpired term of Erling Anderson (Anesthesia) on the Faculty Senate, 2011-13

- Daniel O'Leary (Psychiatry) to fill the unexpired term of John Canady (Surgery) on the Faculty Senate, 2011-13
- Stewart Ehly (Psych & Quant Foundations) to fill the unexpired term of Linda Snetselaar (Epidemiology) on the Council on Teaching, 2011-12
- Marcella David (Law) to fill a vacancy on the Judicial Commission, 2011-13
- Katherine Tachau (History) to fill the unexpired term of David Drake (Dows Institute) on the Committee on Selection of Central Academic Officials, 2011-13
- Christopher Morphey (Educational Policy & Leadership Studies) to fill the unexpired term of Dennis Harper (Rehabilitation & Counselor Education) on the Committee on Selection of Central Academic Officials, 2011-12

Professor Pendergast moved and Past President Dove seconded that the committee replacements be approved. The motion carried unanimously.

III. New Business

- *Compensation and Classification Redesign Update (Kevin Ward and Karen Shemanski, Human Resources)*

Mr. Ward reminded the group that he had spoken to them last spring about the classification portion of the project. He indicated that today he would talk about the compensation portion. The original project goals for the redesign included recruiting and retaining talent by using a market-competitive salary plan, since the old plan had not had an historical connection to the market. Other goals include continuing to recognize and reward individual performance and to promote communication and transparency. The new classification titles and codes went into effect on July 25. Those jobs are described by key areas of responsibility. In mid-September the compensation plan will be released. The plan will indicate new pay level assignments for those job classifications based on a new set of evaluation criteria, new pay level ranges and market zones, and practices for making future salary decisions.

Early on in the project five factors were identified for evaluating jobs (knowledge and skills, judgment, breadth and scope, impact and accountability, and communication). Jobs were evaluated according to those factors and then assigned to pay levels. These pay levels were reviewed by the senior Human Resources representatives and by Buck Consultants, which has been working with the university on this project. Mr. Ward stressed that these new classifications and the new set of criteria were big changes from the previous, outdated system. Benchmark data were used to determine the salary market. One hundred and seventy-one benchmark jobs were used for comparison; these jobs covered 74% of university employees. They are representative of the different job functions and pay levels in the labor market. Eighteen different data sources were used. Target midpoints were then determined for each pay level. Each pay level was given two midpoints, one for the majority of jobs in that level (Structure I) and one for a group of jobs that have a more competitive market (Structure II). Each job will be assigned to a structure within a level. For example, both HR manager and lead database administrator are assigned to Level 5, but the former falls under Structure I and the latter under Structure II. The zones were constructed to be plus or minus 12% of the target rates. The ranges then extend about 25% above or below the market zones. The top two ranges are for

single incumbent positions at the executive level; those jobs will not be assigned midpoints but will be looked at individually.

In terms of current staff, 67 1/2% will be in Structure I and 32 1/2% will be in Structure II. Forty percent of staff will be in zone, while 94% will be somewhere in range. Other factors, such as breadth of job responsibility, level of performance, etc., have impacted placement. Situations in which individuals fall above or below range will be looked at individually and then modified over time if appropriate. The real focus for salary determination will be on job responsibility and performance and only then on relationship to market zone. The market will be monitored annually. For those under zone but within range, they may be moved into zone depending on level of responsibility and job performance, if appropriate. For those above zone but within range, responsibility and performance will continue to be recognized, if appropriate. For those below the range, they may be moved into the range when resources are available. For those above the range, it may be appropriate to continue rewarding an exceptionally high performer. Again, the last two cases will be examined individually.

The university is seeking a higher level of transparency around mid-year and other types of adjustments to salary. Reasons for these adjustments include changes in scope of responsibility or job duties and will generally stay the same. There will now, however, be greater flexibility in the amount of the increase and greater transparency in the process. Mr. Ward reminded the group that there can be a range of responsibility within a job classification and that this can be recognized with compensation. The university wants to move away from the notion that an employee must move up to a new classification to earn a higher salary. The new system allows for an increase in compensation of 1-5% after documentation of changed responsibilities. Movement to a higher classification could result in a salary increase of 1-10%, depending on relationship to the new market zone. Career shifts such as moving to a P&S position from a Merit or SEIU position, a transferring to a job at the same pay level, or perhaps moving to a job at a lower level could also lead to changes in salary. The flex pay program (lump sum payments throughout the year) will likely be continued for high performers. Mid-year market adjustments may still be necessary, for compelling reasons such as a failed search, etc. The practices of counter offers and interim appointments will be continued.

