

FACULTY COUNCIL
Tuesday, November 17, 2009
3:30 – 5:15 pm
Penn State Room, 337 IMU

MINUTES

Councilors Present: J. Cox, D. Hammond, B. Justman, S. Kurtz, T. Mangum, F. Mitros, P. Mobily, D. Morris, N. Nisly, J. Reist, L. Robertson, G. Russell, R. Valentine, R. Williams.

Officers Present: E. Dove, D. Drake, M. O’Hara, K. Tachau.

Councilors Excused: L. Richman.

Councilors Absent: M. Cohen.

Guests: J. Andrews (Engineering), J. Andsager (Journalism & Mass Communication), S. Buckley (Human Resources), S. Johnson (Office of the Provost), R. Saunders (Human Resources), R. Sayre (Faculty Emeritus Council), S. Wilson (Medicine), L. Zaper (Faculty Senate).

I. Call to Order – President Drake called the meeting to order at 3:32 pm.

II. Approvals

- A. Meeting Agenda – President Drake stated that the item “Post-Tenure Review Policy” would be pulled from the agenda. Professor Kurtz moved and Past President O’Hara seconded that the agenda be approved as amended. The motion was unanimously approved.
- B. Faculty Council Minutes (October 6, 2009) – Professor Kurtz moved and Past President O’Hara seconded that the minutes be approved. The motion was unanimously approved.
- C. Draft Faculty Senate Agenda (December 1, 2009) – Professor Hammond moved and Professor Justman seconded that the agenda be approved. The motion was unanimously approved.
- D. Committee Replacements (Edwin Dove, Chair, Committee on Committees)
 - Scott Wilson (Internal Medicine) to fill the unexpired term of Michael Cohen (Pathology) on the Council, Spring 2010
 - Erling Anderson (Anesthesia) to fill the unexpired term of Michael Cohen (Pathology) on the Senate, Spring 2010
 - Gerald Jogerst (Family Medicine) to fill the unexpired term of Anne Sullivan (Family Medicine) on the Judicial Commission, 2009-10

- Susan Schultz (Psychiatry) to serve as a temporary short-term panelist on the Judicial Commission

Professor Hammond asked how replacement senators are chosen; Laura Zaper, Faculty Senate Program Assistant, explained that the results from the most recent collegiate election are consulted to find the faculty member next in line for appointment. Professor Kurtz moved and Professor Hammond seconded that the replacements be approved. The motion was unanimously approved.

III. New Business

- *Vesting (Sue Buckley, Vice President for Human Resources)*

Ms. Buckley stated her intention to explain the meaning of vesting, to describe the history of this concept at the university, and to gather feedback from the Councilors. Ms. Buckley indicated that the university is considering implementation of a cliff vesting program. This is a program common in private industry, but not as common in higher education. Cliff vesting would require that, if a person leaves the university prior to three full years of employment, that employee would lose the employer contribution to the retirement fund (TIAA-CREF). The university is considering this option as it continues to identify cost-saving measures. If implemented, cliff vesting would only apply to newly-hired employees, not to current employees. Cliff vesting was one of the recommendations of the General Education Fund Task Force several years ago. Then-President Skorton did not implement this recommendation, partly because the university's financial situation quickly improved. Cliff vesting was discussed again this spring by a working group looking at possible cost-saving measures in the area of benefits, but a recommendation was not put forward. However, on July 1, Iowa State University implemented cliff vesting, leading the Board of Regents, State of Iowa to suggest that the University of Iowa reconsider the option. Cliff vesting has now been discussed by the Funded Retirement and Insurance Charter Committee and by Staff Council. Ms. Buckley concluded her presentation by explaining that it is possible to make exceptions to a cliff vesting policy, but these exceptions must be defined when the policy is initially implemented. An example of an exception would be waiving the policy for a new employee if that person already participates in a TIAA-CREF retirement plan at another institution. Eventual projected savings created by this policy would be approximately one million dollars annually.

