

**UNIVERSITY OF IOWA FACULTY SENATE 2000-2001  
MINUTES**

Tuesday, March 6, 2001  
Old Capital, Senate Chamber

**Members Present:** S. Aquilino, Z. Ballas, J. Berg, C. Berman, A. Bhattacharjee, D. Bills, J. Carlson, S. Collins, C. Colvin, J. Cox, G. El-Khoury, K. Ephgrave, V. Grassian, R. Hurtig, J. Jew, T. Judge, S. Larsen, B. Levy, J.P. Long (Emeritus Council), D. Manderscheid, T. Mangum, K. Marra, J. Menninger, G. Milavetz, S.A. Moorhead, P. Muhly, W. Nixon, G. Parkin, M. Pincus, J. Ringen, H. Seaba, A. Steinberg, J. Tomkovicz, L.Troyer, E. Wasserman, R. Zbiek

**Members Absent:** K. Abdel-Malek, E. Anderson, N. Bauman, J. Bertolatus, F. Boos, M. Browning, R. Cohen, J. Cowdery, B. Doebbeling, C. Doebbeling, B. Fallon, L. Geist, A. Gratama, L. Hunsicker, M. Klepser, P. Kutzko, A.M. McCarthy, R. Miller, A. Morris, J. Moyers, B. Muller, I. Nygaard, T. O'Dorisio, J. Polumbaum, P. Pomrehn, C. Porter, M. Raymond, C. Ringen, P. Rubenstein, R. Slayton, J. Soloski, C. Stanford, B. Thompson, R. Valentine, S. Vincent

**Members Excused:** S. Armstrong, D. Brown, R. Bork, D. DeJong, R. Hohl, D. Liddell, C. Lynch, C. Sponsler, W. Stanford

**Guests:** Lee Anna Clark (Office of the Provost), Charles Drum (University Relations), Mary Fouts (student), Sarah Hradek (student), Jim Jacobson (*Gazette*), Mary Johnson (*Daily Iowan*), Arun Kim (student), Kathy Snodgrass (student), Valerie Vallerugo (student), Ruth Wachtel (Anesthesiology/AAUP), Jon Whitmore (Provost), Heather Woodward (*Press Citizen*), Joyce Crawford (Faculty Senate and Office of the Provost)

- I. President Colvin called the meeting to order at 3:35 p.m.
- II. Approvals
  - A. Senate Agenda

Prof. Nixon moved and Prof. Parkin seconded the following motion:

**Motion 1:** That the Faculty Senate accepts the Agenda for March 6, 2001. *The motion carried.*

- B. Minutes

Prof. Collins moved and Prof. Berman seconded the following:

**Motion 2:** That the Faculty Senate Minutes of January 30 be accepted with an amended insertion. *The motion carried.*

### III. Announcements

A. President Colvin announced that Senators will soon be receiving invitations to a reception hosted by President Coleman on Tuesday, April 3 from 5:30-7:00 at 102 Church Street. Partners are also invited.

B. President Colvin also announced that to facilitate communication, a listserv is being developed so that Senators may share information with their constituencies. To date, the listserv for junior faculty is up and running.

C. As a follow-up to Jim Torner's earlier report on Governmental Relations, President Colvin noted that the Government Relations Office is building its Speakers' Bureau. The Office of Governmental Relations encourages faculty members to meet with groups across the state in order to discuss the contributions different faculty members and departments are making to the state of Iowa. Jane Hoshi will be happy to coordinate these visits. The Faculty Senate and Provost Whitmore have created a budget to pay travel expenses for faculty members who are willing to participate. A sign-up sheet was then circulated to Senators with a request that those who would like to make a presentation this year or next year indicate interests and availability.

D. In reference to the threat of budget cuts, President Colvin said that the revenue estimating council of the state legislature would be meeting in mid March. That meeting should provide the basis for decisions about budget cuts for the current and coming years.

### II. New Business

#### A. Proposed policy change regarding Emeritus Faculty Council

The Emeritus Faculty Council has revisited the 1971 policy statement in the *Operations Manual*, Section 11.7 Emeritus Status for Retirees. Since 1971 mandatory retirement has been abolished, the clinical track has been established, and part-time faculty positions have become somewhat more common.

