

University at Albany - State University of New York
2004-05 University Senate
Minutes of October 25, 2004

Present: J.P. Abraham, J. Acker, J. Bartow, D. Bernnard, T. Bessette, E. Briere, R. Bromley, S. Chaiken, N. Claiborne, R. Collier, R. Craig, D. Dai, J. Doellefeld, R. Dressler, S. Faerman, L. Franklin, S. Friedman, R. Geer, R. Gibson, J. Hanifan, C. Hartman, F. Hauser, A. Hildreth, R. Hoyt, V. Idone, M. Jerison, B. Joseph, G. Kamberelis, S.B. Kim, W. Lanford, R. Lawson, A. Lyons, C. MacDonald, J. Marler, G. Marschke, T. Maxwell, C. Merbler, S. Messner, G. Moore, J. Mumpower, J. Murphy, M. Pryse, R. M. Range, J. Razzano, H. Scheck, L. Schell, M. Sherman, D. Shub, L. Snyder, S. Turner, J. Uppal, L. Videka, D. Wagner, J. Wessman, J. Wick-Pelletier, O. Williams, S. Wood, E. Wulfert, A. Zonder

Guests: J. Neeley, CAS Faculty Council Vice Chair
B. Szelest, Assistant Vice President for Strategic Planning and Assessment

Minutes: The minutes of October 4, 2004 were approved.

President's Report - Presented by Interim Provost Jeryl Mumpower:

Enrollment: There are approximately 432 undergraduate students and 199 graduate students less than we planned (about 4% short of our target) enrolled this semester. One reason for fewer incoming freshmen than expected is because of the lower yield rate for group 2 students, the university currently has 40% group 1, which exceeds the target. Transfers are down by only 15 students from the projection. The financial implications of the enrollment shortfall are serious, and action needs to be taken to address the shortfall at both the undergraduate and graduate levels. Enrollment will be the sole subject of the next scheduled Council of the Deans meeting.

University Faculty Senate Report – presented by Richard Collier:

Mr. Collier gave a succinct summary of the University Faculty Senate meeting at SUNY Maritime October 21-23, 2004, and provided a complete written summary.

Chair's Report - presented by Professor Carolyn MacDonald:

Presidential Search - A Senate member referenced the recent SUNY-wide Senate resolution and asked if the existing Presidential Search Committee would follow its suggestion of conducting on-site visits of the candidates' current places of employment. The matter was discussed and Professor MacDonald offered to bring the suggestion to the University Council, if that is the desire of the Senate. There was a motion made and seconded that Professor MacDonald bring the request of the Senate to the University Council that the Presidential Search Committee conduct on-site visits of the candidates' places of employment. The motion passed unanimously.

Professor MacDonald referred to the upcoming Senate-hosted UAlbany visits of the Presidential candidates and strongly recommended that Senate members attend as many as possible of the meetings.

Mission Review II (MRII) - Professor MacDonald reported that Mission Review II was discussed at the SUNY Faculty Meeting and it was reiterated how important it is for campuses. Financial decisions will be based upon these documents. It is very important that the Senate Councils move quickly on MRII. The deadline for responses to SUNY is December 15th. Therefore, the Provost's Office needs information from the Senate as quickly as possible.

Council Reports:

Governance Council (GOV), Professor Steven Messner, Chair: To implement a resolution passed by the Senate at its last meeting, the Governance Council Chair met with representatives from the College of Nanoscale Science and Engineering (CNSE) to discuss the establishment of a working group to review apparent inconsistencies between the proposed CNSE Bylaws/Charter and other University policies and regulations. The working group has been constituted and plans to begin meeting this week. In view of this development, representatives from the group submitted a request to President Ryan for an extension of the deadline for Senate review and comment on the proposed Charter and Guidelines to November 19, 2004. President Ryan approved the request.

The Council's Committee on Assessment of Government and Consultation will meet next week to discuss governance issues pertaining to the draft of the Mission Review.

University Planning and Policy Council (UPC), Professor Marjorie Pryse, Chair: UPC met on Monday, October 11 to organize into subcommittees and begin a sustained discussion of Mission Review II. The Council completed the formation of University Facilities Committee (UFC) and Resource Analysis and Planning Committee (RAPC) and delegated to RAPC further discussions of Mission Review II. RAPC has now met twice. Both UPC and RAPC have focused discussion on the need for additional qualitative data that would help represent the undergraduate and graduate excellence in areas not currently mentioned in the draft; on how to convey a balanced commitment in the UAlbany mission between the liberal arts and sciences, the professional schools, and the new CNSE; and how to create, through narrative, the impression of what one council/committee member called a "well-orchestrated whole."

Undergraduate Academic Council (UAC), Professor Seth Chaiken, Chair: UAC is meeting weekly, and has discussed Mission Review II at its last three meetings, including the items of undergraduate admissions and admission goals, and expects to continue meeting on those items. Two bills are presented on the agenda, one for a Senate charter change, and the second to phase out the old general education requirements.

Graduate Academic Council (GAC), Professor Louise-Anne McNutt, Chair: GAC is meeting and is discussing mission review.

