

Minutes of the Faculty Senate
February 5, 2007

Attendees: Anderson-Connolly, Anton (chair), Bristow, Foster, Haltom, Hanson, Joshi, McGruder, Ostrom, Racine, Ryken, Rowe, Singleton, Sousa, DeMarais (guest)

Dean Bartanen conveyed a request through Chair Anton for the sense of the Senate that it would be helpful to have an attorney offer information to faculty on writing letters of recommendation and letters of evaluation. Dean Bartanen was responding to a request from the Senate conveyed in the so-called "Governance Document." McGruder asked that the session address the question of the excision of "personal and professional characteristics" from evaluation criteria, and what this means for what faculty can and cannot write in evaluation letters. With this understanding, the Senate acknowledged that this presentation would be most welcome.

Chair's report

Anton reported that there were questions at the faculty meeting about proposed changes to the by-laws. There were questions about the addition of the word "tenured" to the language on FAC membership, and about the language concerning faculty's relationship to student media. Anton has asked the Student Life Committee, in consultation with the Dean of Students and Senator Singleton to develop some language that might be acceptable to all parties.

Remembering the past

Anton proposed accepting the minutes of the last meeting. This motion was seconded and passed.

Old business

Ostrom offered a new motion as a substitute for the motion he had introduced near the end of the previous Senate meeting. M/S/P that the new Ostrom motion replace the old. This motion read

Statement

The Faculty Senate takes responsibility for the mistakes made by the Professional Standards Committee (PSC) and the Senate in 2003-2004. At the same time, the Senate recognizes that 2003-2004 was an exceptionally difficult year for the PSC, one that involved serious cases, multiple grievances, and cause for a formal hearing. The Senate also acknowledges that it cannot know all the factors contributing to the PSC's many decisions that year. In taking responsibility for some of those decisions, the Senate of 2006-2007 is fulfilling its duty to the faculty to insure that governance proceeds according to the *Bylaws* of the university and the *Faculty Code*. With the exception of the Faculty Salary Committee, the Senate is the faculty's only directly elected governance-body and thus bears a special responsibility with regard to the operation of standing committees. From this juncture forward, however, the Senate's goal shall be to

consider and refine recommendations made by the two ad hoc committees recently appointed by the Senate, particularly those made by the more recent committee. [The committees were the Ad Hoc Committee on Evaluation (Bristow, Foster, Ostrom, Tullis); and the Ad Hoc Committee on Professional Standards (Bristow, Hanson, Sousa).] Our aim is to send adopted recommendations to the faculty for its review, recommendations intended to improve governance. The Senate may reflect on decisions made in 2003-2004, but only to the limited extent that these may productively inform the Senate's discussion of particular recommendations or of systemic problems such recommendations are aimed at solving. Finally, the Senate notes that, in connection with several recommendations, senators and the current chair of the PSC have been cooperating amicably.

Anton read a response from Kris Bartanen to the motion that Ostrom had originally introduced. Vice President Bartanen's note was dated February 2. This response stated Bartanen's opposition to accepting the earlier Ostrom memo (dated November 29, 2006) and to any apology by the Senate for past errors by faculty committees. The full text of Dean Bartanen's note read:

Dear fellow senators,

Because I am unable to attend the Faculty Senate meeting on Monday, February 5, due to a professional meeting, I write to explain briefly why I would vote against "accepting" the Ostrom memo and would vote against an apology by the Senate.

The Senate has responded responsibly to concerns raised about the faculty evaluation process and the faculty grievance process by naming two ad hoc task forces to look into the concerns, formulate recommendations, and bring those recommendations back to the Senate for deliberative action. The Senate can respond responsibly to remaining issues by addressing the task force recommendations, about which there will be agreement and disagreement, and by moving forward for faculty consideration those recommendations which the Senate members – in their best professional judgment – find hold promise for improving faculty governance processes.

Faculty governance is governance by human beings – professional peers who bring their best (but imperfect) judgments to important questions and issues. It is undermining of faculty governance, nearly three years after the fact, for the Senate to move away from its deliberative responsibility into a forensic or judicial mode – to go back to second guess events, surmise causes and effects, and issue apologies. Furthermore, in the absence of any standard for apology, such a step is bad precedent.

