



## Minutes of the Faculty Senate

**Presiding:** Lawrence A. Pivnick (Law)

**Date:** 9-06-11

**Secretary:** Cynthia G. Tucker (English)

**Senators Present:** Narahari B. Achar (Physics), Pilar Alcalde (Foreign Lang & Lit), Thomas E. Banning (Engr Tech.) Jeffery S. Berman (Psychology), Shaum P. Bhagat (Comm. Sci. Disorders), Gloria F. Carr (Nursing), Mark H. Danley (Univ Libraries), Dipankar Dasgupta (Computer Science), Richard D. Evans (Fin, Ins, & Real Estate), Michael M. Grant (Instr & Curr Ldrship) Reginald L. Green (Leadership), Thomas Hrach (Journalism), Wade M. Jackson (Mang Info Systems), Robert Kozma (Mathematical Sciences), A. Katherine Lambert-Pennington (Anthropology), Gladius Lewis (Mechanical Engr), James M. Lukawitz (Accountancy), David G. Matthews (Communication), Edward J. May (Military Sciences, Naval Sci), Larry W. Moore (Civil Engr), Cedar L. Nordbye (Art), Lawrence A. Pivnick (Law), Jose M. Pujol (Earth Sci), Kevin M. Sanders (Music), Steven D. Schwartzbach (Biology), Sharon A. Stanley (Political Science) R. Jeffery Thieme (Mrktng & Suply Chain Mang), Cynthia G. Tucker (English), Junmin Wang (Sociology), Gregory Washington (Sch Urb Aff & Pub), John L. Williams (Biomed Engr), James F. Williamson (Architecture), Yonghong Xu (Couns, Ed, Psy & Res)

**Senators Present by Proxy:** Billy E. Lawson (Philosophy) Pleshette DeArmitt; Terra L. Smith (Health & Sports Sci) Yuhua Li

**Senators Absent:** David C. Burchfield (Public Health), Chemistry (vacant), Economics (vacant), Elec & Computer Engr (vacant), David J. Giacobassi (Crim & Criminal Justice), Anita Jo Lenhart (Theatre & Dance), Arwin D. Smallwood (History), Univ College (vacant), Robert R. Wiggins (Management)

**TBR Representative: Faculty Senate Information Officer:** Thomas E. Banning (Engr Tech)

**Guests:** David Cox (President's Office), Cecil C Rousseau (U of M Association of Retirees)

The three-hundred-and-ninety-second meeting of the University of Memphis Faculty Senate was held Tuesday, September 6, 2011, in the Senate Chambers, Room 261 of the University Center.

### 9.6.11.01 Call to Order

The meeting was called to order at 2:40 p.m. with a quorum present.

### 9.6.11.02 Approval of Agenda

The agenda was approved as submitted.

### **9.6.11.03 Approval of Minutes**

The minutes from April 26, 2011, were approved with a minor correction, to show that Gladius Lewis (Mechanical Engr) was present. Faculty Senate (FS) Secretary C. Tucker apologized for the inadvertent omission.

### **9.6.11.04 President's Report**

1. Outcome of Vote Amending Faculty Senate Constitution: Thanks to a turnout ensuring a quorum at the General Faculty Meeting on August 26, the motion enabling online voting was passed with 306 votes cast: 298 in favor; 8 opposed. Our hope is that this amendment, which makes it possible for the entire faculty to vote on further changes to the constitution, will be the first step toward engaging our colleagues directly in voting on issues that come before the Faculty Senate.

2. Lambuth Faculty Positions and Impact on U of M Faculty: With little time to arrange for the Jackson campus's Fall staffing needs after the quick acquisition of Lambuth University, the U of M administration did not involve faculty in its decision to assign 20 people who had been teaching at Lambuth to 1-year positions as visiting faculty. President L. Pivnick, President-Elect T. Banning and Past-President W. Jackson will therefore meet with President Raines and Provost Faudree on September 9 to explain the need for our greater participation, especially in decisions that could have a negative impact on our colleagues in tenure-track and permanent faculty positions. The Faculty Senate agreed to ask Dean Dan Lattimore, Vice Provost for Extended Programs and Dean of University College at the University of Memphis (our Lambuth Campus contact) to attend our next meeting to give us an update and clarify the process.

