

FACULTY SENATE EXECUTIVE COMMITTEE MEETING

February 3, 2014

In attendance:

Clint Buhler (CB)

Robert Carlson (RC)

Jennifer Ciaccio (JC)

Ami Comeford (AC)

Rebecca DiVerniero (RD)

Timothy Francis (TF)

Jerry Harris (JDH; secretary)

Linda Jones (LJ)

Curtis Larsen (CL)

Scott Lindsey (SL)

Nate Staheli (NS)

Samuel Tobler (ST)

- RC: Let's begin. We have minutes from our last meeting, from the first Monday of January; has everyone had a chance to look over them? Any problems? (NS moves to accept, LJ seconds.) Any discussion? All in favor? (Unanimous.) We don't have anything to vote on today, but NS wanted time to discuss elections that we need to conduct this semester.
- NS: I won't get into a lot of specifics, but I had an opportunity to meet with Martha (Talman) and Pam (Montrallo)—one of the responsibilities of the Faculty Senate President-Elect is to make sure that certain committees—Post-tenure Review (PTR), the Promotion and Tenure Appeals Committee, and so on—and get them taken care of in a timely manner and we get the right people in there because some of them are only eligible to be tenure track and some other things. So my only comment with this is: let your faculty members that you represent know that over the course of then next 2 months, during February and March, they're going to be getting e-mails from me requesting that they participate in an election. It's important that they consider who those people are and who might fit best in each position, and take a minute to do it. It's part of our responsibility of shared governance. So please go back to the people you serve and remind them that they'll be seeing these e-mails and to please pay attention to them, and to take them seriously. They won't take a lot of time.
- JC: One of the issues we had last year was that we didn't get the lists of people who were eligible until the day before classes let out for summer! So if you can get those out sooner...
- NS: Yes! That was my meeting with Pam and Martha—just trying to get it right, and they were a little more proactive. At any rate, I do know who is eligible. For example, for the PTR Committee, there are really only three people eligible to be elected, and we have to elect one. And it has to be a female—in this situation, there was to be so many females and males; we only have three tenured, full professors that are female. I need to go visit with those three to let them know they are eligible and we want them to consider it. And once those are selected, then we go on to the PTR Appeals Committee, which has to have two *more* female members, which would include one of the other two. But we need to go through the process and there has to be an order to this because it's a domino effect. All I'm saying is please let your faculty members know, and only certain faculty can vote on certain things.
- ST: Those three names you listed—the voting faculty vote for *one* of those for each committee?
- NS: Yes., and then I'll come back two weeks later for the next vote, and I'll stipulate that we have to have two females, etc.
- JC: The issue also last year was that some of them had to have not just the right male/female ratios, but the different schools had to be represented, as well?
- NS: Yes, and they have to be there based on when their terms end, etc. RC did a good job last year, and AC the year before of getting this going, and Pam and Martha did a good job of taking this into consideration. We just have to follow up. I'm going to double-check.
- RC: Double-check the recent tenure and promotions results and make sure the list is updated—it may increase the eligible people for *some* of the positions. Some require people to be tenured, but not necessarily Full Professors.
- JC: Last year, everyone got one vote.
- RC: And it wasn't for themselves!
- NS: Just remind your faculty that we need to participate because this is how we share in governance and running this institution.
- RC: We'll use that phrase "faculty shared governance" a lot—it will start getting introduced into policy, and it's never before existed on this campus. But for it to have meaning, we have to have an active role in governance. When it comes across that faculty don't vote for something we pushed to have faculty representation for, then it lessens our clout, as it were.

Thanks NS. For those of you that just got here, there's an error on the agenda: the next FSEC meeting not on the 17th because that's a holiday; the next meeting will be on the 24th. They're the 1st and 3rd Mondays unless it's a holiday. We have one issue related to this. It's been really hard to get a representative from Health Sciences here. Last semester, when we tried to find an appropriate meeting time, Monday worked best for everyone except for that one representative. The other times, there was no other time that worked for fewer than two less than the total. That was great, but he's even having trouble finding a substitute. I don't know what to do about it. I've been encouraging him, and telling him that we're not trying to leave him out, but we don't want them to perceive that we are isolating them. They already feel isolated because they're the farthest away from the main campus. We want to make sure they're included. Are there any suggestions on how to achieve that? He's going to keep looking for someone to substitute, but apparently, there are lots of clinicals and other things on Mondays or something.

NS: We discussed noon as an option...? I thought that was part of our issue in previous semesters.