Mr. Ward stressed that this is a new framework for making salary decisions, allowing for more strategic decisions about how funds are distributed and how staff are rewarded for performance. It does not change the funding available. Salaries will not be decreased as a result of this project, nor will they be automatically increased. Future increases will be driven by performance in relationship to the market zone but within the resources available. Education and guidelines will be provided to supervisors to give good performance feedback to employees and to document changes in employees' responsibilities. Communication regarding the new compensation structure will begin in mid-September, the framework will be implemented in October and the first salary decisions made within the new framework will take effect on July 1.

Secretary Bohannon asked for clarification of the "market" referred to in the presentation. Mr. Ward explained that the market varies according to where supervisors recruit for employees for certain positions. Sometimes this recruitment occurs locally, at other times recruitment

occurs within a regional, academic market or a private sector market. Professor Pendergast noted that previously in her college supervisors were given a salary range within which they had some flexibility. She wondered if the same flexibility would be allowed to supervisors now, given the apparent trend for moving salaries into market range. Mr. Ward responded that guidance on salary increases would eventually be given to supervisors, while noting that resource constraints would always be an issue. Professor McMurray asked how the market data are updated. Mr. Ward explained that software tools were available for this, as well as surveys that could be purchased each year. In response to a question, Mr. Ward indicated that Buck Consultants, the national firm that helped the university with the redesign project, specializes in compensation and other human resources issues. Professor Tachau noted that the market value of one's work may not correspond to the intrinsic worth of that work. She cited librarians and elementary school teachers as examples. Mr. Ward stated that the university intends to remain compliant with the comparable worth law of the state. He also commented that work performance would be evaluated against the five factors he had listed earlier (knowledge and skills, judgment, breadth and scope, impact and accountability, and communication). Past President Dove asked who had determined the five factors. Mr. Ward explained that HR staff had made those determinations, with review from Buck Consultants and senior HR representatives. Past President Dove further asked about due process for P&S staff. Mr. Ward answered that such issues could go up to the collegiate or division level.

- *Updates to Anti-Retaliation Policy (Tom Rice, Associate Provost for Faculty; Jonathan Carlson, College of Law)*

Associate Provost Tom Rice explained that the Conflict Management Advisory Group, a committee that he co-chairs with Judie Hermsen of Human Resources, was charged several years ago with review of the “community policies” in the Operations Manual – policies that include, for example, those on harassment, anti-retaliation, and sexual harassment. The committee had completed its work on the anti-retaliation policy last year [the Faculty Senate had approved the revised version of the policy at its February 8 meeting], but a recent Supreme Court decision now requires a slight modification to the policy.

Professor Carlson then explained that this Supreme Court decision [Burlington N. & S.F.R. Co. v. White, 548 U.S. 53 (2006)] involved retaliation against people who report discrimination (under Title VII); the UI policy would cover such a situation. The Supreme Court decision indicates that retaliation includes events outside, as well as within, the workplace. The university anti-retaliation policy, however, could be interpreted as only applying to retaliation that occurs within the workplace. The Supreme Court decision also defined retaliation as “any materially adverse action,” which would “dissuade a reasonable person from making or supporting a charge of discrimination.” Professor Carlson indicated that he had changed the university policy’s language (in paragraphs 11.2 f. and g.) to reflect this definition of retaliation. He had left unchanged the following paragraphs (1), (2), and (3), which provide examples of materially adverse actions, although the examples contained in them apply only to the workplace for faculty and staff, since the language in paragraphs 11.2 f and g. broaden the policy’s scope beyond the workplace. Professor Tachau noted that while the word “materially” had been inserted before “adverse action” in the paragraphs defining “retaliation” and “adverse action” in the revision of the policy, it had not been inserted before “adverse action” in the three

example paragraphs. Professor Carlson responded that the insertion of the word “materially” in the definition paragraphs was sufficient. He stressed that he had wished to alter the policy as little as possible.

Professor Wasserman commented that the sentence in example paragraph (3), “Adverse actions may include those mentioned above as well as those that may prevent the individual from pursuing and/or obtaining employment at The University of Iowa,” would seem to restrict such adverse actions to the university, when in fact there may be a threat of preventing an individual from obtaining employment anywhere. Professor Carlson responded that the language in example paragraphs (2) and (3) states that “Adverse actions may include, *but are not limited to...*” and this would cover the circumstances suggested by Professor Wasserman. Secretary Bohannon, however, advocated for an explicit statement in the example paragraphs that materially adverse actions are not limited to the workplace, especially since the examples given in the policy all relate to the workplace. She suggested the following language, “Adverse actions may also include actions or threats of action not related to employment or the workplace that would likely dissuade a reasonable faculty or staff member from making or supporting a good faith report of University-related misconduct.” She suggested that this statement be added at the end of example paragraph (1), noting that paragraph (2) which applies to students already seems to have a wider scope.