Professor Robertson asked if this policy would apply to those employees who change jobs within the university. Ms. Buckley responded that it would not. However, employees who have a break in service of a month or two because of a lapse in grant funding, should have an exception made for them, in Ms. Buckley's opinion. Professor Valentine asked where the retirement contribution that reverts to the university goes, particularly if an employee was paid by grant funding. Richard Saunders of Human Resources explained that at the end of each calendar year the university would report to TIAA-CREF which particular employees had left the university prior to the vesting deadline. TIAA-CREF would return to the university the employer's contribution for each such employee, along with interest or losses on that investment. The money would not be returned to the university as cash; instead, TIAA-CREF would issue a credit for that amount, so that the following month, the university's payment to TIAA-CREF would be reduced by that credit amount. The money in the university contribution is built into the fringe pool rates that are paid based upon salary. There are five basic pool rates: faculty, clinical

faculty, professional and scientific, merit, and SEIU employees. The credit would revert proportionally to those pool rates, not directly to the employee's department. Professor Hammond followed up by asking, if an employee is paid from federal grant funds such as NIH, do those federal funds paid into the employee's retirement plan then just disappear into the university once the employee leaves? Ms. Buckley said that future savings would be realized through lowering of fringe rates. Professor Hammond expressed doubt that fringe rates would be lowered. Ms. Buckley added that she and Mr. Saunders are glad to have this input from Councilors, as no decisions have been made yet.

Professor Kurtz stressed that a cliff vesting policy would not enhance the university's recruiting efforts for lateral hires who may come from retirement plans other than TIAA-CREF, in the event that an exception is made for those hired from TIAA-CREF-participating institutions. Professor Valentine asked why the seemingly arbitrary deadline of three years was decided upon. Mr. Saunders said that such deadlines are federally regulated. He added that, in general, when employees leave jobs, they do so after one or two years. Professor Hammond expressed concern about the regressive nature of this proposed policy. She commented that the pay for assistant research scientists, etc. is relatively low, so that the benefits, such as the TIAA-CREF contribution, are very important. Professor Mangum stressed that any policy eventually adopted must be consistent across colleges; the difficulties involved in implementing the policy in the scientific disciplines must not lead to an exemption for those disciplines.

Professor Cox asked whether the proposed policy would affect faculty not renewed after a three-year appointment. Ms. Buckley responded that it would not, because such faculty would still have one more year of employment at the university and therefore they would be fully vested by the time they leave. She added that because the TIAA-CREF credit reverts to the fringe pool rather than to the department, there would not be a financial incentive for departments to terminate faculty after a three-year contract. Professor Mobily wondered whether the cliff vesting policy would also affect hospital employees, should they be terminated simply because of budget cuts. Ms. Buckley responded that it would, unless some kind of exception were made. In response to a question, Ms. Buckley clarified that employees are fully vested after three years and one day of employment. Secretary Tachau inquired whether an exception could legally be made for employees who die prior to the three-year deadline, for the sake of the employee's survivors; Ms. Buckley responded that to her knowledge it was possible. Professor Valentine commented that the policy should not apply to faculty who are forced out, only to those who leave voluntarily; Past President O'Hara observed that tenure-track faculty at least would not be affected by the cliff vesting policy. Professor Morris asked for clarification as to whom this policy would be most likely to affect, given historical patterns of resignations from the university. In response, Ms. Buckley offered to provide information regarding turnover rates in the employee groups to President Drake for dissemination to the Council. Professor Mobily commented that this policy may be used as a retention tool. Professor Cox commented that if a faculty member accepted a new job prior to the end of the third year of a three-year contract, s/he would lose that money. Associate Provost for Faculty Susan Johnson asked how the three-year rule would apply to nine-month faculty. Mr. Saunders responded that the university treats June 30 as the year's ending date for such faculty. He added that an employee must complete three years of

employment to be fully vested. Professor Kurtz suggested that language be added to any such policy to clarify exactly when the university portion of the contribution would be lost.

Vice President Dove asked who would make the final decision regarding whether to implement a cliff vesting policy. Ms. Buckley responded that President Mason would make the institutional decision, but that the Board of Regents would have final approval.

