

University of Puget Sound
Faculty Meeting Minutes
October 24, 2005

1. President Thomas called the meeting to order at 4:07 p.m. in McIntyre 103. Forty-five voting members of the faculty were present by 4:30 p.m.
2. The minutes of the September 7, 2005 faculty meeting were approved as distributed.
3. In response to President Thomas's call for announcements were seven rapid-fire announcements of various lectures and meetings scheduled in the upcoming days and weeks.
4. President Thomas reported on the work of trustees at their recent retreat. This work included a review of the strategic plan. The plan was summarized for the board and tactics and strategies were discussed. In February President Thomas will present to trustees a "streamlined list of needs and wants." At his request the trustees formed a President's Advisory Committee, consisting of trustees, to advise him on the timing, scope, and scale of the next capital campaign.

President Thomas reported that the science center fund-raising campaign achieved the \$17.6 million commitment level required to qualify for the Kresge and one other matching grant. He thanked faculty for their hard work. He said the original target was \$10.5 million, so we are doing quite well, although there is still a long way to go.

5. Dean Bartanen reminded department chairs of the meeting this Wednesday, October 26, at 8:00. She reported also that members of the Faculty Advancement Committee will be meeting with new faculty on Thursday morning, October 27. She congratulated biology professor Andreas Madlung for his successful National Science Foundation grant application, and she extended best wishes to business and leadership Professor Lisa Johnson on her application for a Fulbright.
6. Faculty Senate Chair Barry Anton reported that the Faculty Senate is having a busy year. He said the senate held a retreat last summer, which Bill Breitenbach attended for the Professional Standards Committee. An outcome of the retreat was the senate's new liaison system, whereby various members of the senate serve as liaisons to each of the senate's standing committees. Professor Anton reported that the senate has been looking at the academic calendar and has approved a not-yet-finalized motion to extend fall break by an additional day, Tuesday, and that the Wednesday before Thanksgiving be a safety travel day. He said the resulting five days off from classes during fall semester parallels the week-long spring break. The senate will look at the spring schedule during upcoming meetings. He said that past and future senate topics include the medical leave policy, tenure and evaluation, and "the new automated advising system." He said the next meeting of the senate will be held on October 31 at 4:00 p.m., although other fall meetings begin at 4:30 p.m.
7. We turned to a first reading of the Professional Standards Committee's (PSC) proposed amendment to sections 6 and 7 of chapter III of the Faculty Code. Copies of the proposal

accompanied the agenda for today's meeting and are attached to these minutes. Hard copies were available at the meeting. President Thomas turned to Carolyn Weisz, who presented the proposal for the PSC and provided background. She said the PSC identified several issues that needed to be addressed. For example, now that there are opportunities for appeals at two levels, the current proposal creates an expanded roster of hearing board members. Because this was a first reading, there was no significant discussion of the proposal at today's meeting.

8. We next discussed the implications of the "Code of Conduct" adopted by the trustees on May 13, 2005. (The "Code of Conduct" is available online at <http://www2.ups.edu/humanresources/zxxx/manual/cplcycofc.htm>). Anton said that, while the Faculty Code guides our employment, some of the language in the new Code of Conduct is "a little rough as it lines up with Faculty Code language." He reported that a committee of trustees is working with a subcommittee of campus constituents to try to make the language more consistent between the two documents. This committee will meet in November.

President Thomas turned to Sherry Mondou, who explained that the group will suggest how to make the Code of Conduct language clearer, because there is no intention to replace the Faculty Code. She said she is working with the audit committee of the trustees and can report that their intention is not in any way to supersede the Faculty Code. She said the committee consulted with counsel, but the language is still a bit rough and that they are working to fix this.

Jim Evans asked why the document was not submitted to the faculty for discussion and approval. Mondou responded that the audit committee felt it was their responsibility to put the document into place and that it would apply to everyone on campus, including themselves. They believed that because they were not changing or amending in any way the Faculty Code, the committee felt it was reasonable to put together this draft that applied to everyone. She said "there was some urgency about it," but the committee was open to refining and making modifications to the document. She said there was discussion with Bill Beardsley, who was then Faculty Senate Chair, who advised the committee to make it clear that the Code of Conduct in no way supersedes the Faculty Code.

Bill Haltom pointed out that Mott Greene (not present at the meeting) asked that this item be placed on today's agenda for discussion, and reported that, among Greene's concerns was the apprehension that the Code of Conduct, while perhaps not superseding the Faculty Code, could supplement it. As an example, the thirty day statute of limitations in the code for launching a grievance has no similar statute of limitation in the Code of Conduct for someone using the whistle blower provision. The concern is that, once the statute of limitation runs out under the Faculty Code, the Code of Conduct extends the deadline. He said that this is an example of something that should be addressed.

