

University of Iowa
FACULTY SENATE
Tuesday, March 5, 2002
3:30 p.m.
100 Phillips Hall

Members Present: K. Abdel-Malek, J. Aikin, J. Berg, D. Bills, P. Chang, J. Cowdery, K. Diffley, L. Dusdieker, V. Grassian, G. Hamot, R. Hegeman, L. Hunsicker, J. Jew, V. Kumar, S. Kurtz, S. Larsen, R. LeBlond, C. Lynch, D. Manderscheid, T. Mangum, K. Marra, A. McCarthy, R. Miller, S. Moorhead, J. Moyers, W. Nixon, T. O’Dorisio, G. Parkin, J. Polumbaum, A. Qualls, C. Ringen, J. Ringen, P. Rubenstein, H. Seaba, R. Slayton, L. Snetselaar, C. Sponsler, K. Tachau, L. Troyer, R. Valentine, S. Vincent, J. Westefeld

Members Absent: J. Altman, Z. Ballas, N. Bauman, T. Boles, R. Bork, H. Cowen, C. Dungy, B. Fallon, J. Gramata, P. Heidger, P. Lloyd, J. P. Long, M. Klepser, J. Menninger, B. Muller, I. Nygaard, C. Porter, W. Stanford, S. Stromquist, E. Wasserman, P. Weller

Members Excused: S. Armstrong, C. Berman, D. Brown, D. DeJong, R. Hurtig, P. Muhly, M. Raymond, R. Weir

Faculty Senate Officers in Attendance: Amitava Bhattacharjee, President; Jeff Cox, Vice President; Carolyn Colvin, Past President; Erin Irish, Secretary

Guests: Tony Robinson (*Daily Iowan*), Amanda Nash (student), Jess Zosky (student), Megan Isaacson (student), Jan Waterhouse (Affirmative Action), Charles Drum (University Relations), Lola Lopes (Office of the Provost), Bonnie Slatton (BICOA), Thomas Lewis (Religion), Maile Sagen (Ombudsperson), Billy Bertam (student), Monika Polwlutt (student), Heather Woodward (*Press-Citizen*), Jim Jacobson (*Gazette*), Mary Sue Coleman (President), Jon Whitmore (Provost Office), Kathryn Wynes (Provost Office), Dave Martin (Staff Council), Lee Anna Clark (Provost Office), Julie Thatcher (Faculty Senate Office)

I. Call to Order

The meeting was called to order at 3:38.

II. Approvals

- A. Minutes: Faculty Senate, February 12, 2002
With no corrections the minutes were accepted as distributed.
- B. Recommended Faculty Senate Replacements
With no objections, the replacements were accepted as recommended.

III. Report of the Faculty Senate President (Amitava Bhattacharjee)

A. The Budget

President Bhattacharjee reported that during the past week the Vice Presidents and Provost have been in consultation with the Senate Budget Committee in preparing their response to the latest round of budget cuts. Provost Whitmore provided more details about the budget cuts. The latest round, as far as they know now, is a cut of \$4.98 million to UI. Some \$0.85 million of this is to be taken from the Special Purpose Appropriations, i.e. not the General Fund. (About a dozen programs associated with the university get direct state appropriations.) That leaves \$4.13 million to be cut. The plan is to use the same principles as last budget cut, i.e. no cuts to library acquisitions or to financial aid. Every other unit will be cut, but nonacademic units will get a larger proportion. No furloughs are on the table. There had been an attempt for a statewide furlough, but the university worked hard and successfully avoided having that. The Provost's Office has been working with the deans to develop a plan for cuts, which is expected to be fairly well worked out before the Regents meeting next Wednesday and Thursday. Whereas not all the details will be addressed, the general outline will be defined in the next week.

Prof. Lynch asked what it looks like for next year. Provost Whitmore replied that at present there is no hard, real understanding of the '03 budget, but the prediction is that we will be cut again. This current cut is the third of the '02 budget. There will be fewer dollars in the next budget. Interestingly, there is still money for pay raises for faculty and staff in '03, but there can simultaneously be cuts elsewhere. Prof. Kurtz asked where we would see the colleges going to save money. Provost Whitmore answered, "People." Deans will be looking for staff turnover where the departing person won't be replaced. He has looked at his office, and has found that there is really nothing left to cut. Some building projects can be postponed, but others, for which contracts have already been signed, must be carried out. Most of the savings this year have been the result of fewer people being employed. Prof. Nixon observed that cut after cut, each time we go to great lengths to appear that we are functioning normally. He felt that this time we have been cut to the point that we cannot provide all of the usual services, and suggested we do something like canceling summer sessions. Provost Whitmore answered that interestingly, summer session makes money, and so, according to the principles for dealing with the budget cut, it would not be canceled. They have looked at everything. Now they have to cut any unspent money that they have left. They intend to restore temporarily cut programs like CIFRE next year, but to do so will have to identify other programs that will be terminated permanently. Next year they can set up the budget anew, and figure out how to operate with a completely different funding level. Prof. Nixon predicted that if we look like "business as usual," Des Moines will continue to see us as the fat calf in Iowa City.