3. Faculty Ombudsperson Update: The FS discussed, amended, and then approved a proposal from David Cox, Executive Assistant to President Raines, designed to address (1) how the Faculty Ombudsperson be selected and (2) the person or body to whom that person reports. The current occupant of that position, E. W. Brody, who will vacate the post at the end of this academic year, was selected not by the faculty but by the provost. Equally problematic for the FS leadership is the fact that he has reported directly to the provost while adamantly refusing to report to the Faculty Senate, as well. The FS passed motions to amend the D. Cox proposal as indicated below by deletions and italicized changes in language:

#### **University Faculty Ombudsperson: A Proposal**

**Role:** The University of Memphis Faculty Ombudsperson is an independent, confidential and impartial resource available to the faculty to facilitate cooperation and consensus through education and mediation. The Ombudsperson is a designated neutral or impartial dispute resolution practitioner whose major function is to provide confidential and informal assistance to faculty of the institution. Serving as a designated neutral, the Ombudsperson is neither an advocate for any individual nor the organization, but rather, serves as an advocate for fairness who acts as a source of information and referral, aids in answering questions, and assists in the resolution of concerns and critical situations.

More specifically, the Ombudsperson engenders awareness and skill development in the areas of conflict resolution, communication, team building and civility.

Ombudsperson's activities assist all tenured, tenure-track, clinical, research, one-year instructors to resolve complaints with the goal of promoting alternatives to adversarial processes. The office supplements, but does not replace, the University's existing resources for conflict resolution. Staff and student conflicts should be directed to the Department of Human Resources and the Division of Student Affairs respectively.

### **Responsibilities:**

#### **A. Dispute Resolution/Consultation and Referral**

- Provide impartial and confidential consultation to members of the college/university faculty community who are aggrieved or concerned about an issue
- Remain independent, neutral and impartial, and exercise good judgment
- Assist inquirers in interpreting college/university policies and procedures, seeking input from appropriate offices when needed
- Provide assistance to inquirers by clarifying issues and generating options for resolution
- Facilitate the inquirer's assessment of the pros and cons of possible options
- If direct action by the ombudsperson may be an appropriate option, obtain the inquirer's agreement and permission before proceeding
- If necessary, and while maintaining confidentiality, conduct appropriate informal fact-finding in order to better understand an issue from all perspectives
- Consult with faculty to develop cooperative strategies for complaint resolution
- With the inquirer's permission, consult with all parties to clarify and analyze problems, focus discussions, and develop a mutually-satisfactory process for resolution
- When appropriate, facilitate group meetings, use shuttle diplomacy, or negotiation skills to facilitate communication among parties in conflict
- When legal and/or disciplinary issues arise, the Ombudsperson refers the case to the appropriate unit of the University

#### **B. Policy Analysis and Feedback**

- Serve as a campus resource for officials in formulating or modifying policy and procedures, raising issues that may surface as a result of a gap between the stated goals of the institution and actual practice
- Based on anonymous aggregate data, prepare an annual report *to the Faculty Senate* that discusses trends in the reporting of grievances and concerns, identifies patterns or problem areas in university/college policies and practices, and recommend revisions and improvements, where appropriate
- Act as a liaison between individuals or groups and the campus administrative structure, serving as a communicator or informal facilitator, as appropriate
- Function as a sensor within the campus community to identify problems or trends that affect the faculty
- Provide early warning of new areas of organizational concern, upward feedback, critical analysis of systemic need for improvement, and recommendations of systemic changes

#### **C. Community Outreach and Education**

- The ombudsperson is responsible for on-going education and communication about the office's role to all potential inquirers as well as to university leadership

**Reporting:** The Ombudsperson reports to the Provost *except in cases involving the provost, when the Ombudsperson will report to the university president. Any case not satisfactorily resolved by the Office of the Provost will be sent to the university president for resolution.* The Ombudsperson maintains collaborative relationships with other University offices (e.g., Academic Affairs, Human Resources, Affirmative Action, Student Affairs) in the conduct of her/his functions.

**Term of Office:** The Ombudsperson will serve a two-year term of office.

**Selection:** Nominations for Ombudsperson will be solicited 90 days before the end of the current Ombudsperson's term. A Committee of six will review nominations for Ombudsperson, ~~and provide recommendations to the Provost.~~ Three members of the selection committee will be appointed by the Faculty Senate and three members will be appointed by the ~~Provost~~ President. ~~The Provost Faculty Senate~~ will make the selection of the Ombudsperson, *subject to the Provost's President's approval.*

Motion: Moved that the Faculty Senate adopt this modified language.