- *Consensual Relationships Policy (Susan Johnson, Associate Provost for Faculty)*
Associate Provost Johnson explained that this policy had been previously approved by the Faculty Senate (March 25, 2008). After the Senate's approval, however, the provost's office proposed a section on confidentiality (5.6) to be added to the policy, and the Staff Council and UISG have already approved that addition. The administration had further delayed in bringing the revised policy back to the Senate for approval while waiting to see whether there might be a conflict between this policy and the evolving revisions to the sexual harassment policy; it now appears unlikely that there will be a conflict between the two policies. According to Associate Provost Johnson, the confidentiality section contains standard language for such a statement, and she indicated that she was therefore seeking the Council's approval of the revised policy for forwarding to the Senate.

Professor Kurtz directed the group's attention to section 5.6.a. *In order to encourage instructors to self-disclose consensual relationships prohibited under this policy and to empower members to voice concerns and bring complaints...* He asked to whom the word "members" referred. Associate Provost Johnson indicated that "members" implied "members of the university community." Professor Kurtz then suggested that, given the vagueness of this phrase, the word "members" be changed to "faculty, staff, and students." Secretary Tachau directed the group's attention to section 5.5.c.(7)(ii). She commented that the use of the word "accessing" seemed imprecise in paragraphs (a), (b), and (c), and suggested that it be changed to the phrase "invoking their rights under". As this document has already been approved by Staff Council and UISG, Associate Provost Johnson said she would look into the most appropriate procedure for obtaining the approval of these edits by the other governance groups.

Referring to section 5.6.c., Professor Kurtz asked for clarification of the sentence, "A party's failure to maintain confidentiality may be regarded as retaliation." He asked who would decide whether an action was considered retaliation. Associate Provost Johnson responded that EOD would make that decision and that this practice was similar to that found in other policies. If indeed the EOD does judge such an action to be retaliation, then the Anti-Retaliation Policy would apply.

Professor Justman moved and Professor Hammond seconded that the revised Consensual Relationships Policy be approved and sent to the Faculty Senate for consideration. The motion was unanimously approved.

- *Post-Tenure Effort Allocation Policy (Julie Andsager, Chair, Faculty Policies and Compensation Committee and Susan Johnson, Associate Provost for Faculty)*
President Drake explained that first, Vice President Dove would suggest an addendum to the proposed policy revision, and then Associate Provost for Faculty Susan Johnson would outline

the history of the revision. Finally, the chair of the Faculty Policies and Compensation Committee, Julie Andsager, would lead the Council through the revisions.

Vice President Dove read the following addendum: *Individualized effort portfolios that differ from the faculty member's unit norms will revert to the faculty member's unit norms after a period not to exceed three years and will thereafter remain at the faculty member's unit norms for at least one year.*

Associate Provost Johnson expressed concern about the wording of the addendum. She said that, for example, if a faculty member has 90% of salary paid by federal grant funds and therefore has a different norm, s/he should not be required to return to unit norms after three years if the grant is ongoing. President Drake and Vice President Dove clarified that this policy only applied to portfolios challenged by the DEO or the dean; this reversion would not happen automatically. Professor Cox requested that a copy of the full policy be provided to the Council, so that the Council could look at the revision in context.

Associate Provost Johnson explained that occasionally situations arise in which a faculty member may not be working at full capacity in the three areas of teaching, scholarship, and service (as determined by a DEO or peer evaluation). Usually, scholarship would be the area that is diminished. In such cases, sometimes a department would like to increase the teaching responsibilities of the faculty member. Under current policy, this is only possible if the faculty member agrees to the change. Hence, last fall Provost Loh charged a subcommittee of deans to draft an amendment to the Post-Tenure Effort Allocation Policy (PTEAP). President Drake added that the draft was reviewed and modified by the Faculty Policies and Compensation Committee with the goal of protecting faculty rights.