Given actions by the university related to personnel issues raised by the two individuals named in the Ostrom memo, it is not necessary or advisable that the Senate extend apologies.

Sincerely,
Kris Bartanen

Anton noted that Vice President Bartanen opposes any apology. His understanding of things is that it is also Bartanen's view that the university is not open to litigation if the Senate recognizes past errors.

Singleton pointed out that the Dean thought no apology necessary or advisable, and wanted it known that in the Dean's words an apology was not advisable.

Ostrom said that before the Senate could move forward to consider recommendations for changing the *Code*, it needed to acknowledge the mistakes of the past. He noted that it was important for the Senate to engage in oversight, as guardian of the By-Laws. He noted that at this time the FAC, which has not appointed a chair, is in violation of the requirement that all committees have a chair. He insisted that his concerns are not personal. McGruder agreed with Ostrom.

Anderson-Connolly said that before any apology or acknowledgement of mistakes we should specify charges and look at the evidence. Proceeding in the absence of specific charges and evidence to test those charges would be bad procedure.

Singleton observed that short of following Anderson-Connolly's suggestion the Senate could not simply assert that "mistakes were made" on the basis of evidence presented to the Senate in the Ostrom memo. He notes that there are other narratives, other accounts of the events, and that a delay beyond the fifteen day limit for a hearing, while a technical violation of the Code, might easily be explained by mitigating circumstances. He offered that he was aware of a different version of events than that found in the Ostrom memo.

Ostrom argued that the Ad Hoc Committee on Professional Standards (AHCPS), which reported no findings, probably found mistakes that informed its recommendations. He acknowledged that the Senate cannot know all of the complications in these matters, but that the delay he cited in his memo was a clear *Code* violation and the fact that the hearing board in a tenure case held no hearing was a clear *Code* violation.

Joshi asked for clarification of the reasons for the formation of the AHCPS. Bristow explained that it was rooted in the controversy over allegations about the handling of plagiarism charges against a faculty member in Fall 2005. Bristow noted that it is now apparent that senators differ about the purpose of the AHCPS. Anton noted that the animating question in the discussion leading to the creation of the AHCPS was "Is the *Code* adequate to address the issue of faculty plagiarism?"

McGruder insisted that the AHCPS was created to focus on controversies surrounding the grievance process that arose in 2003-04, citing the language of the motion that passed creating the committee.

Anderson-Connolly noted that the AHCPS did not produce any findings and thus no clear evidence of mistakes, and noted that the committee took testimony from a "self-selected"

group. He asked whether the PSC chair would be allowed to respond to these allegations and to give her version of events. He said that the Ostrom memo was not enough on which to base support for the Ostrom motion and any conclusion that there had been “mistakes” to take responsibility for.

Ostrom replied that we should probably take two or three meetings to work through the evidence he has accumulated.

Singleton said that he preferred that we not do this. He noted that the AHCPS had explored these issues and generated useful recommendations that would in some form likely pass the Senate and be accepted by the full faculty. The Senate had been making good progress on these recommendations until we were drawn into the current discussion about the past.

McGruder said that the reason that we are mired in this is that we don’t have a shared history. This is the result of the failure of the AHCPS to recapitulate what happened. She said that the evidence that some mistakes were made is incontrovertible. The Senate should acknowledge that the PSC erred. McGruder suggested that members of the 2003-2004 PSC would feel liberated by the proposed Senate action.

Singleton said that the PSC members would not feel liberated. Instead, they would be affronted by this high-handed and ill-informed action, taken when they had no opportunity to present their views.

McGruder responded that the minutes are widely distributed and that PSC members interested in this discussion could have shown up at the Senate meeting. Bristow cited the strong confidentiality requirements perceived by PSC members, and said that it was understandable that none would come to discuss these matters. Anderson Connolly said that their absence was not evidence of their guilt. McGruder responded that nobody had said that it was.

Ryken expressed concern that this action by the Senate would undermine colleagues’ interest in service to the university. She noted that the lack of attendance at this meeting and at faculty meetings may suggest that changes in Code language about the function of the PSC is not an issue that resonates with faculty.

