

FACULTY COUNCIL
Tuesday, March 8, 2022
3:30 – 5:15 pm
Zoom

MINUTES

Councilors Present: D. Andersen, D. Anderson, C. Bradley, N. Brogden, J. Buckley, M. Cunningham-Ford, A. Curtius, L. Erdahl, L. Glass, B. Janssen, L. Joseph, M. Kivlighan, A. Merryman, N. Nisly, E. Welder.

Officers Present: M. Lehan Mackin, T. Marshall, A. Rodríguez-Rodríguez, J. Yockey.

Councilors Excused: M. Pizzimenti.

Councilors Absent: G. Russell.

Guests: B. Ernst (*Daily Iowan*), M. Gardinier (Emeritus Faculty Council), L. Geist (Office of the Provost), K. Perez (*Daily Iowan*), D. Witt (Faculty Policies and Compensation Committee), L. Zaper (Faculty Senate Office).

I. Call to Order – President Marshall called the meeting to order at 3:30 pm.

II. Approvals

- A. Meeting Agenda – Professor Glass moved and Professor Joseph seconded that the agenda be approved. The motion carried unanimously.
- B. Faculty Council Minutes (January 25, 2022) – Professor Glass moved and Professor Anderson seconded that the minutes be approved. The motion carried unanimously.
- C. Draft Faculty Senate Agenda (March 22, 2022) – Professor Janssen moved and Professor Anderson seconded that the draft agenda be approved. The motion carried unanimously.
- D. Committee Appointments (Ana Rodríguez-Rodríguez, Chair, Committee on Committees)
 - *None at this time*

III. New Business

- *Proposed Changes to University Libraries Charter Committee Charge (Loren Glass, Chair, University Libraries Charter Committee)*

Professor Glass explained that the University Libraries Charter Committee has been working towards updating its charge during his entire tenure on the committee, about 3-4 years. He commented that the process of charge revision could perhaps be made more efficient somehow. Approval must be sought from all four of the shared governance groups that contribute members to the committee. Professor Glass referred the group to the charge document, with tracked changes, that he had provided. Although some updates – to reflect current practices, resources, and spaces – have been proposed for the list of duties in which the committee

engages, the most consequential revision to the charge is a potential shift in constituent representation. Seats are now given to four students, two undergraduates and two graduates. The committee proposes to reduce that number to two students (one from each category) and then fill the two extra seats with faculty members, bringing the faculty membership total to seven. Inconsistent attendance, particularly by undergraduate students, is one factor for the proposed change, but the committee members also felt that faculty are more invested in issues related to the libraries. Among the faculty members, it also seemed appropriate to more widely distribute disciplinary and collegiate affiliations. The current version of the charge seems to heavily favor the College of Liberal Arts and Sciences, calling for one each of the five faculty members to come from the biological sciences, the humanities, the physical sciences, and the social sciences and one at-large. The committee has proposed that, among the suggested seven faculty members, three come from CLAS (one each from the arts and humanities, the social sciences, and the natural sciences) and two come from the health sciences. The remaining two faculty seats would rotate among colleges other than CLAS.

Professor Glass moved and Professor Janssen seconded that the proposed revised charge of the University Libraries Charter Committee be approved. The motion carried unanimously.

- *Academic Freedom Discussion (Teresa Marshall)*

President Marshall commented that academic freedom has been a significant topic of conversation here on our campus, as well as within the academic community nationally. After the implementation of the free speech training mandated by the Board of Regents, State of Iowa, the Senate officers began hearing concerns raised by faculty members. President Marshall requested that Councilors communicate to their colleagues that the officers are working to safeguard the faculty's academic freedom and free speech rights. At UI, the Operations Manual ensures these rights for the tenured faculty, as academic freedom is a hallmark of tenure. For the other faculty tracks (clinical, instructional, research) and for our graduate students, the rights are not as clearly articulated. President Marshall expressed the view, which she assumed was widely shared, that all those engaged in teaching on campus should have these rights. She indicated that the officers have been in conversation with administrators to clarify the role of the university, including of the Office of the General Counsel, in supporting faculty, so that they can do their jobs effectively.