RC: It didn't seem to matter much. 2:00 worked well for everyone because some people have classes earlier, and it seemed to be a time when there aren't many classes, and it's not too late for people who are reluctant to stick around.

JC: The best is to have a back-up person.

RC: We'll keep pushing for that.

JC: A *designated* back-up.

RC: He's tried that with a couple people that have had conflicts themselves. But I'll keep working on that.

AC: Is it a situation when he can't find someone whose schedule works, or he can't find someone that's *willing* to come?

RC: I'll ask him more details about that.

AC: Because those are two separate issues that would need to feel addressed. If it's scheduling, then surely there would be *one* faculty member in *one* of the areas in all of Health Sciences! But if it's having a bad feeling about Faculty Senate and not wanting to be involved for a variety of reasons—perception, information they've been given, etc.—then that would be a separate issue.

RC: I've seen some others from Health Sciences make it to general meetings fairly consistently. One of the challenges is that he's still fairly new, and may not know too many people outside of his area.

AC: Yes, and his is really small.

NS: Well, outside of this issue, I'll visit with him and ask him.

AC: We need to find out.

RC: There has been tension in the past.

AC: Yes, there has been some between them and Faculty Senate, and if that's why they're not getting someone here, that's a separate thing from scheduling.

RC: We want someone from Health Sciences, and we'll keep working to get one.

NS: Can I bring up something that's not on the agenda? SL has been working on this, too: with our Constitution, are we going to come up with a method for having representation based on number of tenured faculty in certain divisions? Or is that an item for another meeting? But will that go into the Constitution?

SL: I don't recall if there's a section for that.

RC: We need something, and we have a couple of options. We can make up our own system, or we can mirror, for example, the RTP system, though it only has nine.

NS: Maybe as we finalize that, we need to make sure that we have fair representation of the faculty.

RC: Doing it by department is a problem: we have some huge ones and some tiny ones. We have one department with three full-time faculty.

AC: And programs that have only two!

RC: And those are sometimes referred to as departments, which is causing other problems. We don't have answers yet. We'll have a working document soon, right?

SL: Sometime in the week of the 17th.

RC: So we'll get that disseminated and start making more comments. All the answers won't be in that document, but it will be a starting conversation.

JC: If we're not having a meeting in February, isn't March when we need to have elections for the next President-Elect? Don't they have to be done *by* March to start in April?

RC: Elections have to be *in* March.

AC: It would be the fourth Monday. It just has to be announced at last full Senate meeting in March.

SL: The results or the candidates?

AC: The results.

SL: And the voting goes on during March...?

RC: We should be able to plan for that at the March 3 meeting. But thank you for bringing that up! If you know of people interested in being nominated, please spread the word.

AC: And also FSEC reps—can we bring our potential replacements to the March meeting to acclimate them?

RC: If you have served for 2 years, you *can* have a new person replace you after 1 year.

JC: No, your term is two years, but you can only have two terms.

RC: So if you served a 2-year term, you could have a replacement voted on; if you're served two consecutive terms, you *must* have a replacement voted on. So if you're in either of those positions, or you're not going to be here next year, then please begin to make arrangements and spread the word that your area will need to select a replacement. We're still working on getting information about what your areas represent—some of you representative multiple departments. Now, about these policies (from the agenda): let me tell you where we are and where we need to go. The Faculty Categories policy has been submitted, and should be posted on the web site for the official 30-day review period. However, that version will change, and will have a few clarifications. There will be two tracks that lead to a kind of permanent, non-probationary status. They will be distinct in name and have significantly overlapping benefits. One will be called the Tenure Track; the other will be called the Continuing Status track. The latter is for faculty that are without terminal degrees. They will have *most* of the rights of tenure, but they will not be able to vote on tenure issues, and they cannot be Full professors. They will not be eligible for post-probationary salary increases associated with post-probationary reviews, but otherwise they'll have the same rights as no-longer-probationary faculty. Their ranks will be Instructor, Assistant Professor, and Associate Professor. We're hoping that that will provide the opportunity for some of our faculty that don't have terminal degrees but might be in some special situation to have the academic freedoms and protections but still provide incentive to move on and get their terminal degrees. That's the goal, so the language will be changed in the Faculty Review policy and the Faculty Categories policy to make sure they are kept as distinct tracks.

CL: You said post-probationary salary increases—in that category, if they move up a rank, there's no salary increase?

RC: No, not rank increases. When we instituted this provision to the PTR policy, every 5 years after becoming Full Professors, who still have to turn in review paperwork, that produce 2% increases if their performance is sufficient. That's separate from rank advancement.