President Thomas suggested that, perhaps by virtue of its silence on the question of statute of limitations, the Code of Conduct defers to existing documents.

Mondou said that a group of six persons, including Bill Beardsley, Liz Collins, Mike Segawa, John Hickey, Rosa Beth Gibson, and Janet Hallman is working on this and other concerns. President Thomas asked that faculty with concerns about the Code of Conduct communicate with Mondou about them.

President Thomas called for new business and Suzanne Holland expressed concern about “the chronic email thing that is going on week after week.” President Thomas, noting that the senior officer responsible for the Office of Information Services (OIS) was in attendance today, turned to Mondou, who explained that, while we had reliable email service up until about a month ago, problems were caused by a disk failure that was difficult to diagnose. She said we are now experiencing only sporadic malfunctions. She suggested that those experiencing such problems should call the OIS Help Desk. She went on to say that OIS has plans to replace the current email system, hopefully in the spring semester.

There being no further business we adjourned at 4:40 p.m.

Respectfully submitted,

John M. Finney
Secretary of the Faculty

DRAFT REVISION OF CHAPTER III, SECTIONS 6 AND 7
Prepared by the Professional Standards Committee
October 12, 2005

Section 6 – Procedure for an Appeal

An appeal is decided by a hearing board. The function of a hearing board shall be to determine whether there have been violations of the code, as alleged by the appellant. Unless otherwise stated, the provisions of this section apply to all appeals authorized in Chapter III, Section 4.

a. Initiation of an Appeal:

- (1) An evaluatee may initiate a formal appeal to a hearing board at two stages in the evaluation process:
 - (a) after the evaluation by the department, school, or program
 - (b) after the evaluation by the Advancement Committee
- (2) Grounds and deadlines for formal appeals
 - (a) A formal appeal of the evaluation by the department, school, or program is limited to issues affecting fairness, completeness, or adequacy of consideration by the department, school, or program in conducting the evaluation. The appeal must be initiated within ten (10) working days after the evaluatee has completed reviewing the evaluation file that the department, school, or program forwarded to the dean and the Advancement Committee (Chapter III, Section 4.b.(3) and 4.b.(4)).
 - (b) A formal appeal of the evaluation by the Advancement Committee is limited to questions of fairness, completeness, or adequacy of consideration by the Advancement Committee in conducting the evaluation. It may not raise questions about the evaluation at the departmental level unless the questions pertain to duties of the Advancement Committee specified in the code. The appeal must be initiated by the evaluatee within five (5) working days after receiving the Advancement Committee's recommendation (Chapter III, Section 4.c.(6)).
- (3) To initiate a formal appeal, the evaluatee must submit a list specifying alleged violations of the code to the chairperson of the Professional Standards Committee within the time limits provided.
- (4) The chairperson of the Professional Standards Committee shall provide a copy of the list of alleged code violations to the department, school, or program (if the

evaluee is appealing its evaluation) or to the Advancement Committee (if the evaluee is appealing its evaluation).

(5) Response to an appeal

- (a) In a formal appeal of an evaluation conducted by a department, school, or program, the head officer (or the person performing the functions of the head officer in the evaluation, as provided by Chapter III, section 4.a (3)(a)) will serve as the respondent for the department, school, or program. If the head officer (or the person performing the functions of the head officer in the evaluation) is unable to so serve, the dean will appoint a person to serve as the respondent for the department, school, or program.
- (b) In an appeal of an evaluation conducted by the Advancement Committee, the Advancement Committee will designate one of its members as the respondent.
- (c) Any response from the department, school, or program to an appeal shall be submitted to the chairperson of the Professional Standards Committee within ten (10) working days of the receipt of the list of alleged code violations. In formulating this response, the respondent (as defined above) shall consult with the members of the department, school, or program who participated in the evaluation conducted by the department, school, or program. The document shall represent the response of the department, school, or program, and not the personal response of the respondent. Any member of the department, school, or program who participated in the evaluation and who dissents from the departmental response may submit a written dissent, which shall be provided to the respondent to forward, along with the response of the department, school, or program, to the chairperson of the Professional Standards Committee. The chairperson of the Professional Standards Committee shall transmit the response and any dissent to the appellant and to the hearing board.
- (d) Any response to an appeal from the Advancement Committee and any dissent to that response shall be submitted to the chairperson of the Professional Standards Committee within ten (10) working days of the receipt of the list of alleged code violations. The chairperson of the Professional Standards Committee shall transmit the response and any dissent to the appellant and to the hearing board.
- (e) The chairperson of the Professional Standards Committee and the chairperson of the hearing board may grant an extension for submission of a response or a dissent from either a department, school, or program or the Advancement Committee if a respondent or a dissenter demonstrates that he or she was unable, due to circumstances beyond his or her control, to complete the response or dissent within the ten (10) working day limit.

