

FACULTY COUNCIL
Tuesday, October 8, 2013
3:30 – 5:15 pm
Seminar Room (2520D), University Capitol Centre

MINUTES

Councilors Present: F. Abboud, S. Ali, H. Bartlett, C. Bohannon, E. Ernst, C. Fox, S. Gardner, E. Gillan, N. Grosland, J. Kolker, P. Muhly, J. Pendergast, S. Seibert, E. Wasserman.

Officers Present: D. Cunning, E. Dove, E. Lawrence, A. Thomas.

Councilors Excused: S. Schultz.

Councilors Absent: D. Black, P. Brophy.

Guests: B. Ingram (Office of the Provost), B. Jett (School of Journalism), R. Marin (School of Journalism), G. Meyle (*Daily Iowan*), V. Miller (*Gazette*), R. Moeller (Tippie College of Business), J. O’Leary (*Press-Citizen*), T. Rice (Office of the Provost), J. Troester (Human Resources), T. Weingeist (Emeritus Faculty Council), L. Zaper (Faculty Senate).

I. Call to Order – President Lawrence called the meeting to order at 3:35 pm,
<http://www.uiowa.edu/~facsen/archive/documents/Agenda.FacultyCouncil.10.08.13.pdf>.

II. Approvals

- A. Meeting Agenda – Professor Pendergast moved and Professor Abboud seconded that the agenda be approved. The motion carried unanimously.
- B. Faculty Council Minutes (September 3, 2013) – Professor Gillan moved and Professor Bartlett seconded that the minutes be approved. The motion carried unanimously.
- C. Draft Faculty Senate Agenda (October 22, 2013) – Professor Muhly moved and Professor Gillan seconded that the draft agenda be approved. The motion carried unanimously.
- D. Committee Appointments (Alexandra Thomas, Chair, Committee on Committees)
 - David Dick (Radiology) to the Faculty Staff Parking Appeals Committee, 2013-14
Professor Fox moved and Professor Gillan seconded that the replacement be approved. The motion carried unanimously.

President Lawrence announced that Past President Ed Dove, along with current Faculty Ombudsperson Susan Johnson, would receive the Michael J. Brody Award for Excellence in Service to the University and the State of Iowa at the Faculty Staff Awards Banquet on October 9. There was a round of applause for Past President Dove.

President Lawrence indicated that the external member of the Committee to Review the Office of the Provost should be named shortly. The Council members will most likely be asked to approve the external member via email before the October 22 Faculty Senate meeting.

III. New Business

- *Course Approval Guidelines for MOOCs (Beth Ingram, Associate Provost for Undergraduate Education; Lon Moeller, Associate Dean, Undergraduate Program, Tippie College of Business)*

Prior to the presentation by Associate Provost Ingram and Associate Dean Moeller, President Lawrence stressed that new policy was not being introduced. Instead, the guidelines were meant to indicate where a Massive Open Online Course (MOOC) would fit in to existing university policy. Associate Provost Ingram explained that last spring Provost Butler had requested that she facilitate convening a faculty committee to examine current policy that might cover MOOCs. The committee was charged with looking in to where a MOOC might fit in to current policy and to determine if there were any related gaps in policy that might need to be filled in. The committee was not charged, however, with drafting any new policy.

Associate Dean Moeller commented that the committee found that three existing policies, the Conflict of Commitment policy, the Course Approval process and policy, and the Definition of Credit policy, would adequately cover MOOCs just as they do other types of courses. The guideline document presented to the Council summarizes the applicable information from those policies. The document describes three types of courses, with MOOCs offered by third parties (e.g., Coursera, Udacity, etc.) falling into the third category (courses not approved by the university or offered for UI credit). MOOCs offered by UI faculty would fall into the second category (courses offered by the university but not producing a transcript entry). Professor Pendergast observed that the guideline document was useful, especially the classification of the types of courses, and she hoped it would not be lost. Associate Provost Ingram responded that it could be placed on the Provost's Office website, currently undergoing renovation. The Registrar's website might also be a logical home for it. Since it is not a policy, it would not appear in the Operations Manual.