CL: Will existing faculty be kicked over to the appropriate category?

RC: Some will—it won't be automatic, but will be equivalent to the process deciding on new tenure-track positions. A Continuing Status position obviously has the same long-term commitment to the institution. So there will be a review process to determine which of the current faculty will be eligible for Continuing Status. I don't know what that process will be. Right now, we have quite a few faculty that teach temporary full-time for various reasons; some of those will clearly be eligible and fed into this Continuing Status track. What we're pushing for is that the language in the policy will tell people *explicitly* what their statuses are—there won't be any assumptions; they'll get letters stating it and when they're up for review.

CL: But someone that's already been an Assistant Professor here for 20 years and already has tenure won't be moved over?

RC: Exactly; they will be grandfathered in. The only thing I don't know is that if they were given tenure, they should be able to keep tenure. But there will still be some limitations regarding Full Professor.

CL: That's already in place

RC: Exactly. We're hoping that this will clarify a few things—there will still be other categories, such as Non-probationary Faculty, who may work full time but that aren't on either of those tracks, plus Auxiliary Faculty, such as adjuncts. But we don't want people falling through cracks. This will also be important because in the Faculty Review policy, when you're eligible, the burden is on the *faculty member* to supply paperwork to apply for that review. If you don't apply for your probationary review, then you may not have your contract renewed and you may be dismissed. But we don't want that to happen because you didn't *realize* you were eligible; we want HR to be required to tell people when they are eligible. The current dates in the policy require that application by February; if it were in place by now, you'd have to submit *now*, and that's pretty early. In our talks with Vice-President Christiansen, there's no reason for it to be *that* early. It will probably be changed to end of semester.

TF: It already is changed.

RC: Oh, good—I submitted some changes, but was told they wouldn't all be able to be put in quickly because Martha has other priorities. The Faculty Review policy—I encourage everyone to look it over; it's quite substantial. There's one bit of tension there that is important. There's the institution's desire to emphasize that anyone with non-probationary status is an at-will employee, which means they can be dismissed at any time. There's faculty concern that we should have academic freedom respected even if you're probationary. We're trying to find some compromise that doesn't tie a guarantee of academic freedom to status as a probationary employee—there might be some other kind of appellate or review process when there may be an issue related to academic freedom. The faculty can be reassured that nonrenewal or dismissal was *not* because of an academic freedom issue. We don't know how to craft that compromise right now, so if you have suggestions, we're open to that. But based on Board of Regents policy and state law, I don't see how tying an appellate process to probationary status will work. So even if we push for that, I don't know if it will pass legal muster. The words say we're guaranteed academic freedom, but there's no reassurance that it would be followed. Right now, if a probationary, tenure-track faculty does something controversial, administration could just say "We're choosing not to renew your contract" without having to give a reason. There's no reassurance that it wasn't *because* of the controversial

action. We've expressed to Vice-President Christiansen that that's had a chilling effect on new faculty expressing themselves—they've self-censored. We're working on it, but don't have an answer.

AC: That's also a problem with staff, being at-will employees, particular in areas/departments. where there's one supervisor making a decision, and nothing else can be done—that's created the same problem with staff. I haven't looked at Board of Regents policy; does it require that everyone be labeled an at-will employee?

RC: While on probationary status. So challenging that particular aspect...

AC: That's a huge problem, and I don't know how to tackle it. Ultimately, even if it *is* an academic freedom issue, the person sitting across the table from the faculty member doesn't have to say that. In those meetings, the person can *ask* "Why is this happening so it won't happen next time?", but no answer is required.

RC: I have one suggestion. There's an emphasis in that policy about confidentiality—all the review proceedings are confidential. I haven't made a formal appeal about this, but I'm going to: who holds the confidentiality rights? Let's say it's doctor-patient confidentiality. A doctor often tries to invoke that, but it's the patient holds the right, and if the patient wants something made public, s/he can. If the faculty member under review holds the rights, then if, during deliberations, they chose to have those released, and if the recommendation of the review body was to deny tenure, there would have to be a reason stated; it can't be an arbitrary decision. Perhaps that would be a step toward at least having the issue be public. Right now, it's vague who holds those rights; I'm sure the institution would want to, but I don't know if they have a legal *right* to.

SL: I think this is an undefinable problem. Isn't the idea of tenure, whether you agree with it or not, that you go through a probationary period? You have to hold your boundary. You can be terminated for exercising too much academic freedom—in environments where tenure reviews take place, the reason doesn't have to be given. I know that at research institutions I've been involved with, the reasons for not giving tenure are *very* broad. I don't know if we *can* define that.