The revised policy notes that "The status and title of Emeritus are not entitlements: rather they are conferred" and then outlines the conditions that would secure the title for a retired faculty member. The Emeritus status would be automatically conferred on a regular faculty member, on a central administrator who holds faculty status, and on a library professional staff member who retires "after having served the University under honorable circumstances for a significant period of time." (The time specified is ten years.) "Permissive conferral of Emeritus status" would allow the Board of Regents to grant Emeritus status to a University president. It would also allow a Dean to seek the Provost's

permission to confer Emeritus status in special circumstances to a faculty member who did not meet all the specified criteria. The document also explains how an Emeritus faculty member would be titled (as last rank before retirement and as Emeritus or Emerita, based on personal choice, if the faculty member is a woman). The rank would then be recorded in the Register of Personnel Changes. Finally, the policy says that if a retired faculty member is not offered Emeritus status this is "not subject to review under the University's grievance procedures."

After hearing the overview of the proposed changes, Prof. Carlson moved and Prof. Berman seconded the following motion:

**Motion 3:** That the Faculty Senate will take under consideration the proposed changes to the *Operations Manual*, Section 11.7 Emeritus Status for Retirees recommended by the Emeritus Faculty Council. *The motion carried.*

Prof. Collins opened the discussion by asking for a definition of "honorable circumstances." What reasons would exclude someone? If a person is terminated for sexual harassment, for example, and negotiates a termination without a formal grievance procedure, would this be an honorable retirement? Prof. Carlson asked whether the committee intended "honorable" to exclude anyone terminated for reasons other than conventional retirement? Prof. Long explained that formerly a faculty member was granted Emeritus status when employment ceased. The new policy imposes more stringent conditions for this honor. Prof. Andrews added that even now, if a person is accused of bad behavior, for example sexual harassment, but no formal proceedings are held, then that person would, indeed, be eligible. Prof. Hertig expressed concern that in such a case sexual harassment would be swept under the table. If a person is forced to resign, he argued, he or she should not be awarded with Emeritus status. Prof. Andrews warned that to withhold the status would be to assume the faculty member's guilt without investigation or proof.

Prof. Collins inquired whether the document should distinguish between resignation and termination? Should the policy state that if an individual was *not terminated*, then he or she would be eligible? Presumably, the adjective "honorable" means a faculty or staff member resigns or retires rather than being terminated. As an alternative, Prof. Carlson asked whether the phrase "termination for violation of university policy" would indicate the conditions in which a person should not be granted Emeritus status. As a friendly amendment, he proposed that honorable circumstances means that the member resigns, retires, or is not terminated for violating university policy.

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

**Motion 4:** The Emeritus Status policy defines honorable circumstances as "that the faculty member is not terminated for violation of university policy." *The motion carried.*

Prof. Berman then directed attention to Part D under Titles, which offers female faculty the option to use Emerita. Associate Provost Clark explained that some retired women faculty prefer Emerita while others prefer Emeritus (which simplifies record keeping).

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

**Motion 5:** That the language in Section 3.d. Titles will state: Women who retire to Emeritus status may notify the University that they wish to use Emerita officially and may use that title informally whether or not they notify the University. *The motion carried.*

**Action:** President Colvin called for a vote to approve the revised 11.7 Emeritus Status for Retirees policy for the *Operations Manual*. *The policy was unanimously approved.*

