

Faculty Senate Minutes - 10/7/96

Senators Present: Bill Beardsley, Michael Farmer, Bill Haltom, Kathy Hummel-Berry, Judith Kay, Grace Kirchner, Bruce Lind, Bob Matthews, Ili Nagy, David Potts, Marta Robertson, Bryan Smith
Visitors: Susan Pierce, Johanna Schoss

Minutes of 9/30/96: Due to meeting on consecutive Mondays the minutes of the 9/30/96 meeting will be discussed at the 10/28/96 meeting.

Announcements:

- 1) The Senate will next meet on 10/28/96.
- 2) The FAC and Senate elections will both require a primary ballot. This will be accomplished with a single mailing of separate ballots.
- 3) The Chair's report will be deferred to allow discussion of Item 4 of the agenda (□□Faculty Evaluation/Process for Revising the Faculty Code.)

Faculty Evaluation/Process for Revising the Faculty Code.

At 9/16/96 meeting of the Senate engaged in some initial discussions of the means by which revisions to the Faculty Code might be undertaken. At the time it was decided that coordination with the work underway in the Professional Standards Committee was of considerable importance.

At this meeting (10/7/96) the discussion began with a report by President Pierce from the October meeting of The University of Puget Sound Board of Trustees. President Pierce indicated that at their Saturday, 10/5/96, session the board expressed concerns about several issues related to this agenda item. In particular,

- A. Legal vulnerability
- B. The creation of adversarial situation between university constituencies.
- C. A need to reconsider the entire code in a process which originates on campus.
- D. That the work of the Professional Standards committee be incorporated in the revisions.

President Pierce proposed the formation of a Special Faculty/Administration Committee to conduct the review and to prepare a draft which removes the ambiguities present in the current version of the Faculty Code. This committee would consist of two administrators and two faculty members; the administrative members to be appointed by the President and the faculty members to be chosen by the faculty. It was observed that members of the faculty with experience on the FAC or Professional Standards Committee might have special knowledge of problem areas.

The full text of President Pierce's remarks are attached to these minutes. The secretary-of-the-day wishes to thank President Pierce for furnishing the text of the remarks.

Summary of the Discussion by the Senate which followed the presentation by President Pierce.

J. Kay indicated the Trustees' desire for us to focus on improvements to the code which would serve to further the Mission of the University. W. Beardsley asked for examples of things seen as impediments to the mission. S. Pierce indicated the example of litigation on code violations on tenure and promotion cases and the Ziegler lawsuit. D. Potts mentioned the ambiguities in Chapter 3 of the faculty Code. S. Pierce opined that Trustees do not want to abridge faculty rights. They want to clarify issues. J. Kay stated that the trustees are concerned about their fiduciary responsibilities. Money brought in during the campaign can "leak out." S. Pierce reported that we have raised \$19 M which counts for the campaign. D. Potts stated that the Trustees are aware, based on his reports, of the work of the PSC on the code and of FAC frustrations. S. Pierce stated that the Special Committee will need the support and confidence of the faculty. M. Robertson asked the reason for the two faculty members, two administrators make-up of the committee. I. Nagy ventured that keeping the size small would be a benefit; the faculty will have the "final say." W. Beardsley indicated that this was reasonable since the Trustees need to ratify what ever document is produced. D. Potts opined that symmetry could symbolize the joint ownership of the final document. B. Smith inquired whether the Trustees want to be involved, and S. Pierce stated that at this stage they did not. The trustees want the on-

campus constituencies who will live with the final product to do the analysis and clarification. The board was mainly concerned about shouldering fiduciary responsibility. In an examination of their own role, the Trustees saw a need to keep a distance to let campus groups do their work. M. Robertson inquired as to when the lawyers need to be involved. It was stated that the Special Committee may wish to use the University attorney (who is a former USC faculty member) before a draft document is released.

W. Haltom asked a general question: What sorts of contentious issues are we to avoid? By way of explanation he described a situation where by groups might "play chicken" with the document; and asserted that (1) we need to protect against lawsuits, and (2) we need to be concerned about legal opinion. Haltom further inquired about whether substantive changes would be made to the Code, for example a mandate for external review of faculty? He opined that such changes were of a policy nature, and not tidying up to get rid of lawsuits. S. Pierce stated that what needs to be done is to build the document from the ground up. What should be done first is to clearly state what we currently have (this might be the fastest and best way to move first). W. Beardsley cautioned against tinkering. S. Pierce stated that it is not policy that is a problem, but rather procedure. D. Potts mentioned a need for both Quakers (concensus) and Shakers (simplicity) in the process, and that the Special Committee would need to be in constant communication with all constituencies. S. Pierce stated that changes involved in this document should clarify process, not change policy. A noting of possible policy issues to be studied would be helpful for future work and should be part of the work to be completed by 5/97.