RC: We may not be able to—that's part of the dilemma. But we say in the policy that *all* faculty have the rights of academic freedom. The rights are defined, such as right to participate in political process as a citizen, independent of your role, so what you do politically outside of the school should never be part of the decision. You have the right to teach your course material in a way that is appropriate for your discipline, no matter how controversial or upsetting it might be. We feel that those rights are valuable; the policy states that they're valuable, but for non-tenured, non-continuing-status faculty, there's no way to guarantee that those are respected. The institution *says* it want to value and respect them, but we have no mechanism for guaranteeing that they do.

JC: I don't know that there *can* be a mechanism.

SL: It's undefinable.

RC: Well, it *can* be defined, but I don't know if it's *enforceable*.

SL: You can be denied tenure if you're not symptico with other members of your department—in every other respect, you're progressing and showing good academic citizenship...

RC: I think most faculty are comfortable with, if not liking it, that if their whole department doesn't feel that they deserve tenure, that's something that may happen. But I think the concern is that what if your department supports you, and the RTP Committee supports your tenure application, but the Academic Vice-President just says "I'm getting a lot of external pressure; it would be easier for institution to quietly say "We deny tenure."

JC: But that can also happen if they want their nephew to have a job!

RC: Exactly. So it maybe something we'll never be able to resolve or put into policy, but if you have any ideas, please let me know.

AC: If someone is denied tenure, is that not a different situation than being non-reappointed.

RC: No, it's the same.

AC: But once you've gone through the entire tenure review, there would be reasons listed by the committee. Problems with the portfolio, division director wouldn't recommend it for tenure, etc.—there'd be a sense of that to that point. What we were talking about before with the probationary faculty is that in their second year they could just be let go, and at that point, there's no documentation *at all*, and none is required—that seems to me to be the bigger issue than going through the tenure process and not being granted tenure. At least there, there's some documentation—someone could retain counsel that would say "Here's the documentation from the division chair, from the employees, etc." and seems more actionable from a legal standpoint. Before that point, there's nothing—no appeals, no documented reason for or against.

RC: At the point of being denied tenure, there's no appeals process. What you're talking about is a lawsuit.

AC: Well, there's a recourse if the employees choose to do so. The more sticky, problematic issue is *prior* to that point. I think what JC said is important—I'm not sure there is a way. Ultimately, if you say "Is this academic freedom", then this person is not being reappointed?

JC: They don't have to say that. It could be because they didn't like their clothes!

AC: Right. There's not even a conversation that has to take place.

RC: We had a situation where someone that wasn't up for tenure, word got passed on through various channels to administration that s/he was a trouble-maker of sorts—I heard that from two, independent sources. Nothing ultimately

happened—at the upper levels, cooler heads prevailed. But that’s a legitimate concern—there seems to be no way to incorporate that into policy except maybe if a faculty member feels that they felt pressure from academic freedom, that could be addressed. Maybe we could focus on that.

IJ: Would that be where the ombuds would come into play, too? If a person felt that their academic freedom was stepped on, they could come in and get direction?

AC: Absolutely, but the ombuds office cannot defy policy. But if people are willing to have a conversation, we can mediate that and deal with the problem in a non-confrontational way.

RC: And maybe that’s the best mechanism.

AC: What’s the University of Utah do? Because they’re a research institution, academic freedom is one of their main pillars—is there a sense of how their policy addresses it, or if it addresses it?

JC: At the University of Miami, we had some issues like that, where people were just “You’ve got to go—bye!”, and until you’re tenured, you could be let go with no reason.

RC: It seems that’s pretty standard.

AC: The confidentiality issue is different—technically, there are only a few categories for privileged confidentiality...there are only a few such issues legally.

RC: Well, they’re incorporating that into policy. There’s employee relations, and I think that’s how they’re couching it—the employee files *are* confidential.

AC: And they’re saying that these verbal conversations are parts of the employee files?

RC: It’s fairly common that certain meetings are private and confidential. They’re declaring that. For committee members to feel comfortable speaking, it’s probably necessary as a rule.

JC: OK, so let’s say Professor. X privy to any of those meetings where people say “We should do something about this guy.”? Is it confidential *from* him?

RC: I’ll address the confidentiality issue further.

AC: Unless the employee him/herself, if it’s a meeting where they’re being told they won’t be reappointed...I could see how the *institution* would want that to remain confidential, but I’m not sure...do they make the faculty sign a confidentiality agreement?