- b. **Hearing Board Roster:** A hearing board roster will be established annually by the Faculty Senate executive officers. The hearing board roster will consist of all tenured members of the faculty, subject to their consent and to the following exclusions. The chairperson of the Faculty Senate, members of the Faculty Advancement Committee, and members of the Professional Standards Committee are excluded from the hearing board roster. Faculty members who are on leave are excluded from service on a hearing board.
- c. **Formation of a hearing board:** Upon receipt of the list of alleged code violations, the chairperson of the Professional Standards Committee shall meet with the chairperson of the Faculty Senate, the appellant, and the respondent within five (5) working days to form a hearing board composed of five (5) members from the hearing board roster.
 - (1) Excluded from the hearing board will be members of the appellant's department, school, or program, and all others with direct interest in the matter as determined by the chairperson of the Professional Standards Committee and the chairperson of the Faculty Senate (or by a designated member of the appropriate body if its chairperson may be affected by the exclusion principle). If either chairperson (or designee) votes for elimination, the faculty member is not selected to the hearing board.
 - (2) Excluded from selection are members of the hearing board roster in current service on another hearing board.
 - (3) If in the same evaluation process an evaluatee appeals the evaluation conducted by the department, school, or program *and* the evaluation conducted by the Advancement Committee, faculty members who served on the first hearing board are excluded from service on the second hearing board.
 - (4) The following process shall be used to constitute a hearing board:
 - (a) Eight names shall be selected at random by the chairperson of the Faculty Senate and the chairperson of the Professional Standards Committee from those names remaining on the hearing board roster after the exclusions noted above have been taken into account.
 - (b) The appellant and the respondent may then challenge any name on the list of eight on account of interest or bias. The order of challenge shall be determined by lot, with each side alternating. Challenges on account of interest or bias shall be ruled upon jointly by the chairperson (or designee) of the Professional Standards Committee and the chairperson (or designee) of the Faculty Senate. If either votes for elimination, the faculty member is eliminated, and an additional name is selected from the hearing board roster. The additional name may also be challenged on account of interest or bias.

- (c) The appellant and the respondent may then exercise no more than two challenges against the eight names remaining on the list without stating cause. If any person is eliminated, an additional name shall be selected from the hearing board roster. The additional name may be challenged on account of interest or bias. The appellant or the respondent may also challenge the additional name without stating cause, until the two permitted challenges without stating cause have been exercised.
 - (d) The first five faculty members selected to the list shall constitute the hearing board. The sixth, seventh, and eighth named faculty members will stand, in that order, as alternates. Alternates will not participate in the appeal unless one or more of the five hearing board members cannot serve from the beginning of the hearing board process.
- (5) The normal presumption is that the faculty members will serve on a hearing board to which they are selected. The chairperson of the Faculty Senate and the chairperson of the Professional Standards Committee may, if both agree, exclude a faculty member from service based on a self-disclosed conflict of interest, hardship, or other good cause shown.
 - (6) In the event that one member of a hearing board is unable to complete service after the hearing board process has begun, the hearing board shall continue with four members if the appellant and the respondent agree. If either the appellant or the respondent objects, a new hearing board will be formed. If more than one member is unable to complete service, a new hearing board will be formed, using the process outlined above.
 - (7) The hearing board shall hold its first meeting within five (5) working days of its selection and shall elect a chairperson. At this initial meeting the hearing board shall also elect a secretary to record the actions of the hearing board. The chairperson of the Professional Standards Committee or designee shall attend this initial meeting and shall give the appellant's list of alleged code violations to the chairperson of the hearing board as soon as that person is elected.
 - (8) Hearing board members are to treat the proceedings as confidential.
- d. Determination of probable cause:
- (1) The hearing board shall meet without the presence of the appellant and respondent in order to determine whether there exists probable cause for an appeal. In making that determination, the hearing board shall review the appellant's list of alleged code violations, the respondent's response, and any dissents, and shall have access to all files and records involved in the evaluation process.