#### B. Cox Committee Policy Draft #4

Prof. Colvin opened by recommending a process for addressing the policy, emphasizing that the draft is for discussion only. She reminded Senators that at the January 30 Senate meeting, Senators raised an important question, asking whether the policy had been initiated by the faculty or administration. Returning to that question, she explained that the initiative to review the policy came from the General Counsel's office. However, the committee approached their task by asking how the existing policy served the interests of *faculty members*. This process of undertaking a review is much like the usual process of continual revisiting and revision of policies in the *Operations Manual*. Usually, such a revision begins when someone asks Senate officers to decide whether it is time to review or create a policy. The prompt may come from senators, faculty members, administrators, or the officers themselves. Thus, in this case, in the fall of 1999 a committee was appointed and given the charge to decide whether it made sense to make changes in the policy and, if so, how the committee members would recommend proceeding. Although the committee could have chosen at any point in the past two years to cease work on a new policy, they have continued to believe that the old policy could be improved. What has driven the committee is a concern that the current policy is insufficiently protective of faculty rights, individual and collective. The committee members believe the proposed policy provides greater protection than the existing policy. President Colvin explained that she joined the committee in fall of 2000 because she wanted to understand the implications of the policy. Since the last Senate meeting, she and the chair, Prof. Cox, have heard from several individuals who perceive the new policy to be a

threat to tenure, and she wished to state clearly that this is not the committee's intent. Her concern is that out of the fear of a threat to tenure some individuals have suggested that it would be best to call off all discussion of this policy. While she, along with the other committee members, would only urge passage of the new version of the policy if the larger faculty community agrees it offers better protection for faculty members, she believes it would be a grave mistake to give in to fear and stop discussion rather than to consider fully the implications of both policies.

President Colvin concluded her opening remarks by posing several questions to the Senate. She asked, "Do you like the current policy as it stands? Do you understand it and do you feel confident about it? On the other hand, if you prefer the proposed policy, do you understand how it differs from the existing policy?" In a sense, she summarized, the question is whether vague wording provides more protection than a more elaborated policy.

President Colvin also asked Senators to become sufficiently informed about the differences between the two policies so that they could lead discussions of the existing and proposed policies in meetings with their departments before the March 27 Council meeting. After consulting with colleagues, Senators should communicate faculty members' preference for the existing or proposed policy to her, to Prof. Cox, or to other members of the Faculty Council. No matter what we decide, she argued, faculty members will emerge from these discussions knowing what the policy is and how it affects us all. She added that when the Faculty Senate next meets, Senators should feel better prepared to vote as representatives of their colleagues.

President Colvin then turned over the discussion to the committee chair, Prof. Cox. He expressed his concern that in speaking with various groups of faculty members, DEOs, and deans about this policy, he has realized how much mistrust exists in this institution. In response, he suggested that we need a certain level of trust for the different levels of the university to work together. Also, many of the questions he has heard are based on an objection to having *any* unfitness policy at all. But we do have one and it is already being used. Therefore, the question is whether the new processes are worth instituting rather than staying with the old.

Prof. Cox quickly summarized the differences between the existing and proposed policies. The new policy specifies forms of consultation with the department and requires a dean to defer to the judgment of a department unless he or she has specific reasons to reject it. The policy attempts to create a condition such that the dean will only use this policy as a last resort. Therefore, the new policy delineates the type of written record that must be available to an accused faculty member. It also creates a new level of review of the dean's decision by the Provost. The policy also says that the burden is on the administration to show that no violation

of academic freedom has occurred. Finally, the policy institutes the faculty member's right to submit a grievance to the Regents.

Since Senators last reviewed the proposed policy, the committee has also incorporated advice Senators offered. As Prof. Collins requested, they removed any language about disability from the policy. They reintroduced the vexing word *unfit* into the text of the policy because they did not want to write a policy that could be used against someone whose performance is deficient but not so far below departmental norms as to be truly unacceptable. *Unfitness* is intended to mean that the level of performance is so unacceptable it is *not fit*.

The committee has also now called for two tiers of faculty review of a charge of unfitness: first at the level of the department and then at the level of judicial review.

The question is--do we want to suggest to administrators and regents changes that would strengthen the existing policy or do we want to stick with the old policy in the belief that change may have unintended consequences? He noted that there was no point in moving the policy forward if, indeed, there is widespread resistance on the part of faculty members. This is why we need to consult with colleagues before making a decision.

Prof. Hertig opened the discussion by reiterating the point he had made in the earlier Senate discussion: the greater assault on tenure comes from without the institution and our best protection is to show we take tenure seriously. To do that, we must address the problem if a faculty member does not meet her or his obligations. Prof. Berman opined that the existing policy is nothing new. Before, the policy was simply hidden in corners of the *Operations Manual*. The new policy clearly indicates a procedure and puts a check at the beginning stages of the process.