RC: They don’t have to make you sign anything if the policy says they can make it confidential.

JC: Would you sign it?

AC: Well, that’s what I’m asking! Unless you have a legal gag rule or something—that’s about the person’s appointment!

NS: At one point in some of our discussions, we talked about the different between termination and non-reappointment. With termination, there is those processes.

RC: Correct.

AC: But not if you’re at-will.

NS: So they’re the same thing for non-probationary faculty.

RC: They have the same result, but they’re not the same thing.

NS: In a court of law, if you sued for wrongful termination, the school would have to present its case as to why, and in that case, it better not be about academic freedom because we clearly in policy say that everyone is entitled to that.

AC: But they don’t have to present a case at all. The policy says there is no appeals process.

RC: That’s how I tried to present it—is there an intermediate step before it went to a lawsuit? And there isn’t one right now.

AC: But when you sign a contract, you agree to be at-will, you commit to follow that rule, so I don’t see how there could be a legal action. Unless there has been a series of violations of the policy that would be legally actionable—that’s part of the risk of being a probationary faculty or staff member. Once you sign that contract to be an at-will employee, there’s not a lot of action there. But in terms of confidentiality, if you’re in the non-reappointment meeting, I’m unclear on how the person going through it would have to maintain confidentiality when they could be asked at another job “Well, what happened?”, I don’t see how they would have to be bound by that.

RC: The faculty member is never at the deliberations.

AC: Well, they are when they meet with HR to be told they’re not being reappointed.

RC: Right, but HR just has to tell them the results of the deliberations. HR will just say “We choose not to renew your contract”; they don’t have to say why.

AC: But in that moment, there’s no sense of confidentiality.

RC: It only applies to the deliberations and the meetings where the decision was made.

NS: We need to put in an umbrella allowing academic freedom for *all* faculty, and what’s our recourse, and what legal says, legal says.

AC: And with the Board of Regents policy about “at-will”—if it’s at all flexible about an appeals process for probationary faculty and staff, we should jump on it.

NS: And as much as we’d like to provide more than that, I don’t think we can.

RC: That sounds reasonable. Thank you very much for that—that was very helpful discussion! Now, the Faculty Salaries policy: has anyone had a chance to look at that? There are a few small things; two issues I'm most concerned about that I wanted to bring to your attention. One is that equity is the salary equity we've heard about is not guaranteed. The institution has made a commitment to *try* to make sure we're at—and this is the part that's odd—90% of equity. Equity is based on comparisons with peer institutions with the same types of positions. So all they've agreed to is 90% of what our peers make, and that they'll *try* to get that. Recently, they've been very consistent about providing that, but there's no guarantee. So the mechanism that Martha wrote in here to try to indirectly guarantee it is to tie it to overload. It says that if your salary doesn't meet 90% of equity, you're automatically eligible to teach extra overload, with the hope of shaming the institution and cause accreditation problems, because too much overload makes accreditation come down on you. That that will force the institution to practically maintain equity all the time.

JC: Is our overload more than is paid to adjuncts?

RC: No, it's the same rate.

JC: So there's no incentive for the university. If ours was double.

RC: It's not monetary pressure; it's accreditation pressure.

JC: We already have too many adjuncts.

RC: We're about at the maximum that accreditation allows. But it seems to me like it's such an indirect approach that I don't like philosophically tying the two together. Equity is about what your position is worth. How *much* we work—it's supposed to be a full-time load; implying that they *need* to work extra to make up for salary shortfalls means they have to find time somehow—either they have enough time or they don't. What's most problematic is that people that are that the most likely people to be desperate are the younger, less experienced and thus least capable faculty of handling overload, and they would burn out trying to keep up. Martha wants a wide point of view about this, so take this back to your faculty and ask if they're comfortable with tying these two things together.

JC: Are the Regents against having it spelled out in policy at least 90% equity?

RC: Right now, President Nadauld doesn't like financial constraints.

CB: Can we put it off until Spring?

RC: If we make this an issue, it will come up among the candidates. If we were to require policy language that ensures 90% equity, so it's no longer "we'll try."

CL: Is the 90% *try* in the policy?

RC: I think so—yes, "10% of equity benchmarks."

SL: That's for the overload.

RC: Oh...it may not...it's just something they've done in practice.

SL: Can you search for word "average."