Prof. Hunsicker asked, assuming that next year we can't do the usual business, to what extent faculty will be involved in redirecting the activities of the university. Provost Whitmore answered that there is already substantial faculty consultation: he meets with the Senate Budget Committee (chaired by Prof. Muhly) every other week. He is planning on meeting with departments, but may wait until he sees a firmer budget number for next year to start having in-depth discussions with the faculty. He will continue to keep in close contact with the Faculty Senate Officers and the Senate Budget Committee. Prof. Hunsicker then mentioned the four-year graduation plan, which is very popular in the state. If the major result of budget cuts is loss in

personnel, then we won't have the faculty to teach the courses. Provost Whitmore observed that the one good thing is the 19% tuition increase, most of which will go to faculty, but still there will be bigger classes. Prof. Tachau was glad to see the library protected. She also pointed out that larger classes means less time for research, and also fewer TA's. She found it hard to believe that the university is serious about scholarship when we sent education fund moneys to athletics. She suggested that we tell the men's athletics to use their income to comply with Title 9. Provost Whitmore said that he was receptive to all of these ideas, which could be used when considering the current cut as well as budgets down the line.

A senator thought that Des Moines needs to be made aware of the long list of specifics that are the outcome of these budget cuts. She also thought we may need to go beyond Des Moines to the whole state so that they can understand how the budget cuts affect higher education in Iowa. Provost Whitmore responded that he would be reporting to the Regents next week on how the cuts affect the UI. Prof. Mangum observed that this year is particularly devastating with cut after cut, and asked if there is any way to forestall this practice in the future. Provost Whitmore answered that they were able to handle the first cuts deftly. Then they suffered the November cut, in the middle of the year. The main strategy now is to scrape up whatever is not spent, which is no way to run a university. They are trying to send the message that this lack of planning is devastating. Prof. LeBlond, having been here in Iowa for six years, thought that this is a crisis of our own making. The state had a surplus, and taxes were cut, and now there is a crisis. He asked whether this state is unique in terms of running a deficit, and whether there are steps that can be taken so that we don't have this sort of delayed deficits in future. Provost Whitmore responded that the simplistic explanation is that the state cut taxes at the same time that the revenue stream slowed way down. He has not heard any legislator say that we should raise taxes; so, our budget will be based on the assumption that there will be no higher taxes, with the hope for an economic turnaround. He did not know whether other states are allowed to run deficits, but the last thing he heard is that 44 states are in bad trouble. His concern is for Iowa and how we can continue to provide a quality education. Prof. Rubinstein noted that despite indirect costs going into the General Fund, when the state has a shortfall, other sources of money are pretty limited. Provost Whitmore agreed: the only other source is tuition. Prof. Rubenstein suggested changing the current policy that prevents charging tuition to grants, and raising tuition. Addressing the second point first, Provost Whitmore agreed that the state is shifting the cost of higher education to the students. This is true in other states as well, with OSU, for example, contemplating a 35% tuition increase. Regarding charging tuition to grants, the issue is complicated, but stems from the university's inability to waive tuition. Wisconsin used to have the same policy, but has recently changed to a new program. The University of Iowa had offered the same arrangement to COGS, but they turned it down. The university will offer it again; if it is accepted by COGS, then charging grants would be possible.

Prof. Hunsicker returned to the issue of looking at next year's budget. Acknowledging the temptation to spend all the money appropriated by the state, he suggested that if we

predict a reduction, then we should budget for less than the projected amount. Provost Whitmore clarified that they are budgeting with a cut in mind. Also, the New York Times had reported that the recession is over. But, it is wishful thinking to plan that our economy will turn around. In the meantime they are consulting with faculty and staff, with expectation of a smaller budget for next year. Prof. Tachau pointed out that the line items like the Hygienic Lab that have sustained cuts include Care for the Indigent. She asked whether we could reallocate funding to maintain full funding for that. Provost Whitmore answered that it is complicated: The state gives some money to cover health costs for people who can't pay. What we do is take all who come, and figure out later how to pay for it. Prof. Lynch observed that we are being very reactive, and asked whether we would be better off to be proactive. He suggested that we show what we will do, then go to the legislature with our plans. Provost Whitmore agreed to consider that tactic. He had previously been at a university where he had been told to plan for a 5% cut, a 10% cut, and so on. He hadn't liked doing that, especially for the bad cuts, which never happened, and planning for them just made for bad morale. But maybe something like that could be beneficial. Prof. Manderscheid observed that in other states, there have been midyear tuition increases, and asked whether we have tried to do this. Provost Whitmore answered that current state policy prevents it. They have not considered attacking that issue, and if they did, it would still be several years before it could be utilized. He offered the encouragement that the history of Iowa is that, when the economy turns around (and it always has), the support of the university has been restored. Of course, this is by far the worst that he has seen.