**Adopted by unanimous voice vote with 1 abstention on September 6, 2011.**

4. Academic Freedom Policy (see attachment): The American Association of University Professors (AAUP) has recommended that policies on academic freedom be revised to state explicitly that faculty's First Amendment rights protect their freedom of speech not only in teaching and research but also in matters of faculty governance. Our FS approved a motion to this effect. But as President L. Pivnick pointed out, this needs to go into our Faculty Handbook. The FS agreed, and President L. Pivnick will take this desired revision to the provost, who handles all proposed changes to handbook.

Motion: Move that the Faculty Senate adopt this language.

**Adopted by unanimous voice vote on September 6, 2011.**

Beyond this, as strongly encouraged by TN University Faculty Senates (TUFS), our state consortium of faculty senates, our U of M Faculty Senate approved a motion to ask the TN Board of Regents (TBR) and the UT system to adopt the language proposed by the Association of American University Professors (see attachment).

Motion: Move that the Faculty Senate vote to adopt this language.

**Adopted by unanimous voice vote on September 6, 2011.**

5. Faculty Lounge: President L. Pivnick urged that the FS form an ad hoc committee to explore the possibilities for having a faculty lounge in one of several available spaces on campus. The Committee on Committees will oversee forming this ad hoc group, on which Senators R. Evans, C. Nordbye, L. Pivnick, and J. Williamson volunteered to serve. Some concern was expressed that such an expenditure might be problematic given more critical faculty needs that are not being funded. The exploratory committee will take the issues of cost and priorities into account.

6. Tenure and Promotion Language. President L. Pivnick took up the matter of the administration's latest proposal of how the Tenure & Promotion policy ought to read in the

Faculty Handbook. At issue is the following language: *As departmental, college, and university standards for tenure evolve, the expectations for faculty members seeking tenure will also evolve. When faculty members apply for tenure, they do so under the guidelines and criteria in effect at the time of their third year review.* The entire proposal reads as follows:

### **Mid-Tenure (Third Year) Review of Probationary Faculty**

Individual departments and academic units, with the involvement of their dean, will conduct a major evaluation of untenured faculty in tenure-track positions prior to their eligibility to apply for tenure. The purpose of the review is to provide the department tenure and promotion committee, the chair, the college tenure and promotion committee (if utilized), the dean and the faculty member with information about her/his progress toward promotion and tenure. This evaluation is typically near the end of the faculty member's third year and is conducted by the tenure and promotion committee and the chair. Each faculty member is responsible for presenting documentation (dossier) of contributions and accomplishments according to departmental or academic unit, college, and university guidelines. These materials are reviewed by the tenure committee of the department, by the chair and by the dean and are subsequently forwarded to the Office for Faculty Administrative Services for inclusion in the faculty member's permanent file. During this process, the chair and the dean should provide the candidate with information about his or her progress toward application for tenure.

*As departmental, college, and university standards for tenure evolve, the expectations for faculty members seeking tenure will also evolve. When faculty members apply for tenure, they do so under the guidelines and criteria in effect at the time of their third year review.*

After J. Berman explained the history of this issue, brief discussion produced an agreement that we not proceed with a vote on whether or not to accept the language that proposed by administration until the entire faculty is polled. The poll---to be conducted by the senate's ad hoc Faculty Input Committee under the chairmanship of T. Banning---will record the rank of respondents.

7. Opposing Guns on Campus: President L. Pivnick brought to the floor the following resolution:

The University Faculty Senate opposes the adoption of 2011 TN Senate Bill 51 and any statute that would allow University of Memphis faculty, staff, and/or students to carry concealed handguns on the campuses of the University of Memphis. The Faculty Senate joins with University of Memphis President Raines, the Tennessee Board of Regents, and Bruce Harber, Director of the University of Memphis Police Services and his staff in opposing any such legislation.

Motion: Move that the Faculty Senate adopt this language.

*Adopted by unanimous voice vote on September 6, 2011.*

8. Presentation: President L. Pivnick presented Past-President W. Jackson with a plaque in recognition of his service to us in AY 2010-2011.

### **9.6.11.05 President-Elect's Report**

President-Elect and TBR Faculty Subcouncil Representative, T. Banning provided the following summary of the TBR's Faculty Subcouncil and (TN University Faculty Senates (TUFS) meetings:

1. TBR Faculty Subcouncil Meeting (July 22, 2011): A new TBR policy regarding the use of campus facilities requires companies and individuals to complete paperwork before they can come on campus. This does not apply to outsiders who are invited by campus organizations or faculty. The subcouncil also discussed the lack of faculty involvement in creating another new policy concerning the penalties applied in cases of students' academic dishonesty.