RC: It's based on funding—that's the "we'll try" part. The institution has several financial obligations; it seems like this is a reasonable one to ask them to obligate themselves to. I don't like Faculty Senate taking the role of a union about this, but it seems like 90% is a pretty basic level, and saying that they can commit to this shouldn't be a big deal.

SL: Has this been modified over the last 3 weeks? I didn't see any mention of 90%.

RC: It's "within 10% of benchmarks."

SL: That's a new addition.

RC: Oh...well, it's in the version I've been working with. That's the reference; we could propose, for example, that "based on institutional funding" be replaced with language that obligates them. That would sever the tie with workload. We could limit to 3 overload credits is reasonable; that faculty are not obligated to work those is reasonable; and the provision that allows the Vice-President to authorize extra overload is fine because for some tenured faculty that have taught the same classes forever, teaching another section is not going to cause them a bunch of extra time and can be reasonable. But saying that it's automatically available just because we don't pay you enough seems to me to be a problem. So take that to your faculty and see what sentiments they share. Martha doesn't want to make the change based just on my word, and that's fine.

AC: Is there a reason that Martha is reticent to put the obligation on them? Did she give a reason for not approaching the issue directly?

RC: She hasn't given me one.

AC: She's very confident, and wouldn't do it this way without a good reason.

RC: I think she thought that this was the way that had the best chance of being accepted by administration.

JC: But the "We'll try" is not a *real* "We'll try" if they're not ready to put it in writing.

RC: It's not that much money per year in the grand scheme of things; we're getting better at achieving that goal. This year, it was like \$100,000. We're already close to it; *requiring* it to happen wouldn't be that much of a financial drain, but would mean a lot to faculty.

CB: I think it's better to throw it in there and have them push back, rather than give them the indirect thing and have them push back.

RC: I don't think they'd push back on this; I think they'd *rather* have faculty teach the extra credits; I don't think administration perceives that as much of a problem as *we* perceive it, but I've seen some faculty start to get burned out with the pressures of building toward university status. Some departments are hanging on by a thread because of implicit pressure from above to work those overload classes because who else are we going to get? It's hard to find qualified adjuncts for some disciplines. But we're getting to a point where that's not healthy, and that's what we want to watch out for. In a way, having the Vice-President and department chair have a say in whether or not you do the extra overload helps protect faculty, and if we guarantee equity, that's hopefully sufficient.

ST: Is this policy already posted for 30-day period?

RC: Yes.

ST: Then because we're not having another FSEC meeting for about a month, do we need to encourage our faculty to post their comments *now* so Martha gets them now?

AC: Yes.

RC: Yes, and cc me and NS so we can keep track, too.

NS: We have a general meeting next week.

RC: Yes, and I'll put this on as one of the issues.

IJ: Comments have to be posted by Feb. 28.

RC: They should send comments to the policy office and cc me and NS so we can ensure that they all get passed on.

SL: Did an e-mail to this effect go out already?

RC: Yes, about the policies in general, but we need to highlight some of these issues. Otherwise, people tend not to look at them.

AC: RC, can you put together a one-paragraph summary of the issue? So we're all on the same page on the exact same question and give feedback on *exactly* that issue, and comments aren't shifted to different perspectives. We can tailor that to our faculty. I think it helps.

JC: Because we're having this switch in administration, this might be the best time to do it.

RC: I think so.

JC: This administration has tried, but there's no guarantee that the new one will.