Professor Andsager, Chair of the Faculty Policies and Compensation Committee (FPCC), referred the Council to the handout *Proposed PTEAP Revision – 9 November 2009* and indicated that the black text is the original text and the red text indicates revisions approved by the FPCC. Blue text indicates how the section was rearranged. She explained that every December faculty members sign Post-Tenure Effort Allocation forms outlining their effort allocation for the next year. Those forms are sent to the Provost's Office. If a faculty member is not performing satisfactorily or if there are new circumstances such as the receipt of a grant, a PTEAP may be revised. If a faculty member is asked by the DEO to allocate more time to teaching, the faculty member may decline the request. This revised policy would give the dean or DEO more latitude in changing that faculty member's effort allocation. The FPCC was concerned that this not be a simple decision made by the DEO without any oversight or input from the faculty member. Under the revised policy, should a disagreement arise between the DEO and the faculty member over the effort allocation, the case would move to the dean. A standing advisory committee on effort allocation would be formed in each college to review such cases and provide a recommendation to the dean. The dean would then provide a written decision to the DEO and the faculty member, each of whom would have the right of appeal to the Provost's Office, although the Provost's review would be procedural rather than substantive. The revised policy indicates deadlines for each of the above steps. The process must be carried out relatively

early in the spring semester so that curriculum planning arrangements can be made in a timely fashion for the next academic year.

Professor Kurtz reminded the Council that the original purpose of the PTEAP was to help faculty members arrange either time away from teaching to work on scholarship or time away from scholarship to pursue teaching-related activities, such as developing new courses. He expressed concern that the PTEAP was not the right mechanism to address an actual, legitimate concern: that of faculty who do not fulfilling their obligations. Professor Kurtz then discussed in detail his opposition to the revised policy. Regarding situations in which a DEO believes that a faculty member is not doing enough scholarship and would therefore like to increase that faculty member's teaching load, Professor Kurtz voiced the opinion that, although he believes faculty should be fully employed, faculty who are not good teachers in the courses they already have should not be forced to teach even more courses. Students should not have to bear the burden of poor teachers! He added that he was not claiming that faculty who do not do scholarship are necessarily bad teachers; on the contrary, there are excellent teachers who do not engage in scholarship, but this is not always the case. Also, if the members of the dean's advisory group are strong advocates for scholarship and continually side with faculty members who seek to increase their research time, who will then pick up the extra teaching burden? He added that teaching was the first responsibility of the university. This revised policy has the potential to create disharmony among colleagues, especially in small colleges, through unfair distribution of teaching workloads. Moreover, as revised, the policy shifts a key responsibility away from the deans to faculty members, who, however, should not be assessing other faculty members' effort allocations. Deans have other methods for dealing with poor performance by faculty members. Professor Kurtz concluded his remarks by saying that he did not want to see the PTEAP, a "great policy," turned into a disciplinary procedure.

Professor Mangum expressed concern that the revised policy may serve to mask incidences of ageism. Professor Valentine cautioned that extra courses assigned to faculty under the revised policy must be appropriate for those faculty members. Past President O'Hara addressed some of Professor Kurtz's points. He explained that the concept of a faculty advisory committee had been created by the FPCC as a protective measure for faculty, not as a complication added to the process. In his view, it would not be likely that an advisory committee would support a faculty member who merely expresses a wish to do less teaching in favor of more research. Again, the policy provides for the dean, not the advisory committee, to make the ultimate decisions on these cases, and the dean is not obligated to accept the advisory committee's recommendations. Professor O'Hara reminded the Council that this is consistent with the practice that faculty generally have an *advisory* role in relation to administrators. Finally, with regard to teaching, the revised policy merely provides for the allocation of effort to be changed and does not give any specifics on how additional courses are to be assigned.

Professor Cox expressed dissatisfaction with the revised policy. He commented that the Provost's review of cases should be substantive, too, rather than purely procedural, as the Provost is the chief academic officer and already makes substantive judgments on promotion and tenure. Another reason to appeal to the Provost is the close relationship that exists in some departments between DEO and dean, thus undermining the purpose of an appeal to the dean.

Professor Cox added that it is necessary to protect faculty members with long-term research projects, common in the humanities, from impatient administrators who may not recognize the value of the faculty members' work. He urged that substantive review standards be included in the policy if it is adopted.

