

Faculty Meeting Minutes March 24, 1998

President Pierce called the meeting to order at 4:03 p.m. Eighteen voting members of the faculty were present.

Minutes of the March 11, 1998 faculty meeting had not yet been distributed, so approval was deferred until the next meeting.

Grace Kirchner appealed to colleagues to submit to Cathy Hale their nominations for Faculty Senate chair.

President Pierce reported that, as the result of her recent meeting with Standard and Poor's in New York, that company has given the University of Puget Sound an A+ rating, the same as the rating enjoyed by some of the most selective institutions in the country. She said this high rating means we will save about \$25,000 per year in interest payments over the thirty year life of bonds to be sold to pay for construction of the new academic building.

President Pierce also announced that students Regina Jorgenson and My Nguyen have received Watson awards. She acknowledged the good work of Professor Sarah Sloane throughout the nomination process. Kris Bartanen added that Lisa Arakelian, from the class of '97, has been named a Fulbright winner.

President Pierce asked Dean Cooney to continue to preside over discussion of proposed changes to the *Faculty Code*. After the most recent faculty meeting on March 11, 1998, one additional document was distributed to faculty by the Code Revision Committee (CRC). This four-page green document, dated March 20, 1998, contained seven changes to Chapter III revisions originally proposed in the buff-colored document dated December 1, 1997.

We began by continuing from the March 11, 1998 meeting consideration of proposed change #70, to Section 5,a(2), reproduced here from the green sheet dated March 20, 1998:

Add: "At the time the list of alleged violations is submitted to the chairperson of the Professional Standards Committee, the evaluatee must provide a copy of the list of alleged violations to the department, school, or program; the Advancement Committee; and the president, as appropriate to the violations specified. The chairperson of the Professional Standards Committee shall confirm with respondent(s) their timely receipt of the list of alleged violations."

There was no discussion.

We next considered proposed change #71, to Chapter III, Section 5,a(3), reproduced here from the green sheet dated March 20, 1998:

Add: "Any response(s) from the department, school, or program; the Advancement Committee; or the president shall be submitted to the chairperson of the Professional Standards Committee within ten (10) working days of the respondent(s)' receipt of the list of alleged violations. The chairperson of the Professional Standards Committee and the chair of the hearing board may grant an extension for submission of a response if a respondent demonstrates, due to circumstances beyond his or her control, s/he was unable to take receipt of the list of alleged violations at the time that they were provided by the evaluatee."

The explanation for this change provided on the green sheet is: "Given that the "clock" for the hearing board to determine probable cause begins with receipt of the list of alleged violations and any responses, proposed revisions #70 and #71 allow for the PSC chair's confirmation of the

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receipt of alleged violations, and for the possibility that a respondent may be unable to take receipt due to circumstances beyond control, such as having been away at a professional meeting, etc.”

Curt Mehlhaff noted that the proposed wording seems to require that both the chair of the Professional Standards Committee (PSC) and the chair of the hearing board agree before an extension can be granted. He suggested that the word “and” be replaced by “or,” allowing an extension to be granted if one or the other agreed it was appropriate. Kris Bartanen suggested that the PSC chair alone be empowered to grant an extension, and the consensus of the group was that this change was appropriate.

We next considered proposed change #72, to Chapter III, Section 5,a(4), reproduced here from the green sheet dated March 20, 1998:

Add: “The chairperson of the Professional Standards Committee shall transmit the list of alleged violations to the chairperson of the hearing board as soon as that person is elected, and shall transmit any responses forwarded under section 5.a.(3) as soon as they are received.”

Bartanen provided clarification in response to an expressed confusion over timing. Otherwise there was no discussion.

We considered proposed change #73, to Chapter III, Section 5,b and c:

Substitute:

b. Hearing Board Roster: A hearing board roster will be established annually by the Faculty Senate executive officers. The Board will consist of 42 tenured faculty members selected at random, subject to their consent.

(1) Members will serve staggered three year terms with 14 members selected each year.

(2) Faculty who are on leave remain on the roster but are not considered for service on a hearing board. However, members who go on leave in the third year of their term or members who resign from the roster will be replaced for full three-year terms using the process described above.

c. Formation of a Hearing Board: Upon receipt of the list of alleged violations (Section 5.a(2)), the chairperson of the Professional Standards Committee shall form within five (5) working days a hearing board composed of five (5) members from the hearing board roster.

For (existing Code, Chapter III, Section 7, a):

“Upon request for an appeal, the chairperson of the Professional Standards Committee shall form within five (5) working days a hearing board composed of five (5) members. The board will be selected at random from a hearing board roster to be established annually by the Faculty Senate executive officers. The board will consist of 42 tenured faculty members selected at random, subject to their consent. Members will serve staggered three year terms with 14 members selected each year.”