Past President Yockey reminded the group that, in addition to the UI Operations Manual, UI faculty, staff, and students are also bound by the Board of Regents [policy manual](#). Regarding academic freedom, he noted, the Board has spoken clearly and powerfully. He referred the group to [Chapter 3, Paragraph 10](#) of the manual. Entitled *Academic Freedom*, this section begins by stating that *University teachers shall be entitled to academic freedom in the classroom in discussing the teachers' course subject, but shall not introduce into the teaching controversial matters that have no relation to the subject*. This language tracks closely the stance of the American Association of University Professors (AAUP). Past President Yockey then referred the group to a newer statement in the policy manual, [Chapter 4, Paragraph 2](#), entitled *Freedom of Expression*. This statement is similar to the Faculty Senate's own [Statement on Freedom of Expression and Academic Freedom](#). There are also similarities to the [Chicago Principles](#), adopted by numerous universities and colleges. Turning to the UI Operations

Manual, Past President Yockey pointed out [Section III, Chapter 15 Professional Ethics and Academic Responsibility](#), which describes the bounds and limits of academic freedom.

President Marshall invited Councilors to share recent concerns or experiences conveyed to them by colleagues regarding academic freedom. The officers can then seek clarification from administrators regarding guidance that they can provide. Professor Glass commented that colleagues have indicated concern that students might use freedom of expression as a justification for being disruptive or making offensive comments to instructors. He felt particular concern about underrepresented minority faculty and non-tenured faculty being the targets of such behavior and wondered if the [Code of Student Life](#) would be applicable in these situations. Regarding the BOR free speech training, he and several colleagues were unclear whether faculty criticism of state officials or university administrators was protected. He added that, in his capacity as president of the UI Chapter of the AAUP, he had invited Hank Reichman, former chair of AAUP's Committee A on Academic Freedom and Tenure and the author of several books on academic freedom, to speak on campus on April 30. Several Councilors commented upon concerns experienced in the last several years navigating the intersection of course material and state law. Past President Yockey emphasized that it is essential for faculty to have clarity and consistency on these issues. Councilors noted that the vagueness of some state laws could impede clarity, as well as have a chilling effect on teaching. It was observed that, while pedagogical justification should drive what is taught in the classroom, it may not always be evident to students that a particular topic is relevant.

Professor Janssen noted that several colleagues had expressed concern whether the BOR free speech training was entirely accurate in relation to faculty. Past President Yockey commented that constitutional law experts in his college had been consulted; these experts found the training to be accurate. Of course, there are related issues that could not be easily condensed into a brief training module. He added that if there are specific concerns, he could convey those to collegiate colleagues for additional explanation.

- *Operations Manual Updates (Doris Witt, Chair, Faculty Policies and Compensation Committee)*

Professor Witt began her update on the Operations Manual-related work of the Faculty Policies and Compensation Committee (FPCC) with [Section III, Chapter 10 Faculty Tracks](#) and [Section III, Chapter 29 Faculty Dispute Procedures](#). She reminded the group that Chapter 10 sets forth the policies governing the faculty tracks, including the tenure, clinical, research, and instructional tracks, while Chapter 29 sets forth the dispute procedures for the tenure, clinical, and research tracks (the dispute procedures for the instructional track are within that track's policy). Last spring, the Senate officers and the FPCC were presented by the Office of the Provost and the Office of the General Counsel with proposed revisions of both policies. In the fall, the officers and the FPCC entered into challenging but good faith negotiations with administrators to resolve differences over policy substance and process. Negotiations have currently been paused. The officers are waiting for guidance from the Office of the President on the rationale for many of the proposed changes. They are also waiting for the release of the five-year review report on the instructional track. The report is expected in April. Results of this review will influence thinking on revisions to Chapter 10 and Chapter 29.