G. Kirchner suggested that a motion would be in order. W. Haltom asked whether one of the faculty positions on the committee should be allocated to untenured faculty. R. Matthews suggested that we not limit nominees for either faculty position. M. Farmer spoke in favor of the suggested allocation. J. Kay noted that we did not intend to change the rules. W. Haltom suggested that some protections for junior faculty were likely to be removed because now T&P cases can end up in court. R. Matthews again mentioned that in light of the work of the PSC he could see no need for an allocation of "slots." I. Nagy suggested that "a clarification and streamlining can (perhaps) reduce the number of lawsuits. One can always see when a true injustice has been done. We need to remove lawsuits caused by a lack of clear language and process." D. Potts stated that 54% of the faculty is tenured. He also indicated a need to build into the charge an intent to consult newer faculty.

**ACTION M/S/P: (Haltom & Matthews) Motion of the Senate on creation of the
Special Faculty/ Administration Committee**

- 1) The Senate endorses the President's plan for formation of a Special Faculty/Administration Committee to review and recommend changes to the faculty code.
- 2) That the Senate Secretary shall be directed to send a nominating ballot for the two faculty members of the Special Faculty/Administration Committee to review and recommend changes to the faculty code. The procedures to be followed are those used for senate elections.

The motion, having been smelted and forged in the more than hour-long discussion reported above, once worded, was speedily passed.

In discussion which followed, a question was raised by W. Haltom on where the senate stood on policy changes to the faculty code. G. Kirchner opined that the Trustees would not now (while the Special Committee was at work) receive proposed amendments with any enthusiasm. W. Haltom asked where this left faculty who are up for tenure next fall. W. Beardsley suggested that amendments to the code involving policy changes could be suggested during faculty discussion of the Special Committee's Report in spring 1997. R. Matthews supported this and also mentioned that a senate ad-hoc committee could be formed to study the results of the straw poll of spring 1996. He also stated that it is always possible to initiate action in the faculty. J. Kay admonished us to not surprise the Board. G. Kirchner and D. Potts both stated that the Board would not like a piecemeal approach to reworking the Faculty Code. R. Matthews suggested that the Special Committee document should not be too controversial. Policy issues such as open files in tenure cases is a separate (and controversial) policy issue. W. Haltom supported Matthews' suggestion of an ad-hoc committee. This would allow fast-tracking of clarifications and would create a

process to address the substantive issues in T&P evaluations (open files, external review, etc.). D. Potts indicated a desire to avoid distracting the faculty during their core deliberations. The FAC is coaching on summary letters for faculty with closed files. If the faculty acts, the Trustees will react. There is a better chance to pass the open files as part of an over-all review of the faculty code. M. Robertson asked about the 46% and their concern about tenure. R. Matthews suggested we deal with the core now. W. Haltom asked "Why?" G. Kirchner inquired as to what are the key concerns. The response from W. Haltom was "open files and direct election of FAC." G. Kirchner said the election issue was covered in the Faculty By-laws, not the Faculty Code.

Since the scribe-of-the-day had run out of paper and patience the meeting time was not extended past 5:45 P.M.

Respectfully submitted,
Bruce Lind

President Pierce's Remarks to the Faculty Senate - 10/7/96

Given that you plan today to discuss matters relating to a committee to re-think the Faculty Code and given that the Board of Trustees spent a good deal of time discussing this matter during Saturday's meeting in response to Grace Kirchner's report, I thought it important that I meet with you to talk directly about how we should proceed.

The Board of Trustees has for some time expressed concerns that the Faculty Code in its current form was making the University vulnerable to litigation because of its cumbersomeness and its many ambiguities. The trustees have come to believe that the Code was written for a different time, particularly a different legal and social environment, and was designed to meet institutional needs very different from today's. Furthermore, the trustees are concerned that the Code at times brings about a legalistic and sometimes an adversarial relationship rather than a collegial and collaborative one among the faculty, the administration and the Board. Finally, they believe that merely tinkering with the existing Code will not suffice but rather that the campus needs to do some fresh thinking about it.

The Board has been expressing concerns of this sort for some time. As I reported to the faculty at our meeting on February 13, 1995, the Board had asked me to forward the following suggestion to the faculty: "Considering the many changes in the University and in academic life since 1982 we sense it is time to review the Faculty Code criteria for evaluation. These changes may also suggest that it is time for a review and updating of the entire Code." Although this is not reported in the minutes of that faculty meeting, I recall that I also reported to the faculty that the Board had agreed with me that such a reconsideration of the Code should originate on campus. Some trustees had preferred a trustee-driven process, but the Board ultimately agreed with my view that the faculty and administration could collaboratively address the problems created by the Code and bring a revised and improved document to the Board for its review and action.