After some continued discussion of the best wording and where to insert it, the group decided that the statement suggested by Secretary Bohannon be placed at the end of paragraph (1), that the last line of paragraph (2) be edited as follows: “...with respect to ~~the~~ academic, residential or extra-curricular life ~~of the University,~~” and that paragraph (3) be edited as follows: “...as well as those that may prevent the individual from pursuing and/or obtaining employment ~~at The University of Iowa.~~” Secretary Bohannon also noted a discrepancy in wording between 11.2 f. (“...*for having made a good faith report* of University-related misconduct...”) and 11.2 g. (“...*from making or supporting a complaint* of University-related misconduct”). She suggested using the former language for both passages. Councilors concurred.

Professor Pendergast expressed concern about an honest, although negative, evaluation of a person’s work performance being construed as retaliation which prevents that person from finding a job elsewhere. Professor Carlson noted that that risk also exists when someone is seeking employment within the university. Professor Pendergast also pointed out that the correct title of the Act regarding privacy of health information, mentioned in line 90 of the policy, is the Health Insurance Portability and Accountability Act.

Professor Murph reminded the group that the Council and Senate had earlier struggled with how the policy could be extended to cover retaliation against those close to a person who had made or supported a good faith report of university-related misconduct. Council members pointed out 11.2 e. and 11.2 f. both contain language that would apply to this situation.

Professor Tachau moved and Professor Penny seconded that the revised Anti-Retaliation Policy, including the suggestions made today by the Council, be approved. The motion carried unanimously.

- *Tenure-Clock Extension Policy Revision (Tom Rice, Associate Provost for Faculty and Diane Finnerty, Director of Faculty HR and Development)*

Associate Provost Rice indicated that the revision of the Tenure-Clock Extension Policy was precipitated by an incident in which a faculty member who had added a child to the family in November or December of the tenure decision year requested a tenure-clock extension at that point, after the tenure process was well underway. While this was allowable under the policy, the intention of the policy was to allow time for care of a new child. Therefore, the proposed revision of the policy now includes a deadline of September 1 of the tenure decision year for the addition of a child to the family. Associate Provost Rice added that in the event of a difficult pregnancy, the faculty member could still request a discretionary extension for medical reasons.

Professor Tachau observed that many faculty have described the tenure process as very stressful and therefore in a few cases a later deadline might be warranted. Associate Provost Rice responded that a discretionary extension, also described in the policy, could be implemented in such situations. Professor McMurray argued against instituting a later deadline, but stressed that special cases be taken very seriously. He went on to indicate that he had recently declined an automatic tenure clock extension, but that his department had then been unsure about whether he should be held to a higher tenure standard, since this might be considered “going up early” for tenure. He noted that the policy states that those who take the automatic or discretionary extension must be held to regular tenure standards, but says nothing about expectations for those who decline the extension. He expressed the view that those who decline the extension should be held to the regular, not a higher, standard.

After some discussion about where to insert a statement clarifying that tenure expectations remain the same for those who decline the extension, Ms. Finnerty and others suggested the following insertion in the last paragraph describing automatic extension: “When a faculty member declines an automatic extension, her/his tenure clock is reset to its previous date *and the tenure expectations remain the same as for probationary faculty members who did not decline an extension.* The Associate Provost for Faculty will issue...” This mirrors language used later in the policy regarding those who receive an automatic or discretionary extension.

Professor Pendergast asked whether the extension could still be granted to a faculty member who has a new child, but no child care responsibilities, as might occur in a long distance relationship. Associate Provost Rice and Ms. Finnerty confirmed that it could, as the policy only requires notification of the child’s name and date of addition to the family for the automatic extension of the tenure clock to occur.

Professor Wilson moved and Professor Tachau seconded that the revised Tenure-Clock Extension Policy, including the suggestion made today by the Council, be approved. The motion carried unanimously.

IV. From the Floor – There were no items from the floor.

V. Announcements

- The next Faculty Senate meeting will be Tuesday, September 13, 3:30-5:15 pm in the Senate Chamber of the Old Capitol.
- The next Faculty Council meeting will be Tuesday, October 4, 3:30-5:15 pm in the Seminar Room (2520D) of the University Capitol Centre.

VI. Adjournment – Past President Dove moved and Professor McMurray seconded that the meeting be adjourned. The motion carried unanimously. President Fumerton adjourned the meeting at 4:50 pm.