Moving on to [Section II, Chapter 19 Acceptable Use of Information Technology Resources](#), Professor Witt indicated that this policy defines institutional and external standards governing individual users (employees, students, visitors) of UI information technology resources. Early in the fall, the Office of the General Counsel (OGC) notified the Senate officers about proposed changes to this policy. The rationale that the OGC gave for this revision involved the increased use of electronically-stored information (ESI) over the past decade and the resulting rise in the need for document production in litigation. The university was directed by the State of Iowa Office of the Attorney General to update its policy, out of concerns that destruction of ESI could lead to serious consequences in litigation. Professor Witt explained that the proposed changes clarified the university's right to access ESI in the event of a *legitimate work-related reason* or in instances of workplace misconduct. Currently the policy calls for a *probable cause* standard in order to access ESI. New language indicates that this access will occur with notice to the user, unless that notice is *not feasible or appropriate*, in the view of OGC or UIHC Legal Affairs. This new language makes it easier for administrators not to notify the user when ESI is accessed.

While acknowledging the need for revision to the policy, FPCC members had expressed concern that academic freedom was not sufficiently protected by the proposed new language (which might be adequate for a for-profit business, but not for an institution of higher learning) and advocated for constraints on the university's ability to access and monitor faculty ESI, Professor Witt explained. During a series of mediated conversations, FPCC members and OGC administrators eventually agreed upon new revised language. In response to FPCC concerns about authorization and delegation, new policy language will explicitly state that the Provost or a designee shall be consulted in advance in situations involving the access or monitoring of faculty or student ESI. The involvement of the chief academic officer, or designee, would offer protection against overreach, in the view of FPCC members. Relatedly, new policy language will also explicitly state that principles of academic freedom shall be taken into account in the implementation of the policy, thus strengthening the previous version's general affirmation of academic freedom. Another new explicit statement will require the university to limit the scope of access and monitoring based on the authorized justification. Finally, appropriate documentation of ESI monitoring and access decisions will be maintained.

New to the FPCC agenda this semester are related policies [Section II, Chapter 3 Human Rights](#) and [Section II, Chapter 6 Nondiscrimination Statement](#). Professor Witt indicated that Chapter 6 briefly states the university's basic principles associated with nondiscrimination, while Chapter 3 outlines procedures for implementation of those principles. Earlier in the spring, proposed changes were sent to the Senate officers by University Human Resources (UHR) administrators. The changes were precipitated by an outside review of UI employment practices that occurred several years ago. The review revealed some concerns regarding recruiting and hiring, equitable treatment, and fear of retaliation. As a result, the reviewers recommended that the university increase emphasis on addressing complaints and on recognizing protected class concerns. Changes have therefore been made to several community policies (Anti-Harassment, Anti-Retaliation, Violence, and Sexual Harassment). For the sake of clarity and consistency, similar changes are necessary for Chapter 3 and Chapter 6. One goal for the revisions of these policies is to help the university resolve problems early to prevent possible litigation later on.

FPCC members identified several concerns about the revisions. Initially they thought that the revisions opened the policy up to allow non-members of the university community to bring complaints, but in fact non-members could always bring complaints under this policy; the revisions simply clarify that. However, unlike university community members, who have a disincentive for bringing false or malicious complaints, non-members have no disincentives. Also, the bar for launching an investigation has been somewhat lowered from the previous standard of *specific and credible* for allegations. And, FPCC members noted the removal of a stipulation that steps be taken to restore the reputation of a person who is the subject of unsubstantiated allegations. Concerns were raised to UHR administrators that the revisions might provide an opportunity for harassment of faculty members in ways that impinge on academic freedom. UHR administrators were receptive to these concerns and conversations will likely continue with them. Overall, whenever policy revisions are proposed, FPCC members want to ensure that appropriate constraints on administrative power are in place so that faculty members can continue to do their jobs effectively, Professor Witt concluded.