Professor Seibert asked for clarification of the statement in 4. (c), *MOOCs and MOCs delivered by or awarded credit by other institutions are not awarded transfer credit at the University of Iowa*. Associate Dean Moeller explained that the university would not award a student credit for a MOOC that student took from a third-party provider, even if similar subject matter was also offered by the UI. Professor Abboud observed that earlier in 4., the statement is made that *Currently, courses submitted by students for transfer credit are evaluated by the Office of Admissions or by departmental faculty to assess their equivalency to University of Iowa courses*. He wondered why the same standard could not be applied to MOOCs. Associate Provost Ingram responded that under current policy, courses that are not listed on a transcript at any other institution are not awarded credit at the UI. MOOCs present other challenges, as well. For example, there is no way to verify that the person who is requesting credit is the same person who took the course. Such courses, therefore, do not meet the UI's standards for credit. An online course, on the other hand, could be transferrable, because it appears on the transcript of another institution. Online courses do attempt to verify students' identities and do some

proctoring to confirm that the work done has been performed by the registered student. Professor Ernst suggested adding to 4.(c) the phrase *unless the course appears on the transcript of another institution*.

Associate Provost Ingram responded that if the faculty wanted to make this general change in current university policy, this issue could be addressed. However, she cautioned against the possibility of a small college somewhere allowing MOOCs onto its transcripts, and then UI students taking advantage of this situation to transfer this credit to the UI. Professor Ernst asked if the same prohibition applied to graduate students. Associate Provost Ingram answered that these guidelines apply primarily to undergraduate students. Professor Pendergast commented on the characteristics of MOOCs that make them unlike the UI model. For example, the enormous number of students enrolled in the MOOC makes meaningful contact between students and MOOC instructors unlikely. MOOCs tend to be highly unstructured with little assessment of students' assimilation of the information presented.

Professor Bartlett asked for a general description of a MOOC. Associate Dean Moeller referred her to page three of the guidelines document, *By general definition, MOOCs are courses offered online to a large number of participants who do not pay tuition or fees while MOCs are similar to MOOCs but require that participants pay a course fee*. President Lawrence commented upon the difficulty of clearly delineating the differences between online courses and MOOCs/MOCs. Professor Bartlett envisioned a situation in which a student might try to pass off a MOOC as an online course. Associate Dean Moeller indicated that the department's faculty would need to make the final decision, taking into account the concerns about MOOCs that Associate Provost Ingram had voiced earlier.

Professor Abboud returned the conversation to section 4.(c). He suggested adding the phrase *unless approved by the appropriate faculty* to the end of the sentence. Associate Provost Ingram responded that in general, the UI automatically accepts transfer credit from other accredited institutions for courses that we teach equivalents of here. For example, if a student produces a transcript showing that s/he took Calculus at another accredited institution, the UI will accept it without evaluating the credit. If there is no UI equivalent of the course, then it must be evaluated by the appropriate department. She reiterated her concern about the UI being required to accept MOOC credit that other accredited institutions have accepted, without the opportunity to evaluate the credit. This policy prevents that situation from occurring.

Professor Lawrence observed that policy decisions may have been made in the past that affected faculty, and it is unclear how much input faculty had in these decisions. Associate Provost Ingram stressed that this is current university policy and has been for some time. Professor Gardner commented that at some point the policy presumably had significant faculty input prior to implementation. Associate Provost Ingram added that faculty could form a committee to review how transfer credit is applied, especially since MOOCs did not exist at the time policy was written regarding transfer credit. MOOCs were viewed by the committee as similar to third-party credit, which is also not accepted by the UI.