McGruder asked that the members of AHCPS state how they viewed the history. Hanson replied that he found it difficult to make judgments about whether there were *Code* violations or mistakes. He heard multiple narratives and came to the realization that it would take another year to sort these things out. He concluded that it was not necessary for the committee to know whether allegations were true or not. It learned a great deal about problems, real and potential, in the grievance process, and AHCPS made recommendations focused on not any proven “mistake” but on problems it saw in the *Code*.

Sousa agreed with Hanson that the AHCPS was not an adjudicative body. It heard allegations and responses, but it did not undertake the investigations necessary to sort all of these things out. He acknowledged that as he added up all he learned, he had concluded that there probably were mistakes. Sousa said that he could not assert this with 100% certainty, and noted that he did not think this judgment was necessary to advance the work of AHCPS.

Bristow observed that the creation of the AHCPS clearly meant different things to different people. She asserted that if she believed that the committee was expected to produce the kind of finding that some clearly wanted, she would not have agreed to serve. She noted that the AHCPS discussed whether it was necessary for it to produce such findings, and that all committee members agreed that AHCPS did not need to do this to achieve its goals.

Singleton wondered whether violating the *Code* in all circumstances is a mistake. Are we so bound by the *Code* that we would ignore mitigating factors, and the possibility that decisions were taken to delay a grievance hearing to actually enhance fairness?

Haltom argued that by citing mitigating circumstances, Singleton was acknowledging the violation. He then offered a summary assessment of alleged errors made by PSC in 2003-04 in one grievance. These included (a) missing the 15 day deadline for a hearing established in the *Code*, (b) interpreting the *Code* reference to “days” to mean “working days,” (c) missing the 15 “working day” deadline, and then (d) holding a meeting that lacked the requirements for a formal hearing and declaring that meeting the start of the hearing.

Singleton replied that it is hard to know whether any of these actions were “mistakes” without knowledge of the constellation of factors surrounding these events.

Anderson Connolly noted that AHCPS proposed amending the *Code* to allow extensions of the 15 day limit when justice requires delay. If somebody needs more time and the parties all agree, is this a real problem? He is unwilling to support a motion saying that the PSC had a “terrible year” if it had good reasons for its actions. He noted that the Sixth Amendment to the Constitution guarantees a right to a speedy trial, but that this requirement is routinely violated in the interest of justice.

McGruder called the question.

Bristow requested a paper ballot.

The Ostrom motion carried by a vote of 7 to 6 with one abstention.

The rest of the meeting was taken up with a discussion of how to proceed with the AHCPS recommendations and with discussion of other issues raised for the Senate in the AHCPS report. The secretary cannot determine whether the Senate made any progress at all. The following points emerged in the discussion, which is organized by topic because

his notes read like a transcription of many different, simultaneous cell phone conversations.

Ombudsperson

Haltom suggested that the Senate would bog down if it tried to define the ombudsperson position that it has discussed, and suggested that for the time being we leave this role to the Dean and move on, returning to this issue later. Foster agreed. Bristow asked whether someone really interested in the ombudsperson could work up some language for us to discuss. Joshi said that she thinks that the role of ombudsperson should be filled by a faculty member other than the Dean or anyone else in an evaluative position.

AHCPS recommendations

Hanson thought that the core recommendations of the committee were being left behind, hoped for some focused discussion of the committee's recommendations, and welcomed senators' ideas about improving upon the committee's work. Bristow said that if we move to the AHCPS recommendations she hoped we would not lose sight of the "convergence document" that summarizes the overlapping concerns of AHCPS and the Ad Hoc Committee on Evaluation. McGruder said that she thought that all of the AHCPS recommendations need to be fully addressed.

Removing the dean from the PSC?

Joshi asked why AHCPS had left this in its "questions for discussion" section rather than making a recommendation. Hanson said that this was a suggestion the committee heard from some colleagues, but that AHCPS members had not felt strongly one way or the other on this issue. Don Share has written specific language for a By Laws revision that would remove the Dean from the PSC. Ostrom will provide this language to senators in advance of the next meeting.

Respectfully submitted,

David Sousa
Secretary