Professor Nisly observed that the policy appeared to create a hierarchy with scholarship at the top, teaching in the middle, and service at the bottom. Ideally, faculty would strive for excellence in all three areas. Perhaps additional resources could be employed to improve a faculty member's performance if it was found via DEO or peer review that the person's performance in a specific area should be improved. She asked Professor Kurtz what options would be available to a dean to deal with an under-performing, non-cooperative faculty member. Professor Kurtz responded that the dean could terminate that faculty member for cause, or make use of the merit-pay system. Stating that he believed that this policy would be used by deans and DEO's to "go after" those faculty members who are not productive scholars, he reiterated that bad teachers should not be forced on students. He added that faculty specialize in specific areas and cannot successfully teach outside those broad areas. Professor Morris noted that in some colleges, faculty members are expected to teach a certain number of students. If the faculty member falls below the expected number of students, then s/he is assigned an additional course. Professor Hammond opined that the Ph.D. is a "license to learn" and therefore most faculty could eventually learn enough about a different but related specialty to be able to teach it competently. She added that most DEO's would not assign a poor teacher additional courses without first providing that teacher with resources to improve his/her teaching abilities.

Past President O'Hara objected to the supposition that faculty members would be forced to teach in areas outside their specialties. He added that there is nothing in the policy that indicates that this would happen. Professor Russell commented that in his view, this policy would only be used to increase a faculty member's teaching load, not research time, as there are other mechanisms for increasing the latter. If there must be a mechanism to force faculty members to teach more when necessary, the establishment of the proposed faculty advisory committee would not serve this end, as conflicts of interest would inevitably arise within such committees. He stressed that it is the dean's job to deal with faculty who refuse the DEO's request to teach more.

Secretary Tachau noted that in her college, there is an increasing number of students and a dwindling number of faculty. She viewed this proposed policy as an attempt to get more teachers into the classroom. She agreed with Professor Kurtz that exposing more students to bad or resentful teachers was a mistake. She disputed the notion that faculty members would not be forced to teach courses for which they are unprepared and cited the example that in her college, administrators in the past had remarked that all historians should be able to teach basic American history, which she knew she was not qualified to do. She added that those outside of a discipline are not able to judge who is competent to teach courses in its subfields. Finally, she pointed out that resources to improve teaching performance are scarce.

Vice President Dove commented that the discussion had been very valuable, but had not touched on the essence of the issue at hand. The key decision to be made is whether to accept the idea propounded by the deans that there be an element of coercion in the PTEAP. If the Council accepts this idea, then an acceptable revision can eventually be made to the PTEAP. President Drake reiterated his support for the revised PTEAP. He commented that termination is a harsh measure to take against an uncooperative faculty member. Prior to termination, efforts must be made to involve the faculty member more in the department's work - that was the original intent of the PTEAP revision. The faculty advisory committee was created to provide an additional layer of faculty involvement in the process. He agreed with Vice President Dove that the central issue was whether to accept the notion of coercion, and if so, which policy was the right home for it.

Professor Andsager commented that she understood the criticisms raised regarding the PTEAP revision; nevertheless, the issue of what to do about faculty members who refuse to bear a fair share of teaching responsibilities must be addressed, particularly since these situations give rise to a great deal of resentment within departments. She added that perhaps the dean's advisory committees are not necessary in all colleges, but larger ones like the College of Liberal Arts and Sciences might benefit from the wide disciplinary perspective such a committee would provide.

Professor Mangum announced her intent to vote against the PTEAP revision. She added that three issues need to be taken into consideration. The first of these is the original purpose of the PTEAP, which was to allow adjustment of faculty effort allocation to accommodate faculty work. Secondly, regarding the issue of "problem people" in departments, a policy should be created to craft action plans for these faculty members to involve them more in the department's work. A review should take place at the end of the action plan's timeline. If the faculty member has not made progress, then termination can be considered as an option. Finally, she objected to the implied positioning of teaching as punitive and advocated instead for a culture change in which teaching is rewarded, honored and evaluated in the same manner as research.

