

Ad hoc September 17, 2004 Ad Hoc University-Wide Governance Committee
September 17, 2004
Minutes

Present: J. Acker, R. Bangert-Drowns, B. Carlson, P. Eppard, R. Geer,

T. Hoff, J. Pipkin, G. Singh, B. Via, J. Wyckoff

Guest: Vice President Alain Kaloyeros, CNSE

Minutes: The minutes of September 10, 2004 were approved.

Discussion with Alain Kaloyeros, Vice President and Chief Administrative Officer of the College of Nanoscale Science and Engineering (CNSE):

Vice President Kaloyeros introduced his remarks to the Committee by addressing the history of the CNSE Bylaws and their underlying philosophy. He indicated that he would defer specific questions about the bylaws to the Chair of the CNSE Faculty Senate.

The two principal philosophical reasons supporting the CNSE desire for governance autonomy concern:

1. Rights and Responsibilities
2. Structural Challenges [respecting present UAlbany faculty governance]

Faculty members of CNSE believe that faculty throughout the University are entitled to be treated equally and should be trusted to make governance-related decisions. VP Kaloyeros cited SUNY-Stony Brook as an example of a university allowing a measure of faculty governance autonomy consistent with the CNSE philosophy. He noted that in matters including curriculum and tenure and promotion Stony Brook's philosophy is that all faculty are equal, no faculty body presumes that another faculty body is not responsible, and that each faculty body is entitled to be given the rights and responsibilities consistent with such trust. He opined that the Stony Brook model works effectively and that this model should be employed throughout SUNY if requested by faculty.

He suggested that alternative governance models do provide superior checks and

balances, in part because the President has ultimate authority to make decisions and always is at liberty to consult with others as s/he deems appropriate. For example, the President could request advice from the CPCA about CNSE's proposed process for making tenure and promotion recommendations. Vice President Kaloyeros indicated that CNSE would welcome having the chair of the CPCA as an observer at tenure and promotion committee meetings.

Vice President Kaloyeros additionally expressed the view that the faculty within the College should have the rights and responsibility to develop their curriculum as they deem appropriate. Faculty should be trusted to manage matters of this nature. Vice President Kaloyeros elaborated about the structural challenges he believes confront the University Senate. He observed, for example, that the College of Arts and Sciences has far more representatives in the Senate than other units at the University. The University Senate is unlike the United States Congress, where the House of Representatives is proportioned based on states' population and the Senate allows each state to have equal representation. The UAlbany Senate lacks checks and balances associated with different models because representatives from a single unit far outnumber representatives from other units. Smaller units cannot have their views heard or reflected as effectively under the UAlbany model. Allowing greater faculty autonomy in the individual academic units would help correct this structural problem.

VP Kaloyeros referred to examples within the University Senate and its councils and committees, involving issues such as approval of graduate curriculum and promotion and tenure, that raised procedural issues and caused delays regarding the conduct of business. He expressed the view that such difficulties would not be as apt to arise under an autonomous faculty governance structure. He noted that procedural and related difficulties, including the potential for conflicts of interest, might not be the norm for the Senate, but that such problems do occur and they could be avoided under a more autonomous governance model. For

example, the new CNSE Bylaws contemplate review of tenure and promotion cases by six external experts, which helps ensure that conflicts of interests of the sort that may occur with CPCA review will not arise.

VP Kaloyeros mentioned that earlier discussions between CNSE and members of EPC had produced agreement that certain overarching policy issues including misconduct in research and research involving animal and human subjects would reside in the unified governance structure.

VP Kaloyeros invited questions and follow-up discussion.

A Committee member questioned whether the premise that faculty are to be trusted can be reconciled with the decision by the CNSE faculty to form a Senate that is separate and apart from the rest of the University faculty. VP Kaloyeros reiterated his view that all faculty units should have the right to develop their own senates, especially in light of the structural challenges inherent in the present University Senate. He stressed that faculty should be entrusted with managing themselves.

