

Minutes

Meeting #11, January 17, 1979

Faculty Senate

The Faculty Senate met on Wednesday, January 17, 1979 at 3:30 p.m. in the Senate Room of the University Center with Margaret Wilson, President, presiding. Senators present were: Adamcik, Alexander, Allen, Brittin, Chamberlain, Christian, Dale, Davis, Dixon, Elbow, George, Higdon, Hunter, Jebson, Keho, Kellogg, Lee, L. Luchsinger, V. Luchsinger, McGlynn, McGowan, McPherson, Mehaffie, Michael, Morris, Nelson, Newcomb, Oberhelman, Owens, Pearson, Rylander, Sanders, Sasser, Shine, Smith, Sowell, Tereshkovich, Troub, Wagner, Walkup, Williams, and Vines. Members absent because of University business and pressing personal matters: Aycock, Cummins, Eissinger, Gillas, McDonald, McLaughlin, Mogan, Reichert, Stoune, Wade and Wright.

Guests included: Cecil Mackey, President; Charles Hardwick, Vice President for Academic Affairs; J. Knox Jones, Jr., Vice President for Research and Graduate Studies; Len Ainsworth, Associate Vice President for Academic Affairs; Clyde Morganti, Assistant to the President; Richard Klocko, Director of Personnel Relations; Jane Brandenberger, Director University News & Publications; Donald Dietz, Classical/Romance Languages; William J. Mayer-Oakes, Anthropology; Ruth Rogers, Physical Education; Jacq Collins, History; Bruce Kramer, School of Law; and Rod McClendon, University Daily.

SUMMARY OF BUSINESS TRANSACTED

The Faculty Senate:

- 1) Exchanged views with President Mackey on proposed Grievance Procedures
- 2) Heard final comments from President Mackey on the Invocations issue.
- 3) Adopted the final report of the ad hoc Committee on Retirement Investigation.
- 4) Heard an interim report from the ad hoc Committee on Raising Retirement Age for Faculty

Senate President Wilson called the meeting to order at 3:35 p.m. and recognized the guests.

I. MINUTES OF THE DECEMBER 13, 1978 MEETING

Newcomb moved the addition of a sentence under Item IX., Announcements, making that item read as follows: "Several items from the announcements were discussed briefly. It was noted that Dr. Mackey has indicated his intent not to act on the Faculty Senate's request for an opinion on the constitutionality of the football game invocations policy from the Attorney General. President Wilson announced that a discussion of this matter was on the agenda of the January meeting, which President Mackey plans to attend. Therefore, no further action was taken on this matter." (addition underlined) The minutes were approved as distributed and amended.

II. GRIEVANCE PANEL DISCUSSION - Dr. Cecil Mackey

Wilson opened the discussion of the proposed grievance procedures by stating that the document under discussion was a preliminary draft and is only the first of several probable revised draft documents which will be presented for the Senate approval. She also asked Senators to restrict their remarks to substantive points which convey the essence of objections to the proposed procedure and to abstain from commenting on details of wording or procedure which could be resolved later.

Wilson then invoked the rule from Section 9 of the Bylaws which allows the Agenda Committee to set a time limit on agenda items. A 10 minute limit was set on discussion

Grievance Panel Discussion continued.....

of each section of the proposed grievance procedures, after which Senators could extend the time for discussion by a majority vote.

President Mackey then requested the floor so that he could address several of the points raised by Senators in their written comments on the Grievance Procedure document. Mackey noted that Section III. D. had been omitted from the Grievance Procedures as circulated among the members of the Senate. The missing part, which details the final step by which an aggrieved faculty member requests a hearing before the Grievance Panel, was then circulated to those present.

President Mackey then spoke to several of the points which had been raised by Senators in their response to the document. These points are listed below:

1) President Mackey has no strong feelings regarding the number of members on the Grievance Panel. He personally feels that it is appropriate to have representation from all colleges, but will adjust Panel membership to accommodate Senate wishes.

2) The procedures by which interested parties are informed of a grievance can be adjusted to accommodate Senate desires.

3) The statements regarding evidence which can be presented before the Panel were carefully worded to avoid legal definitions, thus allowing the panel to decide what constitutes evidence. Mackey would be willing to have a more legalistic definition of evidence but advised against it as an unnecessary limitation on and formalization of the grievance procedure.

4) The 30 day\* time limit on filing a grievance was established for two reasons:

- 1) to force individuals to deal with grievances early rather than allowing them to linger on, and
- 2) to facilitate the handling of grievance cases within the normal academic year and to limit the number of cases which might extend into the summer session or beyond.

A section could be added to the Procedures allowing a time period during which long-standing grievances could be "grandfathered" before the panel if the Senate so desires.

5) One-year terms for Panel members were established in order not to place too heavy a burden on those who are chosen to serve. Longer terms could be established if desired.

6) Neither the Panel nor the President of the University has the right to compel witnesses to present evidence on any case, but President Mackey feels that it would be a poor idea in any event.