Professor Glass asked, in relation to Section II, Chapter 19, whether ESI includes only information on university servers, or information stored on outside platforms such as Dropbox. Professor Witt responded that any university-related business, no matter where it is stored, could be subject to search and access. Professor Nisly commented that her department is participating in a National Institutes of Health (NIH) program to provide bystander and other types of training for faculty and residents to oppose discrimination by patients towards healthcare providers. Some of her colleagues are wondering, however, if a discriminatory attitude on the part of some patients falls under freedom of speech. There may also be faculty members and residents who disagree with the anti-discrimination premise of the program and find it to be a violation of their freedom of speech. Professor Nisly asked whether the university would support the faculty members who do accept the premise of the program and seek to oppose discrimination in healthcare settings. Professor Witt indicated that the FPCC could look into this matter.

Professor Erdahl commented that there is a difference between, for example, female patients requesting only female OB/GYN providers (mentioned by Professor Merryman in the chat) because of safety concerns or past trauma, and patient-initiated identity-based harassment. She noted that federal regulation through the Equal Employment Opportunity Commission (EEOC) prohibits patients from discriminating against healthcare employees. Moreover, it is a hospital's job to protect employees from identity-based harassment. She added that there is a difference between freedom of speech and targeted harassment. The intent of the training described by Professor Nisly is to protect hospital employees from harassment. Professor Erdahl provided several links in the chat to related resources:

<https://medcom.uiowa.edu/theloop/diversity/empowering-providers-to-address-identity-based-discrimination>

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8328184/>

<https://pennstatehealthnews.org/2021/01/penn-state-health-strengthens-bias-policies-to-support-physicians-staff-learners/>

Professor Joseph commented that during the past several years some of the nursing students of color in her college have experienced discrimination while in clinical settings. Since then she has been striving to develop resources and processes for students to access when these events occur. It is essential to involve nurse leaders and administrators in this effort, so that they can provide support to the nursing students. Turning to the discussion of Section II, Chapter 19, Professor Joseph asked what would be perceived as a reasonable threshold to launch an investigation. Professor Witt responded that, in the existing language, an investigation would be launched *when, and only when, there is probable cause to believe a user has violated this or other University policies*. The new language of *legitimate work-related reason* seemed to the FPCC members to considerably lower the threshold to launch an investigation, while administrators felt that the new language raised the threshold. Past President Yockey observed that some issues raised in the conversation here today, such as EEOC regulations, fall outside the focus of FPCC activity. Instead, perhaps the Senate officers could locate the appropriate administrator to weigh in on these issues.

- *Topics for 2022-23 (Ana Rodríguez-Rodríguez)*

Vice President Rodríguez-Rodríguez commented that we are looking toward a future in which COVID-19 no longer dominates our lives, so that we can focus on other important issues. We are currently in a time of transition from the pandemic era to a post-pandemic future. As part of that transition, we should reflect, individually and collectively, on what we have learned during the past two disruptive years. Vice President Rodríguez-Rodríguez then indicated that she would like to hear from Councilors what issues they would like to focus on in the next academic year as we make this transition.

Professor Glass felt that we should process, intentionally and with deliberation, what we have learned about teaching on Zoom during the pandemic. In his department, he has observed pedagogical benefits to virtual teaching, as well as benefits in terms of scheduling. Professor Janssen commented that she has been thinking more broadly about the nature of work and about how work has changed for many of us. For example, what are the implications for our physical workspaces if we are on campus less frequently? Also, what would the impact be, particularly for a state-supported institution, of hiring staff and faculty who do not live in Iowa but work virtually from elsewhere? How do we maintain our intellectual community when some of us are not physically present? Vice President Rodríguez-Rodríguez added that working from home has impacted our work relationships; while there are benefits from these new virtual arrangements, we can also end up feeling isolated. And, we miss out on those informal conversations with colleagues that maintain a department's cohesion.