Past President Dove asked Associate Provost Ingram to elaborate on number 3 under *other considerations: The University's Copyright Policy will apply to any Type I, Type II or Type III*

course that is created with the significant use of University resources. Associate Provost Ingram explained that material created by faculty members is copyrighted and the copyright belongs to the faculty member, with a few exceptions (mainly concerning staff members' roles in creating material as part of their job requirements). President Lawrence commented that she had been told that the university, as well as she, also owns the treatment manual she had produced as part of her research. Secretary Cuning asked for clarification of number 5, *To move a course from Type III to Type II, the instructor must obtain approval from his or her DEO or program director and the Dean of the College through which the course will be offered.* Associate Provost Ingram responded that there was an established workflow process through which to modify a course.

- *Electronic Cigarettes and UI Smoke-Free Campus Policy (Joan Troester, Director, Human Resources Services, Organizational Effectiveness/Health and Productivity)*

President Lawrence indicated that Human Resources was gathering feedback from various campus groups in a proactive effort to gauge campus sentiment on the topic of electronic cigarettes prior to any possible future university policy change or state or federal mandates. Ms. Troester reminded the group that the University of Iowa had become a smoke-free campus in July of 2008. The university's smoke-free campus policy is based upon the Iowa Smokefree Air Act. Electronic cigarettes are not covered either in the latter or the former, because they have only recently become widely available. Some other higher education institutions have already moved forward to include or exclude electronic cigarettes from their own campus smoking policies. Ms. Troester explained that electronic cigarettes are operated by a battery. There is no smoke, tobacco, or fire involved in the use of the product. A vapor, however, is emitted; this vapor is composed of water and several chemicals, including nicotine. There are varying amounts of nicotine in the different electronic cigarette products currently available. When the electronic cigarette is heated, it emits a vapor which the user ingests. Electronic cigarettes have not thus far been regulated by the Food and Drug Administration (FDA), but it appears that the FDA may soon issue some regulations. Meanwhile, these products can be purchased by anyone, including minors. In one of the few studies of electronic cigarettes that have been done, the Centers for Disease Control (CDC) have determined that there has been an increased use of this product by youth, leading to concerns that electronic cigarettes may become a "gateway drug" to tobacco products. Another study indicated that they may be helpful as a smoking-cessation device.

In response to a question, Ms. Troester indicated that Iowa State University does not cover electronic cigarettes in its smoke-free policy. Neither does the University of Michigan. The University of Illinois-Chicago does include them in its smoke-free policy and therefore prohibits them. The University of Illinois-Champaign-Urbana will do the same when it goes smoke free in 2014. Past President Dove asked if electronic cigarettes are considered a smoking device; Ms. Troester responded that they are not. Professor Ernst observed that smoke-free policies have been implemented primarily because of concerns about second-hand smoke; that would not seem to be an issue with electronic cigarettes. Vice President Thomas commented that rising insurance premiums associated with smoking-related illnesses may also have contributed to the proliferation of smoke-free policies and the emphasis on healthy work environments. She added that it was still unknown whether there was no negative effect on bystanders from secondary

exposure. Professor Pendergast voiced the opinion that use of electronic cigarettes should be discouraged in public places, if not through the smoke-free policy, then through the types of policies that prohibit food and drink in classrooms, for example. President Lawrence added that faculty members already have the right to prohibit certain activities and behaviors in their classrooms; use of electronic cigarettes could be another behavior that faculty members choose not to allow. Professor Pendergast noted that some entire buildings on campus have rules about food, drink, etc. Prohibition of electronic cigarettes could be included in these rules. Professor Bohannon commented that it is unclear whether prohibition of electronic cigarettes could be included in the smoke-free policy as it currently exists, given electronic cigarettes' differences from other smoking products.

Professor Abboud stressed that, from a medical standpoint, we just do not know enough about these products to say that they are harmful to the users or those in close proximity to the users. As an academic and health care institution, if we are to make a claim that electronic cigarettes are detrimental to the public's health, we should be able to support that claim with evidence. There is very little evidence at this time. Professor Emeritus Weingeist expressed the opinion that from a public health perspective, electronic cigarettes should be included with other smoking products prohibited by the policy. He added that we do not know of any health benefit from electronic cigarettes. If they are discovered to be harmless, then the policy can be changed again. Professor Muhly spoke in support of prohibiting electronic cigarettes in buildings (or at least in classrooms), as one would ban cell phones, food, or any other distracting object.