President Bhattacharjee observed that this state, which has supported higher education for many years, is changing. These budget cuts are making people plan ahead. The danger of going too far out in making budget cutting plans public is that they can become self-fulfilling prophecies. He asked how long we can play the game of "the university is doing fine, let's cut some more." The signs of loss of quality are obvious: significant loss of faculty and staff, larger classes, loss of research support. He has been told often by Vice President True that we have two golden geese: indirect costs and out-of-state tuition. The challenge is to leverage these golden geese without going so far as to hurt them. We are on our way to becoming a more private university. The challenge is how we can balance the missions of a public university and the increasing pressures of privatization.

Referring to the Faculty Welfare Committee report, President Bhattacharjee stated that a large fraction of faculty feel that they do not have input into budget decisions. The Carlson Committee, appointed by President Coleman, has made a number of thoughtful suggestions, including the appointment of a charter committee, in a manner similar to FRIC, with long-term memberships. He asked for the Senate's input on the issues this charter committee should address. He reviewed other recommendations of the Faculty Welfare Committee report. He urged the Senate to think about how we need to redefine ourselves, without putting to risk our research funding and out-of-state tuition. He asked if more departments should consider leveraging research funds, where possible, to pay for faculty salaries, and thus use grant money to leverage extra faculty lines. This is already being done in some Colleges, and cannot be done for every department, but is an idea worth considering.

B. HF 2061: Faculty Member on the Board of Regents

President Bhattacharjee brought the Senate up to date on this proposal. Representative Barbara Finch of Ames had attended a special meeting of the ISU Faculty Senate with local legislators last fall. As a result, Rep. Finch came up with the idea for an additional member of the Board of Regents who would be a faculty member. The ISU Faculty Senate President Christie Pope convened a meeting where this proposal was immediately passed. The proposal also passed at UNI, but in our Faculty Council the tide was against it. President Bhattacharjee reported our concerns to Rep. Finch, who sent back a modified proposal. The proposal has not gone very far, in part because we were against it, and the Board of Regents was against it. Rep. Finch did a vote count, which didn't look good, so she didn't pursue it any further this year. President Bhattacharjee reported that Pope will be invited to talk to the Faculty Council. For this year, the proposal is tabled.

C. Regents and Brody Awards

There are no nominees for Brody Award, except for two that are leftover from last year. President Bhattacharjee urged us to nominate our colleagues with distinguished service. He extended the March 8 deadline to March 15. Also there have been only a small number of responses for committee volunteers. President Bhattacharjee suggested we urge our colleagues to identify an attractive committee and volunteer to join it.

IV. New Business:

A. Sexual Harassment Policy

Prof. Tachau moved and Prof. Westefeld seconded the following:
MOTION: To accept the Sexual Harassment Policy.

Prof. Jew asked why these policies were modified. Jan Waterhouse, who is the Compliance Officer in Affirmative Action, answered that, especially with regard to sexual harassment, the motivations were legal. The existing policy is entirely complainant driven. The new policy allows the university to take action about problematic activity, even without the complainant's desire. Associate Provost Clark added that they separated the existing policy into two policies because the fundamental rationales for the two policies were distinct: conflict of interest vs. legal and ethical considerations. Prof. Jew asked what committee drew up the new policies. Associate Provost Clark, while not sure how it was assembled, answered that it was broad, including the Ombudspeople, people from Affirmative Action, and members of the Office of the General Counsel. Prof. Tachau asked if there were any faculty members on the committee. Associate Provost Clark answered that there were several, including her and the faculty Ombudsperson. In addition, the committee had sent the policies to a number of individual faculty who had provided input.

Prof. Aikin liked the division into two proposals, having always wanted something like this. She especially approved of the acknowledgment that consensual relations can develop into sexual harassment, and hypothesized that that is why they had been regulated by a single policy. Her one concern was that perhaps the new policy had been written too narrowly to include a type of harassment that she had had to deal with, in which a group of male students harasses a (usually foreign) female TA. As written, the new policy only prohibits harassment by a person in power, but in this case the TA has power over the students but nonetheless should be viewed as being harassed. Prof. Aiken suggested that the language be broadened in section 1. Referring to page 8, the last sentence of paragraph a., regarding education, Prof. Manderscheid thought that with third party reporting, education is very important. He suggested that “strongly encourage” be changed to “expected.” Associate Provost Clark agreed. She then pointed out that staff and students had passed this proposal; any other changes would have to be reexamined by them.