There was no discussion at this time but later, while discussing change #74, Bill Breitenbach referred back to change #73 suggesting that someone’s selection to the Faculty Advancement

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Committee (FAC) should be added as a reason for exclusion from the Hearing Board Roster. The consensus was that this change was logical and appropriate..

We considered proposed change #74, to Chapter III, Section 5,c(3):

Substitute:

(3) The following process shall be used to constitute a hearing board:

(a) Six 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 in paragraphs (1) and (2) have been taken into account.

(b) The parties may then challenge any name on the list 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 of the Professional Standards Committee and the chairperson of the Faculty Senate. If either votes for elimination, the person is eliminated, and an additional name is selected from the hearing board roster.

(c) The parties may then exercise no more than two challenges without stating cause. If any person is eliminated, an additional name shall be selected from the hearing board roster.

(d) The top five faculty members on the list shall constitute the hearing board. The sixth named faculty member will stand as an alternate. This faculty member will not participate in the appeal process except in the rare situation that one of the five hearing board members is unable to serve from the beginning of the hearing board process (Section 5.c (6) below)."

For (existing Code, Chapter III, Section 7, b):

"Before the hearing commences, the parties may challenge any member of the board on account of interest or bias and each may exercise no more than two challenges without stating cause. 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 of the Professional Standards Committee and the chairperson of the Faculty Senate. If either votes for elimination, the person is eliminated. If a vacancy exists because of disqualification for cause, the chairperson of the Professional Standards Committee shall replace that member by the process provided in Section 7. a."

Mehlhoff suggested replacing in (d) "top five faculty" with "first five selected to the list" because the former implied an unintended ordering. The consensus was that this was an appropriate change. Bill Haltom suggested replacing in (d) "except in the rare situation that" with "unless," and this change was also accepted by consensus. Ken Rousslang asked if only one alternate hearing board member was sufficient. The consensus was that one alternate would be sufficient in most instances, and that if more than one hearing board member dropped out, the process would need to start over with a new board.

We next considered proposed change #75, to Chapter III, Section 5,c(4):

Original proposal was to add: "The normal presumption is that faculty members will serve on a hearing board to which they are selected. If, having previously assented to membership on the hearing board roster, a faculty member selected to a hearing board wishes to decline service, he

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or she must forward a compelling argument for exemption which will be evaluated by the chairperson of the Faculty Senate and the chairperson of the Professional Standards Committee.”

Substitute new language to clarify the grounds on which a faculty member can be exempted from participation on a hearing board, so that the provision would read:

“The normal presumption is that 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, at their discretion, exempt a faculty member from service based on (1) a self-disclosed conflict of interest, (2) hardship, or (3) other good cause shown.”

Breitenbach expressed concern about “opening the door a crack” for people to get out of a hearing board assignment. John Riegsecker explained that the CRC’s intention was just the opposite, to make that more difficult. The consensus was that, by requiring that the PSC and Faculty Senate chairs both must approve an exemption, the provision probably makes it unlikely someone could get an easy exemption from service.

We next considered proposed change #76, to Chapter III, Section 5,c(5):

Add language to clarify when a hearing board continues with four members, so that the provision would read:

“In the event that one member is unable to complete service after the hearing board process has begun, the hearing board shall continue with four members. In the extraordinary event of more than one member being unable to complete service, a new hearing board will be formed using the process outlined in Section 5.c above.”

Sue Owen asked what would happen if the remaining four deadlocked. Bartanen responded that only two must find for probable cause. Later on, the four would be unable to produce a majority opinion if deadlocked, and would submit recommendations both for and against to the president, who would decide whether the hearing board report is accepted or not.

Haltom suggested that one side or the other might be able to influence the outcome of a hearing board by taking some action that would reduce its size to four, such as, for example, the Dean appointing someone to the FAC after hearing board deliberations began. After discussion, the consensus was that if both sides agree, the board could continue with only four members. Dean Cooney’s suggested wording that “both the university representative and the evaluatee must agree” represented the consensus view.

Haltom suggested replacing “In the extraordinary event of” with “If.” Cooney added that the following “being” should therefore be replaced with “is.” There was no objection to these changes.