RC: But if the candidates see that it's an issue we're discussing publicly, that will come up. To diverge a little bit, there was an issue that came up about one of the presidential candidates. One candidate has already been really assertive in reaching out to the community about what they want. Some of you may have received things like invitations to a dinner. There was concern from the Board of Trustees that that approach was making people uncomfortable and they might establish some guidelines, but it looks like they won't do that. But feel free to say no, and pass on to your faculty that no one is obligated to meet or go to any private meetings with candidates. No one should feel pressured by faculty that support any one candidate. I know one of the faculty who's involved is a department chair, and other chairs have been invited; everyone is entitled to say no. Anyway, we submitted the Professional Development policy changes that we talked about, and Academic Integrity policy changes; those should be up for 30-day review very soon. Faculty Senate Constitution By-laws and Faculty Rights and Responsibilities will be coming along soon. I don't know how to address the Faculty Rights and Responsibilities—it's still overwhelming me. I know what the issues are, and I think we'll highlight a few issues and take them one at a time. Now that I've gone through these others, I can put my attention on those. We have a good summary of the issues, but I need to present those in a workable way. The last thing is the Student Accommodations policy. Here's the version I just received today. Academic Vice-President Christiansen prepared this following a meeting of the ad-hoc subcommittee that was formed from Academic Council to address this; there was very good discussion. The Dean of Visual and Performing Arts is respected as an administrator, and he had the same concerns we have and represented them very well; his school is greatly affected by this. He was very helpful. The old policy was roundly trounced; Vice-President Christiansen came up with one-page solution that didn't pass legal muster I don't think; this is the new version (passed out copy). There's a couple of small things I want to highlight on the back page. Subsection 4-2 (reads). Up to this point, everything is good: it's faculty members' responsibility to address content issues in their courses and to decide what's important. Then we get to 4-4: "...except that students can appeal." If there's an appeal, it's taken *out* of faculty members' hands. I pointed this out to Vice-President Christiansen today, and his response was brief, and said in essence that in the Student Rights and Responsibilities policy, students can appeal everything. My recommendation was that this appeal should be *very* limited in scope. For example, faculty members have right to determine what is presented in their classes to fulfill core and course outcomes—that should be the focus of what appeals will be. Therefore—and convincing students of this will be hard—students shouldn't be involved in the process because they really have no idea what's reasonable or appropriate for a faculty member to include in a course. The students want the appeals process to be from the perspective of the students. The request for a content accommodation was reasonable. As soon as we get into that, then we have to evaluate "Was their belief strongly held"? There's no definition for that.

AC: That was the problem in the very first meeting.

RC: And we're going to be back to that—was the belief “sincere”? Is it true that being forced to fulfill this course requirement will cause them harm, whether that's offense or...something? I'm proposing, and we need to discuss exactly how to do this, is...well, it looks like an appeal will be part of this, but we may be able to be better about what it will entail.

JC: And there's nothing here about what happens *after* the appeal is granted.

RC: All I want is for the appeal to address 4-6—that it wasn't “arbitrary and capricious” for the faculty member to deny a student's request for accommodation. That *should* be the focus of it.

NS: It's not whether or not I agree; it's that the faculty member gave an accommodation. But yes, whether or not it's “arbitrary and capricious” is exactly right—that's what should be worded in the appeal.

RC: Brent Hanson's example was about watching certain, R-rated movies in a film studies class—he could have designed the course without that, but he felt that they were the *best* way to deal with the material he wanted to cover. One of those movies is very intense and involves children, and some students will be uncomfortable with that, but his choice was reasonable to fulfill the outcomes—not that it was the *only* option, but it was a *reasonable* option. And a decision to deny a student's request for accommodation wasn't arbitrary or capricious. If that's the extent of it, I think that might be OK. What do you think?

JC: This whole thing has always irked me to no end. But since we *are* discussing it, I don't understand at what point that these people are in college and are *meant* to be exposed to ideas that are new to them.

JDH: Welcome to Utah.

RC: Well, no, let me give you an example! A friend of mine teaches biology at a community college in New Mexico that is right next to a reservation. One of the beliefs of the people on the reservation is that they cannot have contact with dead tissue; it makes them impure. It's a strong believe. At first, they said that that was fine because there's a purification ritual—it costs something like \$5000, and students can go through that, but students can't often afford that. So they put all the cadaver issues into one period of time so all the students would be exposed at once and could go through one single purification ritual once in their career. But then they found out that even a few dead tissue on a microscope slide counted.

JC: I'd have to say that they don't belong in biology.

RC: But they have the best funded lab equipment in the country for a community college because they qualify for all kinds of grants because they serve a Native American population. They have tones of cutting-edge equipment because of that. So they wanted to be reasonable in their accommodation, and they found a way, which was working with the group. There, they had *one* group to deal with; we don't have that—we have a bunch of individuals with different beliefs, and it will have to be done on a case-by-case basis. But the fact is, that there was a settlement that *suggested* that the courts would favor students if we were arbitrary or capricious. If you read this, be very careful about saying that there *will* be content that violates people's beliefs, and that content *will* be necessary to meet course and program objectives, and reasonable accommodations might include things like having to take a different class instead that will still help students graduate. Another point is that faculty will be strongly encouraged to highlight potentially controversial things in their syllabi—it shouldn't take much. For instance, you could say “Some people don't like evolution, and some people might find this objectionable,” or “Some people don't like R-rated movies, and some people might find this objectionable.” And that would be the extent of it. It should be something very brief; it's a suggestion, but the sooner students find out that an accommodation is needed, the sooner it can get resolved. If the resolution is in the first few weeks of class that they have to drop and take a different class, that's a better solution. If it's not until two-thirds of the way through the semester, and a student is only taking 12 credits, dropping a class might cause them to lose their financial aid, which is a much bigger issue and a harsher penalty. So having these done sooner than later is part of “Reasonableness.” Students just need information to make a decision, and should limit the accommodations faculty have to make.