Through discussion it emerged that there was no specific policy that dealt with unsatisfactory performance in a manner that stopped short of termination. Professor Williams asked if Councilors knew of any tenured faculty who had been terminated. Professor Cox responded that tenured faculty have been terminated, but with the threat of the termination policy, not the full force of the policy, being applied. President Drake stressed that only a very small number of faculty members are performing unsatisfactorily; the vast majority work extremely hard. Professor Cox advocated for the method of denying pay raises to faculty members to encourage greater participation in the department's work; this is an option already available to deans and DEO's. Faculty members who are forced to teach additional courses under this proposed policy will be extremely bitter, and this will be evident in the classroom. Professor Valentine stressed that a distinction must be made between a faculty member who has not been productive for several years and a faculty member who is undergoing a short period of reduced outside funding. Professor Nisly commented that a peer review layer was useful, no matter what policy was eventually adopted.

Secretary Tachau suggested that the PTEAP be sent back to the FPCC along with the five-year post-tenure review policy; perhaps the latter policy may be a better mechanism for dealing with the issues discussed here. Professor Morris expressed concern that a useful policy like the PTEAP was being modified to affect all faculty, when the modifications were originally intended to deal with only a small number of poorly performing faculty members.

President Drake stated that he was withdrawing the revised PTEAP from the Council's consideration and returning it to the FPCC for further work.

IV. From the Floor – Professor Kurtz, faculty co-chair of the Funded Retirement and Insurance Charter Committee, reported that the committee has unanimously condemned the UIHC proposal to ask patients during clinic visits for permission to allow the UI Foundation to contact patients for donations. Patients would also be asked to sign a HIPAA waiver statement so that UIHC could disclose to the Foundation the clinic that the patient was visiting. A letter stating the committee's position was submitted to President Mason and posted on the committee's website. UIHC has now suspended the proposal pending further consultation. In the future Professor Kurtz may introduce a motion for the Council and the Senate to request that this proposed program be terminated.

Professor Mangum asked if there were any news regarding the budget situation. President Drake responded that there had been no new developments lately, although prospects for the FY2011 state budget appear to be grim. She asked if the proposed new strategic plan for the Board of Regents, State of Iowa was publicly available. President Drake responded that information about the strategic planning was posted on the Regents website. A draft of the strategic plan had been on the docket for the October 29 Regents meeting, but the institution heads had asked that discussion of the plan be postponed to provide more time for review of the plan. President Drake will look into methods of providing input on the draft plan to the Regents.

Professor Cox commented on the possibility of funding cuts for professional developmental assignments (PDA's). He stated that such cuts would be a terrible blow for humanities faculty, who depend on General Education Fund (GEF) financial support for their research. Professor Cox took issue with the Provost's statement that these cuts were caused by the current budget situation. He expressed the view that the same money that would have supported faculty research will simply be used to support the same faculty in their teaching. President Drake stressed that this was a temporary reduction in funding tied to the budget situation. Professor Cox responded that no GEF money would be saved by this action. President Drake replied that if the university did not offer reductions to the PDA's, then the reductions would be made for the university by the Regents. Secretary Tachau commented that sometimes an issue is more about symbolism than substance. She expressed her confidence that the Provost understands the negative effect of these cuts on humanities faculty and is committed to making sure the reduction in funds is temporary. She anticipated that there would be opportunities to explain to the public why this funding is important and necessary. Vice President Dove stressed that cuts to PDA funding were inevitable this year and therefore the university must respond proactively to the cuts.

Professor Kurtz announced that on Friday, December 4, the Funded Retirement and Insurance Charter Committee will decide upon its final recommendations to President Mason regarding the flex benefit system.

V. Announcements

- The annual Faculty Senate/Iowa City Area Chamber of Commerce reception for local legislators will take place on Thursday, December 3, 4:30-6:00 pm, in the Old Capitol.
- The next Faculty Senate meeting will be Tuesday, December 1, 3:30-5:15 pm in the Senate Chamber of the Old Capitol.
- The next Faculty Council meeting will be Tuesday, January 19, 3:30-5:15 pm in the Penn State Room (337) of the IMU.

VI. Adjournment – Professor Kurtz moved and Past President O’Hara seconded that the meeting be adjourned. The motion was unanimously approved. President Drake adjourned the meeting at 5:15 pm.