Professor Brogden commented that the circumstances of the last few years have led to a sense of broken trust and respect among the faculty because concerns related to COVID-19 were not acknowledged. Perhaps with a new university president, we can now move forward in a positive way. She emphasized that it is important to start rebuilding trust and relationships now, because it is an effort that will take some time. Vice President Rodríguez-Rodríguez added that the Senate can take a lead in this rebuilding effort. Professor Brogden observed that, on a more positive note, during the past few years she has learned how very different collegiate cultures can be and she now has a better understanding of what challenges colleagues in other colleges

face. We should focus on what we have learned from the pandemic experience and move forward creatively and constructively, rather than dwelling on the negative aspects, she concluded.

Secretary Lehan Mackin referenced a [recent article](#) in *The Chronicle of Higher Education*, an opinion piece that discussed faculty disengagement. She commented that we might need to be strategic in the way we encourage faculty to take up university service again. Junior faculty, especially, have missed out on the socialization experience in their departments and colleges and may feel particularly disconnected from university life. Vice President Rodríguez-Rodríguez commented that the Faculty Council and Senate can be the places for difficult conversations about how faculty are feeling. In addition to expressing our feelings, however, we need to offer suggestions for how to improve faculty morale going forward. We also need to determine the root causes for low morale, in order to create appropriate solutions. Vice President Rodríguez-Rodríguez expressed special concern about women and underrepresented minority faculty, who may have experienced disproportionate distress during the pandemic. In the chat, Professor Welder commented upon the difficulties that faculty parents of young children face: lack of extended hours for child care, lack of paid parental leave, lack of emergency child care, etc. Professor Glass reiterated these concerns and emphasized the suffering of parents, especially single parents, of young children during the pandemic. Not only was there no institutional support, he commented, but there did not appear to be any moral support, either, for these parents.

President Marshall commented that improved work-life balance may eventually emerge from the pandemic ordeal that we have all been through. Perhaps service opportunities could be more evenly distributed throughout the faculty. Vice President Rodríguez-Rodríguez noted that communication will be especially important as we move into our post-pandemic lives. We must find ways to disseminate what happens in Council and Senate to the rest of the faculty. Although policy and academic freedom issues will likely be very important in the coming year, she emphasized that she did not want to lose sight of the lessons we learned during the pandemic and its many types of loss. Vice President Rodríguez-Rodríguez also indicated that she wanted to maintain a focus on diversity, equity, and inclusion in all that we do. She hoped that we could all move forward together next year.

- *President's Report (Teresa Marshall)*

President Marshall noted that the Office of the Ombudsperson has sent out information regarding a virtual training opportunity, April 4-6, for those who might be interested in serving as a faculty ombudsperson in the future.

Two central administrative searches are underway, for the Vice President for Legal Affairs and General Counsel and for the Vice President for Medical Affairs and Dean of the Carver College of Medicine. The Faculty Senate's Committee on the Selection and Review of Central Academic Officials has been involved in nominating faculty members for service on the two search committees. President Marshall noted that, in response to faculty concerns about no lawyers being appointed to the Vice President for Legal Affairs search committee, an attorney from the Board of Regents Office was added to the committee.

President Marshall congratulated Past President Yockey on his investiture as the David H. Vernon Professor of Law yesterday. Councilors gave Past President Yockey a round of applause.

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

V. Announcements

- The next Faculty Senate meeting will be Tuesday, March 22, 3:30 – 5:15 pm, via Zoom.
- The next Faculty Council meeting will be Tuesday, April 12, 3:30-5:15 pm, via Zoom.

VI. Adjournment – Professor Brogden moved and Professor Anderson seconded that the meeting be adjourned. The motion carried unanimously. President Marshall adjourned the meeting at 4:55 pm.