- (2) Within ten (10) working days of receipt of the respondent's response and any dissents, the hearing board shall determine, based on its review of the written materials, whether there exists probable cause for an appeal.
- (3) If two (2) or more members of the hearing board determine that probable cause for an appeal exists, a hearing shall be held by the hearing board pursuant to Chapter III, Section 7.
- (4) If the hearing board determines that probable cause for an appeal does not exist, it shall so notify the appellant, the respondent, the dean, and the chairperson of the Professional Standards Committee. The hearing board's written determination of no probable cause shall be included in the evaluation file, along with the appellant's list of alleged code violations, the respondent's response, and any dissents. The evaluation file, with these items included, then moves to the next stage of the evaluation process.

Section 7 – Procedure for a Hearing

- a. A hearing may extend over more than one meeting of a hearing board. The appellant and the respondent may be present at all meetings of a hearing. The appellant and the respondent may be assisted at a hearing by legal counsel or by non-lawyer counsel. The appellant may also be assisted by an academic colleague.
- b. Hearings shall not be open to the public. The only persons present shall be those persons whose presence is allowed by the sections of this chapter pertaining to appeals and hearings. However, at the request of either the appellant or respondent, and subject to the concurrence of the hearing board, a representative of an educational association or other appropriate association shall be allowed to observe a hearing.
- c. In all cases, the university shall make an electronic record of a hearing. If requested by the appellant or respondent, the university shall provide a copy of the electronic record or a verbatim transcript of the hearing paid for by the requesting party. The electronic record made of a hearing shall be retained by the university for six years after the hearing board makes its report.
- d. The chairperson of the hearing board shall preside at a hearing and shall handle administrative duties, such as giving notices and speaking for the hearing board. He or she shall rule on matters of procedure and evidence, subject to being overruled by a majority of the hearing board.
- e. The hearsay rule or other exclusionary rules of evidence used in courts of law shall not apply.
- f. The hearing board shall confine its review and its judgments to the stage of evaluation that is under appeal. The evidence on review in a hearing shall be substantially confined to the written record on which the department, school, or program or the

Advancement Committee made its decision. This evidence should not be significantly expanded at the hearing by the admission of testimony and information not previously considered by the department, school, or program or by the Advancement Committee. The appellant or the respondent may offer to present additional evidence deemed relevant, and the hearing board at its discretion may hear or decline to hear such additional evidence. If witnesses testify, they may be cross-examined by the opposing party. Witnesses may be permitted to testify by signed written statements if, in the hearing board's judgment, that is the most feasible way of presenting their evidence and if the opposing party is not substantially prejudiced by the lack of opportunity to cross-examine. The hearing board shall have no duty to seek or to present evidence but may do so if, in its judgment, justice requires it.

- g. Insofar as practicable, each party shall assist the other in obtaining witnesses and evidence when the party's assistance is necessary or helpful. Each party shall make specifically requested and relevant documents or other tangible evidence in its possession available, where possible, to the other party for presentation to the hearing board.
- h. After completion of a hearing, the hearing board shall meet to deliberate and come to a decision. Deliberative meetings shall be conducted without the appellant and respondent present and without making an electronic record. The decision of the hearing board will be limited to questions of the fairness, completeness, or adequacy of consideration in the evaluation conducted by the department, school, or program or by the Advancement Committee. The decision shall be based on whether the evidence in the written record and the evidence received during the appeal process and the hearing clearly show that there have been violations of the code as alleged by the appellant.
- i. Within ten (10) working days after completion of a hearing, the hearing board shall render its decision. The decision of the majority of the hearing board and any dissent by a minority of the hearing board shall be transmitted in writing to the appellant, the respondent, and the dean. The hearing board's majority decision, any minority dissents, and any exhibits received in the hearing, along with the appellant's list of alleged code violations, the respondent's response, and any dissents by members of the department, school, or program or by members of the Advancement Committee, are added to the evaluation file, which moves forward to the next stage of the evaluation process. When the hearing board issues its decision, it shall also notify the PSC chair that the work of the hearing board has been completed.
- j. If a hearing board determines that the code has been violated, it has the option of referring the matter for correction of deficiencies to the school, department, or program in the case of an appeal at that level, or to the Advancement Committee in the case of an appeal at that level. A hearing board may suggest, but cannot dictate or enforce, methods for correction of deficiencies. A hearing board is disbanded once it has performed its function of deciding whether there have been violations of the code, as alleged by the appellant. It is the responsibility of the body or individual at the

next stage of the evaluation process to insure that correctable deficiencies have been corrected.

- k. The chairperson of the hearing board shall deliver to the dean in a sealed envelope the electronic record of the hearing and copies of the hearing board's majority decision, any minority dissents, any exhibits received in the hearing, the appellant's list of alleged code violations, the respondent's response, and any dissents by members of the department, school, or program or by members of the Advancement Committee. The dean shall retain these materials for six years after the hearing board makes its report.