Council on Academic Assessment (CAA), Professor Malcolm Sherman, Chair: CAA is undertaking review of the self-evaluation and assessment reports of the departments of Economics and Political Science.

Council on Research (COR), Professor Vincent Idone, Chair: COR has met twice to date this semester; it provided suggested revisions to the draft Policy on Misconduct in Research and Scholarship. In addition, most committees and subcommittees are now formed, including a new committee to examine assessment issues for Centers and Institutes. COR has begun discussing research issues related to the Mission Review draft.

Council on Promotions and Continuing Appointments (CPCA), Professor Diane Dewar, Chair: CPCA is continuing to meet and will consider approximately 52 cases this year.

Council on Libraries, Information Systems and Computing (LISC), Professor David Wagner, Chair: LISC is continuing to deal with the issues of commercial publishers and the question of policy for mass mailings for political issues, and is also discussing the Mission Review document. The Council has added two issues that will be part of the Mission Review: (1) the development of wireless computing on campus; CIO Haile has a committee investigating implementation of that and a LISC member is on that committee, and (2) open access models of academic publishing which affects both libraries and computing significantly.

University Life Council (ULC), Professor Gwen Moore, Chair: ULC continues its consideration of religious holidays and is also reviewing the campus emergency plan. It has formed three standing committees. The *Ad hoc* Benefits Committee is considering the issue of uniform department application of family leave benefits.

Committee on Academic Freedom, Freedom of Expression, and Community Responsibility (CAFFECOR), Professor Lawrence Snyder, Chair: CAFFECOR has been discussing the bill passed last year on freedom of expression and interacting with a working group to produce recommendations on how that will be implemented. It is also drafting a new bill on policy for recognition for faculty and staff organizations.

Committee on Ethics in Research and Scholarship (CERS), Professor R. Michael Range, Chair: The draft of Misconduct Policy report will be discussed later in the meeting.

***Ad hoc* University-wide Governance Committee, Professor James Acker, Chair:** The Committee anticipates concluding business at the end of this week and will issue a draft report that will be available prior to the next Senate meeting.

New Business:

Bill Number 0405-01: UPC – Additional Membership on Councils and Committees: Professor Pryse introduced the bill. The bill passed unanimously with no abstentions.

Bill Number 0405-03: UAC Charter Change: Professor Chaiken introduced the bill. The bill passed unanimously with no abstentions.

Bill Number 0405-04: UAC - Elimination of the Pre-“Fall 2000” General Education

Program: Professor Chaiken introduced the bill. The bill passed unanimously with no abstentions.

Discussion of the Misconduct Policy Draft Document – presented by Professor R. Michael Range:

Professor Range delivered a brief summary of how the new draft policy came about, i.e., in the spring of 2002 the Chair of the Senate, Dr. Wulfert, in consultation with President Hitchcock formed a special *ad hoc* committee to review the existing misconduct policy and recommend appropriate changes that might be needed. The *ad hoc* committee met numerous times and formulated a framework to be superimposed on existing policy with some adjustments. The key points of the framework are:

- 1) There is faculty involvement throughout the whole process as a misconduct case is being handled. The mechanism by which faculty have input is through the Committee on Ethics in Research and Scholarship (CERS), made up of senior faculty, who will be involved in either inquiry or investigation throughout the process.
- 2) New item: if at the early stages of the inquiry, the respondent admits to any of the allegations, it will automatically trigger moving to the next level, which is the investigation. This is one point that caused difficulty in the spring 2002 case. If there is *some* evidence or admittance, then the matter needs to be investigated thoroughly.
- 3) The framework was approved by the Senate in March, 2003. A couple of months later, the Office of the Vice President for Research completed a draft including the new framework.
- 4) CERS began to work on this document in the spring of 2004; it worked throughout the summer and came up with the draft version of the Misconduct Report that has been circulated.

In the meantime, CERS has received input from the Council on Research, Office of the University Counsel, Office of the Compliance Officer in the Vice President for Research Office and some individual colleagues.

CERS will meet later this week to sift through the suggestions and determine how the draft will be modified before it is introduced for formal approval by Senate.

Questions/Comments/Suggestions from the Senate floor:

- 1) On page 5, under V, in parenthesis, the clause “(such as a student who provides evidence of plagiarism in the form of two published articles)” needs to be clarified. It is not clear if it is being used as an example or if it is part of the paragraph.
- 2) On page 8 under H, “Reports Not Made in Good Faith” – the last sentence, “If a report was not made in good faith, the Vice President for Research will determine whether any administrative action should be taken against the complainant.” Is that considered an option? Dr. Wulfert responded that it will be grounds before bringing the person before CAFFeCoR;

if one makes inappropriate accusations, one should go before CAFFECOR. Professor Range noted that it will have to be determined on a case-by-case basis.