2. TUFS: UTK's representatives described their school's efforts to deal with a case of a faculty member's "uncivil communications" and the problem of students' excessive late-term withdrawals from courses.

TUFS is soliciting senates' suggestions for due process guidelines that administrators should follow in cases of misconduct, termination, complaints and other actions where faculty need independent legal assistance. TUFS would also like our advice about the best way of determining optimum class size.

### **9.6.11.07 Committee on Committee Nominations**

Motions from the Committee on Committees chaired by C. Nordbye put forward the nominations of individuals who have expressed an interest in serving and agreed to be nominees.

**Motion: Move that the Faculty Senate accept the following nominations:**

1. Tenure and Promotion Appeals Committee (2 nominations)

Charles E. Menifield (Public Administration)

Kenneth Reardon (City and Regional Planning)

**Adopted by unanimous voice vote on September 6, 2011.**

2. Ad hoc Budget & Finance Committee (1 nomination)

Leigh Nanney Hersey (Public Administration)

**Adopted by unanimous voice vote on September 6, 2011.**

3. Teaching & Learning Advisory Committee (TLAC)

Jeffrey S. Berman (Psychology)

**Adopted by unanimous voice vote on September 6, 2011.**

### **9.6.11.08 Old Business**

Stonewall Tigers Project Safe Zone: C. Nordbye presented a motion putting on record the Faculty Senate's support of the Safe Zone program, which aims "to promote and advocate for safe environments respectful of all individuals, including lesbian, gay, bisexual, and transgendered members of our university community." S. Schwartzbach (Biology) pointed out that we faculty surely want all of the campus to be a safe zone and not have its "safety" restricted to places where a network of volunteers hang "Safe Zone" signs. While further discussion showed wide support for the spirit and intent of the motion, it also brought out the need to revise

the language in which it is currently framed so that it will not be open to misunderstandings that stand in the way of its passage.

Motion: Moved that the motion supporting the Safe Zone program be tabled until the next meeting.

**Adopted by unanimous voice vote on September 6, 2011.**

### **9.6.11.09 Announcements**

1. Centennial Anniversary (2012) year-long celebration: Beginning at noon on Sept 10, 2011, the first centennial event will commemorate the school's first day of classes, Sept 10, 1912.
2. Tigers Around Town: The 100 commissioned Tiger statues will be unveiled at noon on Saturday, Sept. 10, in the Student Plaza adjacent to the Administration Building. This family event will have hot dogs, soft drinks, inflatable bouncers and entertainment by the Soul Outsiders.
3. Homecoming Weekend 2011: The Homecoming celebration will begin at 5:30 on Friday, September 23, with the traditional parade. The pep rally will start at 6:30, and the Homecoming party will follow the rally. The football game between U of M and SMU) will be Saturday, Sept 24, in the Liberty Bowl, with kickoff at 11 a.m.
4. UofM Centennial Celebration kick-off event: Our yearlong celebration will begin on Friday, September 30, 2011, with a performance by Musical Gala artist Aaron Neville and the Scheidt School of Music at the Cannon Center for the Performing. Faculty, staff, and students are being offered a very limited number of \$12 tickets for the event. For more details, call 678-1651 weekdays between 8 a.m. to 4 p.m. between now and September 16.
5. Memphis Research Expo: Sponsored by the Uof M, UTHSC, and St Jude Research Hospital, this event will be held on Thursday, October 6, 2011, from 9 am-4 pm at the FedEx Institute of Technology. Admission is free. Call 678-1041 for details.
6. Next Meeting of the Faculty Senate: October 11, 2011.

### **9.6.11.10 Adjournment**

The meeting was adjourned at 4:30 p.m.

**Policy: 5:02:03:30**

**Subject: Academic Freedom and Responsibility**

**I. Introduction**

The following policy of the Tennessee Board of Regents on academic freedom and responsibility is applicable to all universities/colleges within the System. The statement in Article II on academic freedom and responsibility may be adopted by each university/college, or a university/college may adopt an alternative statement, provided that the statement is consistent with the policies set forth herein.

University/college policies on academic freedom and responsibility must cite and specifically acknowledge compliance with the Board Policy on Academic Freedom and Responsibility (5:02:03:00). Likewise, university/college policies must embody and communicate clearly as a minimum all provisions, definitions, and stipulations of the Board policy.