Prof. Jew wanted to see more faculty consultation before this policy is accepted. There was some question regarding whether the Faculty Welfare Committee had had a chance to review this policy. She also wanted to know about third party complaints, and questioned whether due process requires that an accused be faced by his/her accuser. Waterhouse confirmed that it was and said that they were very concerned about that protection, which is why they specified “specific and credible.” Speaking as the person who investigates formal complaints, she said that to address “specific and credible,” the first person she would go to is the victim. Prof. Jew was concerned about the accountability of the person doing the investigation, especially in situations where spurious complaints are made, and the accused never gets the chance to address his accuser. What are the safeguards for the accused, and how sufficient are they? Waterhouse explained that when the circumstances demand, the university will be able to inform an accused, even if it’s against the complainant’s wishes. Also it is required that any complaints are filed with Affirmative Action. Prof. Jew was not comfortable that there would be enough transparency in the process. Associate Provost Clark reported that, in response to concerns that a person could be accused yet not know about it, they had written in a tight requirement that if a person is named, that person shall be notified. Similarly, if a person is notified, Affirmative Action shall be given the name. Prof. Jew replied that even so, it would be a heavy burden on a person being accused who would have to get an attorney. Waterhouse answered that the vast majority of cases are resolved without an attorney’s involvement. Prof. Tachau shared some of Prof. Jew’s concerns. She had no problem with there being a policy, but was concerned with assumption that most accusations are legitimate, and was especially nervous about third party accusations. A person accused goes through mental anguish, even without having to pay lawyer’s fees. Associate Provost Clark pointed to Section 10, which describes the outcome of filing knowingly false charges. Prof. Tachau asked about charges that were not malicious, but still false. Associate Provost Clark replied that here is where “specific and credible” comes into play.

Prof. Hunsicker, while having had no direct experience with sexual harassment, had been notified of cases between students and teachers in which no one wanted to report it. He feared that if we get too legal, we eliminate the possibility of internal resolutions. He recommended that third party reporting be eliminated. Associate Provost Clark responded that now have a legal mandate to have such a policy, based

on case law. Prof. Nixon asked about formal resolutions (page 3, paragraph c). He thought that the phrase, “unless the person is notified and given an opportunity to respond” provides a backdoor around due process. Associate Provost Clark disagreed, stating that this is the linkage. Prof. Nixon asked whether it would be possible for a person to be denied due process within an informal complaint. Prof. Hunsicker suggested that we make it explicit that you can’t take disciplinary action without a formal complaint. Prof. C. Ringen brought up a case in which a faculty member of her department when she was a DEO who is now elsewhere had been found guilty of sexual harassment. Such information is confidential at the institution where that person is now and no one knows about the history. She gets calls still about this person. Waterhouse replied that hers was a valid concern but goes beyond what the policy can do, having more to do with what kind of information can be released when anyone leaves here. Prof. Ringen clarified that her concern is that if someone comes from elsewhere with such a background, we cannot know about it. Associate Provost Clark answered that if the situation has been resolved, that’s it.

Prof. Cox reported that there had been two concerns of the Faculty Council. One of those concerns has been addressed with the new linkage. He was still concerned about the potential damage done by the existence of files on some person. Having anticipated this point, Associate Provost Clark gave the answer that she had obtained from the General Counsel: If there is no support for a complaint, the faculty member could request that file be removed. If it is not removed, the faculty member could grieve it. She acknowledged that it is a very delicate balancing act to protect both the victim and the accused. Prof. LeBlond called the question with the amendments of Profs. Aikin and Manderscheid. Prof. Aikin suggested adding the language, “...even when the power is reversed from the usual.”

MOTION: (from above). *The motion carried.*

Prof. LeBlond pointed out that the policy includes a provision for review in three years. Prof. Seaba commented that we have spent a lot of time on this. One thing that might have been helpful for those of us less familiar with case law would have been some sort of summary or annotation to provide some background on this very complex issue. Associate Provost Clark responded that when this first came up two years ago, General Counsel Schantz did give some background, but agreed that additional background information for this discussion would have been helpful.

Prof. Hunsicker suggested a change in agenda to allow President Coleman to address the Senate. President Coleman, aware that Provost Whitmore had given the Senate an update on the budget and the university’s response to the cuts, conveyed her appreciation of everyone’s pitching in to try to make this work. She confirmed that so far this year, \$42 million have been taken out of our budget. The university has responded in the ways we said we would, with no layoffs, no furloughs.

Returning to the two policies under consideration, Prof. Tachau stated her appreciation of how frustrating it might be to members of Faculty Council to have to go over all of this again, but thought it was important that the Senate get a chance to hash this all out.

Prof. Hunsicker moved and Prof. Nixon seconded the following:

MOTION: To approve the policy on consensual relations.

The motion carried.

V. Adjournment

The meeting was adjourned at 5:15.

Respectfully submitted,
Erin Irish, Secretary