- 3) It is not clear whether the policy would apply, for example, to materials developed for a course that might have circulated through students and then appeared without attribution on a second faculty member's website.
- 4) Interim Provost Mumpower explained that while he served as Interim Vice President for Research, there were several cases that were handled "not according to policy" but handled in accordance with the framework. One area in which there was uncertainty was whether or not the Vice President for Research had the latitude to inform other institutional officials, i.e., the person's supervisor, the dean, chair or director that there is an inquiry or investigation pending. This document does not specifically address that question. Professor Range said that his view is the intent of the policy as written is to keep things within the individual that is specifically mentioned, i.e., the Vice President for Research, the Chair for CERS and members of the inquiry committee. There is no mention that other university officials should be involved. For that matter, until the inquiry ends and there is a recommendation to the President to form an investigation, there is nothing specifically mentioned in the policy to inform any one else. If Chancellor King's resolution is passed regarding the five day notice, it would be an administrative matter and the Vice President for Research will be authorized to tell the Chancellor. The University has to follow all federal, state and SUNY regulations as known. Interim Provost Mumpower suggested specificity would be desirable on page 4, under D indicating what authority the Vice President for Research has for notification. Professor Range said they will consider making that language more precise. If it does come to misconduct, at that stage, it would be appropriate for the Vice President for Research or the President to notify the dean, or chair.
- 5) Question: if the person being investigated was at the same time being considered for promotion or an administrative appointment, would be useful for Administration to know what was happening? Dr. Wulfert answered that it would not be appropriate in advance of a finding of wrongdoing, and that if the person is found guilty, the person's promotion can be revoked. There was discussion on this, including the Vice President for Research having the responsibility to maintain confidentiality. It was suggested to spell out clearly in the document what the level of confidentiality should be until the final resolution of the case is reached. It was agreed that the circle of people being informed should be kept as small as possible, if there were an urgent need for example, a dean needed to know, it would have to be a judgment call on a case-by-case basis. Not all situations can be spelled out in the document.
- 6) There was a question on whether or not the person being investigated should remain at his/her duties during the investigation. Professor Range thought they should not be removed from their duties and noted that once it goes to the investigation stage, there are federal guidelines to follow. He suggested the determination should be explicit of the status of the person under investigation.

- 7) There was concern expressed that the document ensure that the phrase “misconduct in creative activity” in the future or in a different climate not be taken to include activities that another might find to be inappropriate for content reasons.
- 8) Discussion on notification and disclosure issues at the end of the process: when there is a finding of misconduct, there will be notification of various individuals and, if necessary, the scholarly community that needs to be made aware of the case. The disclosure would happen at a Senate meeting.
- 9) Question: what sort of information should be available to other individuals outside of the ones that have been involved specifically in the case when there is no finding of misconduct? Since there is an assumption that everything is confidential while the investigation is on-going, once the case is closed to the determination that there is no misconduct, is there a mechanism available for people to review? Professor Range explained that the complainant, who is familiar with the evidence, will be notified of the disposition. If the original evidence is still public, and if another person finding the material goes to the Vice President for Research, they could be shown the file. The respondent’s reputation could be harmed if the proceedings come out. But, members of CERS feel there needs to be a mechanism in place that allows someone else to review the proceedings.
- 10) Senator Merbler brought attention to the summary of procedures on pages 1 and 2, that steps B and C indicate the Committee will make a recommendation, but does not say to whom the recommendation will be made. She suggested that item C should say “the President authorizes a formal recommendation.” The way it reads now, it seems that suddenly the President is involved in C where he was not mentioned before and it should be consistent; the President should know from the outset. Professor Range responded that in the summary the Vice President for Research and the Chair of CERS will consult, and if either thinks the evidence is valid, steps to conducting an inquiry will be taken. The inquiry committee will make a recommendation to the President. It can be written more clearly, such as, “the recommendation is made to the President” or “the recommendation is made to the President via the Vice President for Research.” The President is the University official that has to authorize the investigation.
- 11) Question: Once an allegation is made, and then is dropped, who gets informed of such actions? Should the complainant be informed of the rationale for dropping the case? Professor Range responded that if things are dropped and the recommendation is not to have an investigation, this would suggest that the evidence is not strong, so the complainant should be informed at that point that no investigation was made. The inquiry will look very carefully at the quality of the evidence, while not making judgment whether the alleged incident actually occurred, but simply to evaluate whether the evidence is something that needs to be looked at by experts to see if misconduct has occurred. If it is a frivolous allegation, it will not be investigated. The complainant and respondent will be notified. The next question was that since the complainant is held to confidentiality to never speak about the case, even if it goes all the way to an investigation and the person is not found guilty, how will the person’s reputation be repaired, if everyone involved is sworn to secrecy? Professor Range replied that there is always recourse to go to the outside – legally – on their own.

Someone mentioned that the story will spread once the complaint is made and that there ought to be a statement by CERS indicating that there was no basis for following up. It was noted that the Vice President for Research provides CERS statistical data at the end of every year, not mentioning names or details about the cases, just the stages to which the cases went.

Professor Range asked that further suggestions or concerns should be sent to him via email.

The meeting was adjourned at 5:15 p.m.

Respectfully submitted,
Jayne VanDenburgh, Recorder