Another Committee member noted that while there is a potential for conflicts of interest to affect CPCA review of tenure and promotion cases, conflicts of interest might also arise within a school or college tenure and promotion review committee. The member observed that if indeed the CPCA essentially ratifies most or all recommendations from lower levels, it might not be highly problematic to retain it, especially as the CPCA has potential value in identifying and correcting rare miscarriages of justice or biased decisions. VP Kaloyeros responded that the central issue remained that it is important to have faculty exercise their rights and responsibilities without having another body of faculty review their cases. As an administrator, the president has final approval of tenure and promotion cases. If the president thinks someone was treated unfairly, he can and should seek assistance from CPCA. Another question was raised about whether eliminating University-wide faculty review of tenure and promotion cases would be disadvantageous because it would disrupt the normal

alternating progression of faculty review-administrative review and allow a dean's or vice president's recommendation to go directly to the Provost or another administrative official without intervening faculty review. VP Kaloyeros responded that in his view such alternating review by faculty and administrators did not serve a protective function and was not followed consistently at present. For example, department chairs normally staunchly defend the views of faculty and in practice do not really act independently of faculty. In addition, the Provost provides a recommendation directly to the President without intervening faculty review.

Another Committee member questioned whether there should be an appeals process in tenure and promotion cases. VP Kaloyeros reported that faculty are handpicked to be successful during hiring decisions. If grievances arise, the UUP grievance procedures are available and can and should be invoked.

When asked about the chance of success for the decentralized model, VP Kaloyeros reported that faculty will feel more ownership, which will increase morale and enthusiasm and faculty will be more willing to serve on committees. They will see the benefits of decentralization first-hand.

One committee member inquired about the apparent lack of student representation contemplated in the CNSE Bylaws on the CNSE Senate. VP Kaloyeros deferred that question to the Faculty Senate, although he indicated that the 75 students at CNSE are in the process of developing a Graduate Student Organization. He noted that this is the first year of the CNSE Senate and expressed confidence that the CNSE Senate will invite student participation once the GSO is formed and the Chair of the Senate has a chance to take up this matter.

A Committee member referred to the SUNY Board of Trustees' granting CNSE autonomy with respect to the faculty governance structure and the communication from President Ryan recognizing that CNSE must adhere to overarching policy. VP Kaloyeros was asked if he had a sense of where the line is drawn between general policies with which all units must abide and appropriate faculty autonomy. VP

Kaloyeros responded that the President's reference to policies was expressed in a previous memorandum and included the following (taken from President Ryan's April 28, 2004 memorandum):

- All University at Albany faculty must be appointed by the President of the University at Albany, naturally based on the recommendation of the head of the College;

- All sponsored research generated by the faculty must be recorded through the University at Albany's Research Foundation account;

- All enrollment generated by the College must be part of the University's overall enrollment plan and reported to SUNY System Administration as such.

- The budget of the College must be integrated within the University at Albany's overall Campus Financial Plan. Our current system allows for significant flexibility in budgetary decision-making. This also does not conflict with the creation of direct revenue streams from external sources to meet the specific needs of individual academic units. The new College should participate in and benefit from the institution's incentive-based budget model.

A follow-up question inquired whether VP Kaloyeros had an opinion about whether a decision to refer all tenure and promotion cases to a faculty review body independent of the School or College fairly could be classified as a "policy" matter that appropriately could govern all units. VP Kaloyeros responded that the President has latitude in defining what constitutes "policy" but that in his view, a decision to create a mandatory third-level review would not be a policy decision. The President could refer cases on an individual basis for CPCA review, but not as a general principle.

A Committee member asked VP Kaloyeros how he thought CNSE would meld with the current University Senate under its proposed bylaws. VP Kaloyeros responded that he would encourage participation in areas that are not autonomous to CNSE and that he will speak to the CNSE Faculty Senate about participation on the

University Senate. As an example, he would like to see the Chair of CPCA observe the process of CNSE tenure and promotion deliberations, and he reiterated that coordination is important.

A Committee member asked VP Kaloyeros' opinion about whether the autonomous school or the University (e.g., through CPCA) should define the guidelines for tenure and promotion. VP Kaloyeros indicated that the University policies in the Faculty Handbook have to apply and the union policies have to apply. These represent legal policies and overarching rules that no unit should ever violate.

All bodies within the State are subject to State law.

An administrative question was raised, involving the process to be followed if CNSE proposed a new academic program. VP Kaloyeros suggested that a proposal would be considered within the CNSE by the faculty, who could enlist external experts. The Chair of the CNSE Senate would refer the proposed program to the Vice President, who would refer it to the University President with a copy to the Provost. Thereafter, the program would undergo SUNY review, Chancellor review, and review by the State Education Department.