We next considered proposed change #77, to Chapter III, Section 5,c(6) and d:

Substitute:

(6) The hearing board shall hold its first meeting within five (5) working days of its selection and shall elect a chairperson. The board shall also select a secretary to record the actions of the board.

d. Determination of Probable Cause:

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(1) *The board shall have access to all files and records involved in the evaluation process together with a list of violations alleged by the evaluatee and any responses by the department, school, or program; the Advancement Committee; or the president.*

For (existing Code, Chapter III, Section 7, c):

"The hearing board shall hold its first meeting within five (5) working days of its selection following challenges as specified in Section 7. b. and shall elect a chairperson. The board shall also select a secretary to record the actions of the board. The board shall perform a preliminary screening of the request for the appeal. The board shall have access to all files and records involved in the evaluation process together with a list of violations alleged by the evaluatee and any response by the department or school, the Advancement Committee, or the president."

There was no discussion.

We next considered proposed change #78, to Chapter III, Section 5,d(2), reproduced here from the green sheet dated March 20, 1998:

Substitute: "Within ten (10) working days of receipt of the list of alleged violations and any and all responses under Section 5.a.(3), the hearing board shall determine whether, based on the record and the allegations of violations, there exists probable cause for an appeal."

For (existing Code, Chapter III, Section 7.d.): *"Within ten (10) working days of the first meeting of the Hearing Board, the Board shall determine whether, based on the record and the allegations of violations, there apparently exists probable cause for an appeal."*

The March 20, 1998 green sheet noted that "Revisions #72 and #78 clarify the clock for the hearing board's determination of probable cause."

There was no discussion at this time but later, while discussing change #80, Mehlhaff referred back to change #78 asking how long the board waits if the appellant does not respond. Dean Cooney said that if appellants do not respond within ten days, they lose the opportunity to respond. Haltom added that that language is included in change #71 under 5,a(3).

We next considered proposed change #79, to Chapter III, Section 5,d(3):

Add language underlined (to existing Code, Chapter III, Section 7, e): "If the hearing board decides that probable cause for an appeal does not exist, it shall so notify the appellant and the president, at which time the president will forward the recommendations and evaluation materials to the Board of Trustees as specified in Section 4.e.(4)."

Owen suggested that the word "appellant" should also be used in change #76 to be consistent.

We next considered proposed change #80, to Chapter III, Section 6,j:

Add language underlined (to existing Code, Chapter III, Section 8, j): "Within ten (10) working days after completion of the hearing, the Board shall make its decision. The decision shall be based on whether the evidence in the record and that received at the hearing clearly shows that there have been violations of the code as alleged by the appellant. The chairperson of the hearing board shall transmit to the appellant the decision of the hearing board."

There was no discussion.

We next considered simultaneously proposed changes #81, to Chapter III, Section 6,k and I, and proposed change #82, to Chapter III, Section 6,l:

Change #81:

(In its earlier work, the Code Revision Committee confused the president's consideration of the hearing board recommendation and the president's recommendation on tenure and promotion. We seek to clarify, in these two sections, that the recommendation under consideration in this section of the Code is the recommendation of the hearing board and not the recommendation on tenure or promotion. We find that four paragraphs, each with a clear agent of action, provides greater clarity.)

Retain (existing Code, Chapter III, Section 8, k): "The decision of the majority of the hearing board, and any dissent, shall be transmitted in writing to the president. That decision may include a recommendation that the matter be returned to the department and/or Advancement Committee for correction of deficiencies. The board shall send the president exhibits received in the hearing and the electronic record.

Split off a new section l: "The president may return the matter to the Advancement Committee and/or department for further consideration. If not, the president shall submit the entire hearing board report together with a recommendation on the hearing board report to the Academic and Student Affairs Committee of the Board of Trustees for review and recommendation to the full Board. In any case, the president shall notify the evaluatee whether the hearing board report has been accepted or rejected."

Change#82:

Rename as section "m" existing language: The review by the Academic and Students Affairs Committee shall be based on the record of the hearing board. The committee shall provide opportunity for written statements to be submitted by the parties to the hearing and may, at its discretion, have oral argument.

Rename as section "n" existing language, adding clarifying clause at the end: "The Board of Trustees, after receiving the recommendation of the committee and reviewing the record of the case shall make a final decision on the issues that were before the hearing board."

Dean Cooney suggested that "evaluatee" should be replaced with "appellant." Haltom said that the words "the matter" were a problem because they do not say what the president may recommend be returned to the department or the FAC. After some discussion, Dean Cooney suggested that we consider substituting "the evaluation file and hearing board report" for "the matter." President Pierce suggested that the meaning of "further consideration" may also be unclear. Dean Cooney suggested substituting "further consideration and/or correction of deficiencies" for "further consideration."

Dean Cooney suggested that at the next faculty meeting we consider a new version of proposed change #81 and that we then pick up with proposed change #83.

We adjourned at 5:20 p.m.

Respectfully submitted,

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John M. Finney
Secretary of the Faculty.