**II. Academic Freedom and Responsibility**

- A. The faculty member is entitled to freedom in the classroom in discussing his or her subject, being careful not to introduce into the teaching unrelated subject matter.
- B. The faculty member is entitled to full freedom in research and in the publication of the results, subject to the adequate performance of his/her other academic duties. Research for financial gain must be based upon an understanding with the authorities of the university, which is documented reduced to writing and signed by the faculty member and the appropriate academic officer(s)
- C. The faculty member is a citizen, a member of a learned profession, and an officer of an educational university/college. **Academic freedom includes the freedom to speak or write without institutional discipline or restraint on matters of public concern as well as on matters related to professional duties and on matters involving the academic and administrative functioning of the university/college.** When the faculty member speaks or writes as a citizen, he/she should be free from university/college censorship or discipline, but his/her special position in the community imposes special obligations. As a man or woman of learning and an educational officer, he/she should remember that the public may judge the profession and the university/college by the faculty member's utterances. Hence, a faculty member should at all times be accurate, should exercise appropriate restraint, should show respect for the opinions of others, and should make every effort to indicate that he/she does not speak for the university/college.

Academic freedom is essential to fulfill the ultimate objectives of an educational university/college - the free search for and exposition of truth - and applies to **participation in shared governance as well as both** teaching and research. Freedom in research is fundamental to the

## **Tennessee University Faculty Senates**

### **Resolution on Shared Governance and Academic Freedom**

WHEREAS, the American Association of University Professors (“AAUP”) has a longstanding statement on shared governance affirming the responsibility of faculty members to (1) speak or write about (a) matters of public concern as well as on matters related to professional duties or (b) matters involving the academic and administrative functioning of the university or its academic or nonacademic units or (2) participate in university or campus shared governance (the conduct described in clauses (1) and (2) collectively constituting “shared governance activities”); and

WHEREAS, the opinion of the Supreme Court of the United States in *Garcetti v. Ceballos*, 547 U.S. 410 (2006), has been interpreted by lower federal courts to permit adverse employment decisions to be taken against faculty members for engagement in shared governance activities, an interpretation in conflict with AAUP policy; and

WHEREAS, the AAUP has suggested model language to address faculty engagement in shared governance activities without institutional discipline or restraint, and major universities have included that language or language of that kind in university and campus academic freedom policies; and

WHEREAS, the AAUP has favorably cited and promoted academic freedom policies adopted by the University of Minnesota and the University of Wisconsin, Madison, among other higher education institutions, that incorporate language protecting faculty engagement in shared governance activities without institutional discipline or restraint; therefore, it is

RESOLVED, that the President of TUFS write a letter to the Executive Director of the Tennessee Higher Education Commission, the President of The University of Tennessee, and the Chancellor of the Tennessee Board of Regents requesting that each of them endorse the inclusion in applicable university and campus policies of language affirming the freedom of a faculty member to engage in shared governance activities without institutional discipline or restraint.

## Links to Related Information

AAUP Guidance Post-*Garcetti*

<http://www.aaup.org/AAUP/comm/rep/A/postgarcettireport.htm>

<http://www.aaup.org/NR/rdonlyres/B3991F98-98D5-4CC0-9102-ED26A7AA2892/0/Garcetti.pdf>

<http://www.aaup.org/AAUP/pubsres/academe/2011/JF/Feat/delf.htm>

<http://www.aaup.org/AAUP/pubsres/academe/2011/JF/Feat/udsoaf.htm> (Delaware)

<http://www.aaup.org/AAUP/programs/protectvoice/howto/Wisconsin.htm> (Wisconsin)

<http://www.aaup.org/AAUP/programs/protectvoice/howto/Minnesota.htm> (Minnesota)

<http://www.aaup.org/NR/rdonlyres/1211228E-39C3-4CD1-B90ABE99A4F02B6F/0/ChartpostGarcettipolicies0810.pdf> (chart summarizing initiatives at various universities/campuses)

Other Statements/Articles/Weblogs (Just a Sampling)

<http://www.georgetownlawjournal.org/issues/pdf/97-4/Areen.PDF>

[http://hied.uark.edu/Article\\_8\\_-\\_Murry.pdf](http://hied.uark.edu/Article_8_-_Murry.pdf)

<http://idaho-aft.org/AcademicFreedom.htm>

<http://crookedtimber.org/2009/06/16/on-the-children-of-garcetti/>

[http://findarticles.com/p/articles/mi\\_qa3860/is\\_200105/ai\\_n8948304/](http://findarticles.com/p/articles/mi_qa3860/is_200105/ai_n8948304/) (early article—pre-*Garcetti*)