JC: I'm worried that this will be a lot of pressure to conform to cultural standards.

RC: The purpose is so that you don't *have* to conform.

CB: Can we fold 4-3 into 4-4? If the appeals process was first, the department chair reviews the material to determine if it's reasonable. If so, then they can appeal to make sure it's not arbitrary and capricious.

RC: I think that was the intent, but we can reword this to be more explicit.

CB: In the language of 4-3, the language could actually *say* that students could appeal to department chair as step #1. Then the later appeal is a *second* one—they can appeal for content, and *then* for capriciousness.

RC: That's great!

NS: I think that's inferred, but spelling it out would be great.

RC: Now, a couple of other, minor things that we'll want to incorporate into this, but this is the next stage of addressing this. Thanks for your feedback. One more thing: every semester, we get a statement about faculty rights not to proselytize. I think it's also important that faculty not expect students to *believe* things—they have to *understand* content, but not accept it as true. We get complaints about proselytizing on both sides. If it's helpful, the number of complaints on this has dropped a lot this year. That's good! Del Beatty is happy about that. But that shouldn't happen because faculty are feeling pressured to avoid topics; just “here's what you need to know, here's what the field tells us, and you need to

understand how the data fit with the theory. If that still bothers you, then you need to find another course.” And that’s reasonable accommodation, telling them that.

JC: I worry that in departments where multiple professors teach multiple classes, it’s easier for students to dislike a book from *this* person’s course, so let’s make them not teach with that book or not teach this course—it gets taken out of their hands. The chair might just refuse to deal with it.

RC: There’s nothing there about that—the only provision is that faculty get to vote on their department. chair.

JC: This is the first place I’ve ever been where students draw clothes on naked people in textbook!

RC: Psychology just started teaching a human sexuality class, and it’s a popular course! So there *has* been a need for that for a long time. I think the perspective is changing—there were assumptions about what students wanted, and these accommodation issues *are* rare. We just want a policy in place so when a lawyer parent *does* bring a lawsuit, we have protection. But as a practical matter, I don’t see the issue to come up, and the intent is *not* that faculty should dumb-down content to avoid controversy. That’s why we want to clarify things like this appeals process; when it’s vague, it’s left back up to the courts. My last issue is about undergraduate research: we’re getting more resources available. As an encouraging note, all faculty going to UCUR had their travel paid for, I heard from Steve Armstrong. And students are getting a lot of money for their travel, too, at least half of it. The administration is starting to back up the push for undergraduate research. If you have students that are doing research, refer them to their student senator—they have money available. If your student senator isn’t making him/herself known, seek them out, or contact Del Beatty’s office and ask. If they’re working on one of your projects, money might be available.

AC: The Student Government web site is pretty helpful—there’s a page there that lists all the senators. And on Orgsync, as well.

RC: That was my attempt to end on a good note. Oh, and the web site is going really well—LJ has done a great job! If you wonder where the meetings are, that’s there; the minutes are all up.

LJ: (showing pages on screen) I have the committees that are under us. If you know of any links to individual committees, let me know and I’ll link them here. Professional Development is here—there are e-mail links, and the Professional Development request form.

RC: There’ll be a new one later once the policy is updated.

LJ: The 2002 Constitution is there, and here’s the minutes that we have; I haven’t yet attached them, but I have them all, and wanted to see if this format was OK. (Lots of yeses.) Here are links to faculty policies; I can do what we want with that. And here’s a site for interesting articles. The only link that isn’t live is the directory—do we want photos on it?

AC: Pictures are useful.

LJ: These are all the departments with representatives; the blanks are departments that don’t have representatives.

RC: Integrated Studies doesn’t exist anymore. Can I ask for one more thing? Could you add a page for discussion or some kind of “submit comments”? That would be better than Dixieall or Opine, which cause so many people consternation.

LJ: Do you want it as an ongoing live site or a “send comments to” thing?

RC: Both—if they want to send private comments to the FSEC, they can, or else post publicly.

JC: For each policy, there should be a thread. (Lots of agreement.)

LJ: Not sure if was can do that, but I’ll check. Other than that ,it’s live.

RC: As an indirect, clumsy alternative, we could have a link to a Canvas page for faculty. Any last comments? (None.)