Prof. Collins suggested clarifying the language further by defining unfitness as "performance warranting termination." Prof. Mangum said that this was a circular definition.

First noting the importance of the AAUP in securing and defending tenure, Prof. Cox then pointed out that many of the AAUP's suggestions have also been incorporated into this draft of the policy. For example, the committee clarified that this is a procedure that should only be used when a person needs to be removed. Using the policy instrumentally to correct behavior would be absolutely inappropriate. The new draft also addresses AAUP members' fears that if the only choices in the policy are to terminate or do nothing, judges would be driven to terminate. The policy now offers several points in the process when the procedures could be stopped.

Prof. Muhly expressed his belief that other sections in the manual should establish the grounds and procedures for a DEO or chair to impose specific work responsibilities on an underperforming but not unfit faculty member so that the two procedures--remediation versus termination--would be kept completely distinct. On that basis, he encouraged the committee to remove language calling for alternative measures to termination from the unfitness policy. Prof. Collins said that the proposed policy includes six references to sanctions or remedies short of termination. He urged removing some of these alternatives, again, to keep the process of remediation separate from termination.

Prof. Berman then returned to the need to formulate a more precise definition of unfitness. Prof. Hertig offered two responses: first that our nervousness suggests a surprising degree of mistrust given how few faculty have been terminated for any reason and second that we seem caught between confidence that we know unfitness when we see it and, conversely, a desire to define and quantify unfitness.

Should we, asked Prof. Cox, build in more options for due process on behalf of faculty members? Also, he lamented the fact that no matter how thorough a policy is, no one can completely control how the policy will be used.

Prof. Ephgrave expressed concern that personalities play in role in the way such policies as this are used; she only hears an unproductive faculty member described as unfit if the person is also obnoxious. Prof. Menninger, noting he generally favored the proposal because it clarifies procedures, asked how "significant time" (of unfit performance) would be defined? Prof. Cox answered that post-tenure reviews occur every five years, but the committee could not agree on a specific timeframe for the unfitness policy and welcomed suggestions. Prof. Menninger also asked what "external faculty peers" means? Prof. Cox rejoined that the committee wished to allow a department or college to turn to a peer outside the university if that seemed necessary. Prof. Menninger also asked about the nature of the written record required by the policy. He wanted the policy to clarify that departments and deans should be required to file written reports and that a faculty member should be able to write a rebuttal. Prof. Menninger also asked whether the head of the faculty review committee would be allowed to choose a mediator or whether constraints would restrict that choice? Prof. Carlson answered there would be no exclusions. Several colleagues also inquired how clinical track faculty would be reviewed and whether the need to generate income through clinical service would be a measure of such persons' fitness? Associate Provost Clark noted that in clinical departments a complicated salary formula determines salaries, and salaries decline when clinical activity lessens. Prof. Carlson then noted that the issue is not just how to protect faculty members but how to fulfill our collective responsibility of policing faculty members who are not performing their jobs. He therefore advocated Prof. Collins' earlier phrase "performance warranting termination" as a definition.

Senators then considered how to proceed from here. Several suggested making a motion to amend the proposed policy to state "definitions pertaining to this policy only," as a way to differentiate this policy from other, corrective measures. Prof. Menninger discouraged further definition of particulars, arguing that finite decisions should be the judgment of peers in each particular case.

Prof. Colvin concluded the discussion by again asking Senators to discuss the policy (available on the Senate website) with their colleagues. Senators may request copies of the policy from Joyce Crawford. She also concurred with Prof. Pincus' suggestion to extend the deadline for reporting back to the committee until the April 10<sup>th</sup> Council meeting.

#### V. Adjournment

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

**Motion 6:** That the Faculty Senate is adjourned. *The motion carried.*

The meeting adjourned at 5:10 p.m.

*Next meeting:* The next meeting of the Faculty Senate will be held on Tuesday, April 24, 2001 at 3:30 in the Old Capital Senate Chambers.

Respectfully submitted,  
Teresa Mangum  
Secretary