A question was raised about whether VP Kaloyeros envisioned a role for University-wide governance on issues such as conflict of interest in research and the Institutional Review Board (IRB). VP Kaloyeros reported that the proposed CNSE Bylaws were reviewed by some key members of the University Senate.

The Bylaws provide that misconduct in research and research on human and animal subjects will be referred to the Council for Research. He was not concerned about conflict of interest issues, which are guarded against by other regulations and the State Ethics Commission, but was concerned about perceptions surrounding conflicts of interest.

A Committee member indicated that some people regard the autonomy of CNSE as an experiment in governance and asked VP Kaloyeros's views regarding the conditions under which CNSE will re-examine or reconsider its new rights and responsibilities in the future. VP Kaloyeros indicated that he feels strongly that CNSE wants to be an integral part of the University; CNSE is driven by

wanting to be the best in research and teaching in science and technology, while at the same time having freedom to exercise certain activities consistent with laws of the State of New York. He further noted that Stony Brook is a model that already exists and works well. In any model there will be issues and challenges. He does envision that in the future there may be revisions in the Bylaws as a result of many interactive processes. In one sense, everything can be considered an experiment. He believes that the faculty of the CNSE expect that others will perceive the benefits of increased autonomy in governance and that such enhanced autonomy will lead to completing important business in a more collegial fashion.

At the conclusion of this discussion, VP Kaloyeros excused himself from the meeting.

Committee discussion:

Professor Acker reminded the group that the committee's charge had established an October 1 deadline for submitting a report to the Senate. He reported that the President has offered the Senate an opportunity to contribute its opinions regarding the CNSE Bylaws and that the Senate leadership had indicated that a timely report from this Committee would be valuable with this objective in mind.

Several Committee members expressed concern over injecting this Committee into the process of CNSE Bylaws development. Discussion ensued about the committee's ability to meet the October 1 deadline with a comprehensive report. One Committee member suggested presenting an oral report to the Senate or Executive Committee, or deferring to a later date, as a comprehensive report cannot be prepared in such a short time. Other Committee members expressed concern about providing a private oral communication, and it was suggested that at a minimum, providing a written bulleted list may be acceptable if a report is not ready by October 1. Committee members were concerned about their recommendations being

misinterpreted or not stated completely and accurately without a written report.

Minutes:

Professor Acker reported that pursuant to the Committee's prior recommendations, all guest speakers appearing before the Committee had been invited to review and comment on the minutes that reflect their individual presentations to ensure their accuracy and completeness before the minutes are made public. To date, one guest speaker had responded with proposed changes, which involved the minutes of the meeting of June 23, 2004. Professor Acker recommended that the proposed changes be made to the June 23 minutes. One Committee member objected to revising the minutes, observing that the Committee had previously approved the minutes as written. This objection opened a lengthy discussion about revising previously approved minutes. Several suggestions were made regarding how to reflect changes or additions to the previously approved minutes.

Following this discussion, a motion was proposed: To place an asterisk and accompanying explanation at the relevant portion of the June 23, 2004 minutes, indicating where and why the additions/revisions in the account of the guest's remarks were made. The motion was seconded. Seven voted in favor of and two voted against the motion.

A committee member requested that additional changes be made to the June 23 minutes which, in this member's opinion, would make the amended minutes reflect that meeting's discussions more accurately. Discussion ensued about whether committee members' proposed revisions to the amended minutes were timely and should be considered, and whether alternative ways of identifying necessary changes would be preferable. One Committee member suggested including in today's minutes all changes to the June 23 minutes.

A motion was made to rescind approval of the previously adopted motion and that the minutes of the present meeting (Sept. 17) reflect all necessary

changes—those suggested by the guest speaker and approved changes suggested by committee members—to the June 23 minutes. The June 23 minutes should be changed to include an asterisk and accompanying note that refers readers to the minutes of Sept. 17 to consider changes later made in the June 23 minutes. This motion passed by vote of 9-0. The revised portion of the June 23, 2004 minutes are attached.

Professor Acker reported that another guest speaker reported a minor factual error regarding GAC procedures that was attributed to the speaker and recorded in another section of the June 23 minutes. It was suggested that this factual error be corrected in the original minutes. The Committee agreed to this corrective mechanism.