Some months earlier, during my "State of the College" comments to the faculty in August 1994, I had noted my own concerns about the aspects of the Code relating to advancement, particularly the question of the consistency of departmental criteria with the criterion established in the Faculty Code and with one another. On November 23, 1994, I formally asked the Professional Standards Committee to conduct a careful and comprehensive audit of departmental criteria. I wrote to the committee, "My hope is that such a process would strengthen our peer review process and result in a higher level of clarity, conciseness and consistency with regard both to the criteria for measuring faculty achievement and the procedures for that assessment." I went on to note, "Such clarity of institutional expectations is of course especially important for new faculty." The PSC embarked on that task. In the Spring of 1996, the PSC issued a report indicating that there were indeed disparities that needed to be addressed.

In the meantime, efforts to ensure that in today's litigious environment the University adheres to the extraordinarily intricate and often unclear procedures outlined by the Code have made exorbitant demands on the time of a great many members of the faculty and administration, especially those serving on the Advancement Committee and the Professional Standards Committee.

For these reasons, I met in June and again in August with the Faculty Senate Officers and David Potts to discuss the creation of a special faculty-administrative committee, a process for that committee and a charge to it. I envisioned an on-campus committee with two members of the administration (whom I would appoint) and two members of the faculty to be selected by faculty in any way the faculty chose (although I believe all of us were agreed that the faculty members on this committee might benefit from having served previously on either the FAC or the PSC, the two committees with the most experience with the Code). I further described a deliberative process and a timetable which would allow the committee to work in a careful and informed way and which would also enable the faculty as a whole to concentrate this year on the review of the Core Curriculum which in all of our judgments is a critical initiative for us.

Specifically, I outlined a process which called for the special committee to spend the 1996 fall semester soliciting written comments from the faculty and members of the administration about the Code in order to identify problem areas. My plan also called for the committee during the fall

semester to gather information from other comparable institutions about their faculty handbooks and tenure and promotion processes. Finally, I indicated that I would brief the trustees on the committee's progress and that I wanted this to be an iterative process which would result in a document that I could recommend to the Board with some measure of confidence that the Board would approve it.

The Senate officers indicated that they would discuss the matter with the full Senate. I also understand that the PSC has agreed that a special committee is a good idea.

At the Board meeting on Saturday, in response to Grace Kirchner's written report, the trustees expressed the following concerns about the Code. I will try to give you a flavor of the discussion in which Grace and I participated. (I will also ask Grace, David Potts and Judith Kay--who were present at the discussion--to share their perceptions as well.)

A dozen trustees spoke to the matter. One trustee, who had been involved in drafting the current Code, argued that the Code in its present form had outlived its usefulness and is beginning to impede our pursuit of our mission. Another who has followed the Code over many years argued that the Code is from another era and its continuance without substantial modification would carry too high a cost. Other trustees stressed their fiduciary responsibility for ensuring that the University avoid financial burdens stemming from Code-related litigation. One trustee argued for simpler and better policies, and several stressed their hope for a more collaborative approach among the faculty, administration and Board. Two called for a review of the policies and practices of other comparable institutions. Several insisted that we put this matter on a fast schedule. Most importantly, I think, was the concurrence of the Board with the notion that fixing the problem before us is not simply a matter of tinkering with the current Code but taking a fresh approach to crafting our policies and procedures in ways that will both serve the faculty and forward our mission.

My response to the Board was to outline for them the process I have just outlined to you. In response to their request for a timetable, I promised them a progress report in February 1997 and a first draft of a revised document by May 1997. It is my sense that the trustees reluctantly accepted this extended deadline.

I continue to believe, as I said to the Board in Saturday's meeting, that we on campus can work together to identify problems stemming from the current Code and formulate solutions. I ask therefore that the Senate as soon as possible begin the process of selecting two members of the faculty to serve on this committee.

After receiving the names of the two faculty members who will serve on the Special Committee and after I have appointed the two administrative members, I will charge the committee as follows:

The special faculty-administrative committee will develop a new document which defines clearer, more streamlined procedures for the appointment, promotion, and tenure of the faculty, other related matters, and the professional responsibilities of the faculty in the context of a commitment to forwarding the mission and academic excellence of the University. The Committee's focus will be on this task rather than on developing new policies. After the faculty and the Board have approved the new and improved document, either group may wish to propose new policies for consideration according to our usual procedures. The committee will co-ordinate its efforts with previous and continuing work done by the Professional Standards Committee.

By mid-January 1997, the committee will have identified those topics to be covered by the new document and those topics to be considered at a later time. The President will in February 1997 report on the committee's progress to the faculty and the Board. The committee will then draft a first version of a new document by May 1997. The document will be distributed to the faculty and trustees at the end of the 1997 Spring semester. It will be brought to the full faculty for consideration and action early in the fall of 1997. The document of course will also require, on the recommendation of the President, trustee approval.