7) President Mackey is very much in agreement with allowing grievants to have counsel present during proceedings, but strongly opposes allowing grievants to be represented by counsel on the basis that such representation would overly formalize the procedures, creating an adversary situation in which the panel might become intimidated. Also faculty might be discouraged from seeking a hearing before the Panel if they felt that they needed to be represented by counsel.

8) President Mackey would expect to put into writing a reasoned response to the Panel's recommendations and to make that available to the grievant, the Panel, and concerned administrators. However, he does not believe that it is appropriate to adopt specific wording to the effect that the President shall state in detail his reasons for rejecting the decision of the majority of the Panel, as was suggested in the written comments, since this would seem to set a precedent which would apply also to the Regents' policy regarding the release of information on cases of denial of tenure.

9) The proposed Grievance Panel would replace the existing Faculty Senate Grievance Committee. The Panel would afford due process for aggrieved faculty, thus eliminating the need for the Grievance Committee.

Grievance Panel Discussion continued.....

Following these remarks, President Wilson opened the floor for discussion of the proposed Procedure, reminding the Senators that the document would be dealt with one section at a time.

Oberhelman opened the discussion of Section I by noting the desire of the Grievance Committee, on which he served as chair for three years, to avoid being structured in rigidly legalistic terms. He also noted his personal opinion that a three year term (the term of service on the existing Committee) seems long. He further conveyed his feeling that representation from each college in the University is desirable and that it is especially important for there to be a representative on the Committee from the School of Law for advisory purposes. Oberhelman concluded his remarks by noting that promotion should be included among the grievances which are heard by the Panel. President Mackey conceded the final point and indicated that failure to promote will be included among the matters which can be brought before the Panel.

Newcomb then requested clarification of the definition of a grievance, asking specifically if it would be possible for a faculty member who had a grievance against a colleague to bring the complaint before the Panel. Mackey indicated that, while there would probably be few such cases, it would be useful to provide for their resolution through the grievance procedure.

Discussion then moved to consideration of the provision for replacement of the existing Grievance Committee by the proposed Grievance Panel. Mackey indicated that there had been an apparent misunderstanding regarding the status of the Grievance Committee but that the matter of its elimination could be pursued further if desired.

Under Section II, discussion began with comments from Newcomb on the size and composition of the Panel. He indicated the desirability of having representatives from each college, suggested simplification of the nomination procedure, and concluded by suggesting that the Panel membership be restricted to tenured faculty. Smith then questioned the time limit which had been suggested for filing complaints.

Discussion of Section III focused on details of the amount of time a grievant would have to file a complaint (30 days from the time the grievant becomes aware of the problem), on who determines if a grievance is settled (the grievant), and on the provision limiting access to the Panel for faculty who have taken their complaint to another body. Regarding the latter point, Mackey indicated that it would not be in the best interests of the University to have a faculty member pursuing a case both with the University's internal procedure and through an outside body as well. It was explained that this limitation would be unlikely to work to the disadvantage of aggrieved faculty and that University action would be suspended but not necessarily terminated in the event of an outside agency becoming involved.

Discussion on Section IV centered on the issue of representation by counsel. After considerable discussion, Adamcik moved that a vote be taken to indicate the sense of the Senate that the wording of Section IV. D. not be changed to allow faculty to be represented by counsel. George then offered an amendment stating: Administrative individuals or bodies against whom a grievance has been filed shall likewise present their own case. The amendment and the main motion both carried. Having come to the conclusion of the 10 minute time limit for discussion on Section IV., Wilson asked if the Senate desired to continue the discussion of this section. Newcomb moved the continuation of the discussion for two minutes. The motion carried. Newcomb then

Grievance Panel Discussion continued.....

raised the issue of the wording of Section IV. I, expressing his belief that the statement on Presidential response to the Panel's recommendations should be stronger. Mackey agreed in principle with Newcomb, indicating that it would be poor judgement not to respond to the Panel and Grievant.

At this point, debate ended and Wilson called for a straw vote on several points:

- 1) Untenured faculty serving on the Grievance Panel. Newcomb moved that the Senate indicate its preference that service on the Panel be restricted to tenured faculty. The motion passed.
- 2) Length of service. Oberhelman argued in favor of staggered two-year terms to provide continuity of membership on the Panel. The Senate voted in favor of this proposal as well.
- 3) Wilson raised the question of the wording of Section IV.D., which limits the time for filing a grievance and restricts recourse of grievants to outside appeals while the case is being actively considered within the University process. After some discussion, this item was laid aside pending receipt of additional information on its potential impact.
- 4) Abolishment of the existing Grievance Committee. Adamcik indicated the need for some vehicle for informal resolution of grievances and suggested that the Grievance Committee could serve in that capacity. It was noted that Mr. Richard Klocko, Director of Personnel Relations, is available to act as a grievance mediator for faculty. Mr. Klocko indicated that he has frequently served in that capacity in the past and that between 20-40 percent of the personnel matters which reach his office involve faculty grievances. He further noted that some faculty prefer to go through his office rather than to take grievances to the Grievance Committee. He was unsure of the reasons for this situation. No vote was taken on the abolishment of the Grievance Committee.