Professor Bartlett observed that since the smoke-free policy does not cover the entire range of tobacco or nicotine products (such as chewing tobacco), electronic cigarettes should not be included here, either. Ms. Troester added that the Iowa Smokefree Air Act, on which our policy is based, focuses on products which use smoke, tobacco, and fire; electronic cigarettes use none of these. She concluded her presentation by indicating that President Mason had requested that she gather feedback on this issue from the shared governance groups. She will be providing a summary of her conversations with the governance groups to President Mason.

- *Recent Court Cases Pertaining to Faculty Free Speech (Ed Dove)*

President Lawrence indicated that a recent series of legal decisions regarding free speech issues for faculty had prompted the Faculty Senate officers to put this topic on the agenda. Two articles about these cases in the *Chronicle of Higher Education* (*Appeals Court Shields Professor's Criticism of Washington State U. Administrators* and *For Faculty Free Speech, the Tide Is Turning*) had been distributed to Councilors. Past President Dove initiated the discussion by explaining that in a 2006 case, *Garcetti v. Ceballos*, the Supreme Court "held that public agencies can discipline their employees for statements made in connection with their jobs..." However, a ruling by the Fourth Circuit Court of Appeals in 2011 found that faculty members at public colleges "should be considered exempt from *Garcetti*." This year, the Ninth Circuit Court of Appeals found that the First Amendment protects faculty members' free speech if it relates to their scholarship or teaching. On the other hand, several other appeals courts have ruled that faculty members at public colleges cannot "claim being the victims of illegal retaliation over certain types of speech related to their jobs." Given this range of findings, the

Supreme Court could be expected to take up this issue again specifically as it relates to educational institutions. In anticipation of this, the American Association of University Professors (AAUP) is urging that public institutions of higher education insert language in their policies or faculty contracts that explicitly protects the speech of faculty members. This issue has clear implications for shared governance.

Professor Bohannon wondered what was already specifically stated in the UI Operations Manual about retaliation for speech. Past President Dove commented that the Operations Manual does contain language about academic freedom, but he was unaware of policies prohibiting administrators from retaliating against faculty members for speech. Professor Bohannon observed that the universities which had inserted language in their policies protecting the speech of faculty members took a broad view, not limiting this protection to speech related to scholarship or teaching. Professor Pendergast commented that some issues that come before the Faculty Council and Faculty Senate do not directly concern teaching or scholarship, but rather pertain to the governance of the university as a whole. She observed that the administration has been supportive of shared governance and she did not wish to see that change.

Professor Muhly commented that some years ago he had wanted to express criticism of the Iowa Core Curriculum. He had sought legal advice on his rights to do this and was told that as long as he did not claim to represent the university, he could express his views freely in a public setting. Councilors observed that when they are gathered in a Council meeting, they are still expressing their personal views. Although they have been elected by their faculty constituents, they do not claim to have a consensus of the faculty viewpoint. Professor Bohannon recalled that *Garcetti v. Ceballos* concerned an employee in a public agency who was making disruptive remarks in the workplace. At the time it was unclear if disciplinary action could be taken in response to this type of speech. She commented that there is a fine line between being disruptive and exercising one's First Amendment rights. Councilors speculated on how such a situation might relate to speech regarding scholarship or teaching, observing that it was difficult to separate out speech on scholarship or teaching from other types of faculty speech. They also consulted the Operations Manual for the current language on academic freedom and professional ethics. Councilors will remain vigilant on this issue and look forward to any statements made by the AAUP.

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

V. Announcements

- The next Faculty Senate meeting will be Tuesday, October 22, 3:30-5:15 pm in the Senate Chamber of the Old Capitol.
- The next Faculty Council meeting will be Tuesday, November 19, 3:30-5:15 pm in room 2390 of the University Capitol Centre.

VI. Adjournment – Professor Pendergast moved and Professor Muhly seconded that the meeting be adjourned. The motion carried unanimously. President Lawrence adjourned the meeting at 4:55 pm.