Research Subcommittee Report Overview:

The committee then began a brief introductory discussion of the report of the Subcommittee on Research. Professor Wyckoff reported that the Research subcommittee reviewed and considered several research-related issues. The subcommittee concluded that many issues related to research already are decentralized. For example, distribution of the FRAP B research awards is currently devolved to the colleges and schools. It further appears that for other issues, the costs associated with decentralization would outweigh potential benefits, or decentralization would not be feasible (e.g., research compliance, conflict of interest issues). The view was expressed that Indirect Cost Return (ICR) decisions involve policy decisions appropriately residing within the President's authority and do not directly involve faculty governance.

Research awards involve modest sums of money. As mentioned, FRAP B awards already are devolved. Decisions about FRAP A awards should remain University-wide, so that funds can be pooled and consistency achieved. One member suggested that FRAP A funds could be distributed to schools and colleges and added to FRAP B funds, although it was pointed out that especially in smaller units the size of awards would not be expected to increase appreciably.

The subcommittee's recommendations regarding no devolution of present Council on

Research authority with respect to centers and institutes perhaps merit greater discussion at a future meeting.

The subcommittee was of the view that the value of Excellence in Research awards would be diminished if they do not remain University-wide, and further observed that schools and colleges are already free to bestow their own research awards if they wish to do so.

Additional discussion ensued about conflict of interest issues in matters of research, and the potential value of having stronger centralized oversight in this area. The University of Michigan's and Penn State's experiences with centralized review of research for potential conflicts of interest were discussed. Suggestions were made about certain wording in the subcommittee's draft report. Discussion also ensued about the number of proposals submitted for IRB review from one academic unit, and it was suggested that such extensive review might be minimized if faculty engaging students in class projects followed different procedures. Questions were raised about whether certain IRB functions might be devolved to schools and colleges to help minimize delays, and in specific whether faculty might be "deputized" to confer approval to students to engage in research. However, it was pointed out that present IRB procedures are conducive to faculty securing blanket approval for supervising certain class projects, and that for other student research projects it might be especially important to adhere to strict and consistent research policies, including IRB review.

The meeting was adjourned, with continuing discussion about the Research Subcommittee's report anticipated at the ensuing committee meeting.

Addendum to the June 23, 2004 Ad hoc University-wide Governance Committee Minutes

Addendum to the discussion with Professor Glenna Spitze, Department of Sociology, outgoing chair of the Council on Promotions and Continuing Appointments (CPCA):

Some people have expressed concern that CPCA is not able to understand the different expectations and conditions of employment for various departments and schools (e.g. Fine Arts, Public Health, Library). However, the CPCA does make a serious attempt to be aware of those differences, through careful reading of materials from chairs, the inclusion of persons from those areas on the Council, and occasional meetings with administrators from those units.

Professor Spitze reported that she had heard suggestions that CPCA might be transformed into a body that simply creates policy but does not review individual tenure and promotion cases. She identified two drawbacks concerning such a transformation. First, consideration of individual cases is important to help inform members about policy-related issues. In addition, there must be a mechanism to ensure that policies are followed consistently across campus if general policies are to be meaningful and effective.

Addendum for clarification of the promotion and tenure discussion as represented in the June 23, 2004 minutes:

One committee member asked Dr. Spitze about how frequently the CPCA disagrees with the recommendations made in tenure and promotion cases by prior review bodies (e.g., departmental, school, or college), expressing the view that this issue is important in helping define the actual contributions or value of CPCA as a faculty governance body that intervenes between the school or college dean and university provost. Professor Spitze indicated that to her knowledge CPCA very infrequently has departed from the recommendations made at lower levels. This view was supported by another committee member who had recently served on CPCA. A committee member suggested that if CPCA rarely if ever votes differently from a department or school recommendation, it could be debated whether there is true value-added in CPCA performing an oversight role; i.e., that CPCA exists in part to protect against unfair or administratively influenced promotion and tenure votes at department or school levels.

Additional discussion ensued and alternative viewpoints were expressed about the extent to which CPCA, given its diverse membership, can accurately assess cases involving specific faculty and schools throughout the university. While the opinion was offered that CPCA is able to review all cases adequately, and its members are able to educate themselves about how different types of cases might differ, a committee member opined that several recent School of Public Health promotion review cases provided enough evidence to continue debating this point.

The committee member stated that some faculty felt that in some SPH cases, involving NYS Dept. of Health faculty, the CPCA lacked an understanding of and/or willingness to accept the nature and appropriate sources of consultant letters obtained for bench scientists at the NYS Dept. of Health.