### III. INVOCATIONS - Dr. Cecil Mackey

There is a Regents' policy requiring that an audible prayer be given at every home football game held in Jones Stadium. Marilyn Phelan, University General Counsel, researched the law on the issue when the Senate passed a resolution asking that the policy be changed. It was her opinion that there is no clear legal prohibition to having invocations of the sort set forth in the Regents' policy. The Regents are aware of the Senate's view and they apparently do not care to consider changing the policy. Mackey did not feel it appropriate to seek an opinion from the Attorney General on the matter when there is no reason to doubt the capability of the General Counsel in researching the law adequately. Furthermore, he does not wish to establish a precedent of seeking Attorney General's opinions on matters of United States constitutional law which have been commented upon by the University General Counsel.

President Mackey ended his comments by reiterating his willingness to meet with the Faculty Senate any time there was a matter before it in which his presence would be beneficial.

### IV. REPORT OF THE AD HOC COMMITTEE ON RETIREMENT INVESTIGATION - Dr. Bruce Kramer

In its final report to the Senate the ad hoc Committee on Retirement Investigation made two recommendations:

- 1) The committee fully endorses the action of the Faculty Senate in passing a resolution calling for the Regents to change the mandatory retirement age

Minutes

Meeting #11, January 17, 1979

Faculty Senate

Page 5.

Report of the ad hoc Committee on Retirement Investigation continued.....

for Faculty to 70 before the statutorily set deadline of July 1, 1982.

2) The committee recommends that the Board of Regents adopt a written policy on procedures to be followed by faculty members who wish to teach full time beyond the mandatory retirement age. The committee recommends that the request be initiated in the department of the retiring faculty member. The department should review said request in the same manner as any other faculty personnel transaction. After departmental recommendation, the contract should follow the normal administrative review process for faculty personnel transactions noting, however, that it must show outstanding merit and need. If the department does not recommend a contract, one shall not be granted. Jebson moved the adoption of both recommendations. The motion passed.

V. REPORT OF AD HOC COMMITTEE ON RAISING RETIREMENT AGE FOR FACULTY - Dr. Harry Jebson

Jebson presented an interim report since the Committee had not yet completed its work. Responses to a questionnaire received from 25 of the 47 faculty members who would be affected by the present retirement law show 96 percent (24 out of 25) favoring immediate extension of retirement age for faculty to 70. Nearly 3/4 of the respondents indicated that they would continue to teach if the retirement age were extended to 70; however, the number of years that they would continue past age 65 would be decided by most on a year by year basis. Primary reasons cited for electing to continue employment past age 65 were: 1) reduced effectiveness of retirement funds because of inflation, 2) a feeling that the faculty member is making a meaningful contribution to students in the classroom and 3) a desire, especially among scientists and engineers, to continue productive research activities which require laboratory facilities and other benefits of academic affiliation.

Following the Jebson report Wilson indicated that she was prepared to convey the Senate's views on the retirement issue to the Regents at their February meeting if requested to do so by them.

VI. ANNOUNCEMENTS

Wilson stated that the ad hoc Committee to Study Faculty Employment Contracts had not been discharged pending that committee's study of the prefiled Gaston bill relating to employment contracts.

VII. OTHER BUSINESS

Wilson read parts of four letters to the Senators and commented briefly on them. They were:

- 1) A letter from Bill Dean, Director of the Ex-Students Association, in response to David Cummins' report on the Academic Excellence Fund, in which he says the Ex-Students Association has supported the ideas behind the Academic Excellence Fund in as much as they have, through the Loyalty Fund, given to various colleges monies which were used to promote excellence in teaching, excellence in research, excellence in food technology and other similar endeavors.
- 2) A copy of a letter from Dr. Hardwick to Dr. Ewalt in which he asked Dr. Ewalt to start procedures for getting the degree program majors included on student diplomas.

Other Business continued.....

3) A letter from E. L. Short instructing the Senate to contact the governor's office if it has any particular individuals in mind as appointments to the Board of Regents.

4) A letter from President and Mrs. Mackey to members of the Faculty Senate inviting them and their spouses to a reception at their home on Wednesday, February 7, 1979 from 4:30 to 7:00 p.m.

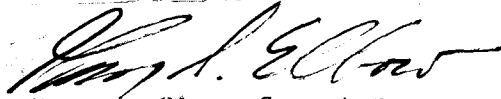
Vincent Luchsinger, Business Administration, has agreed to serve on the Committee on Committees to replace Herschel Mann who has resigned as a Senator.

Helen Brittin, Chairperson, Committee on Committees, gave the following report:

In response to Senate action on December 13, 1978, the Committee on Committees designated a committee to prepare a report for the February 1979 meeting of the Board of Regents on the impact of an age 70 retirement policy for faculty. The committee members are: Harry Jebson, History; Vincent Luchsinger, Business Administration; Richard McGlynn, Psychology and Cliff Kehoe, Civil Engineering.

The meeting adjourned at 5:45 p.m.

Respectfully submitted,



Gary S. Elbow, Secretary  
Faculty Senate

/gf