

Minutes of 10 August 2009
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THE UNIVERSITY OF MICHIGAN
Senate Advisory Committee on University Affairs
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MINUTES OF THE SACUA MEETING OF 10 AUGUST 2009

Present: Fraser, Lehman, Navvab, Poe, Rothman, Stark, Thouless (chair), Tzeng; Carr, Schneider

Absent: Frost

Guests: K. Gibbons (office of provost), C. Whitman (office of provost), J. Frumkin (Academic HR), D. Smith (Medical School), T. St. Antoine (chair, Faculty Grievance Process Task Force)

MATERIALS DISTRIBUTED

1. Proposed agenda
2. Ballots for committee nominations
3. Draft Academic Flu Response Class Suspension Plan
4. Faculty Grievance Process Task Force Report, dated 13 May 2009

Chair Thouless convened the meeting at 2:47 P.M. The draft agenda was approved.

CONSIDERATION OF MINUTES

The minutes of 15 June 2009 were approved.

ANNOUNCEMENTS

1. All members of the Academic Freedom Committee have agreed to serve:
Bruce Frier (Chair)
Rich Freidman
Bob Fraser
John Lehman
Christine Whitman
2. Prof. Christine Whitman (Law School) is a new Assoc. Provost for Academic Affairs, effective July 1, 2009.
3. SACUA will hold its annual retreat on 31 August at the Fleming Building.
4. The Regents appointed the following SACUA nominees to ABIA
David Potter (term ends 6/30/12)
Phil Savage (term ends 6/30/12)

4. The Regents appointed the following nominee of the Athletic Director to ABIA
Bruno Giordani (term ends 6/30/12)
5. The following faculty governance awards have been approved
Tim Richards - University Librarian Achievement Award
Jennifer Green - Library Recognition Award
Dan Moerman - Jackie Lawson Memorial Faculty Governance Award
6. Election results from 15 June 2009 were as follows:

Administration Evaluation Committee

- 2012** Don Winsor (Engineering)
2012 Keith Riles (LSA)
2012 Yvonne Abdoo (Nursing)
2010 Deborah DeGeorge (Library)

Committee for the Economic Status of the Faculty

- Chair:** Fed Askari (Medicine)
2012 Thomas Callahan (Dearborn)
2012 Silke-Maria Weineck (LSA)
2012 Fred Askari (Medicine)

Civil Liberties Board

- Chair:** Donna Hayward (Library)
2012 Carl Cohen (LSA)
2012 Donna Hayward (Library)

Development Advisory Committee

- Chair:** Brian Love (Engineering & Dentistry)
2012 Bran Love (Engineering & Dentistry) (extends present term)
2012 Yvonne Abdoo (Nursing)

Financial Affairs Advisory Committee

- Chair:** Wei Lu (Engineering)
2012 Kate Barald (Engineering & Medicine)
2012 Reed Dunnink (Medicine)
2012 Suresh Mukherji (Medicine)
2011 Kenneth Silk (Medicine)
2010 Peter Bush (UM Flint)

General Counsel Advisory Committee

- Chair:** John Burkhardt (Education)
2012 Larry Root (Social Work)
2012 Stan Berent (Medicine)
2012 Eugenie Potter (Education)
2010 John Burkhardt (Education)

Government Relations Advisory Committee

Chair: Barbara Garavaglia (Library)
2012 Karen Downing (Librarian)
2012 Angela Fagerlin (Medicine)
2012 Barbara Garavaglia (Library)
2010 Nancy Allee (Library)

Medical Affairs Advisory Committee

Chair: Larry Boxer (Medicine)
2012 Kate Berald (Medicine & Engineering)
2012 Penny Pierce (Nursing)
2012 Paul Kileny (Medicine)
2012 Anthony Chiod (Medicine)
2010 Fred Askari (Medicine)
2010 Joseph Helman (Dentistry & Medicine)

Committee for a Multi-Cultural University

Chair: Rex Holland (Dentistry)
2012 Heidi Abadeh (Dearborn)
2012 Karen Downing (Library)
2012 Rex Holland (Dentistry)
2010 Iyer Ram (Medicine)
2010 Yan Alice Xie (Dearborn)

Secretary of the University Advisory Committee

Chair: Peggie Hollingsworth
2012 Steve Lusmann (Music)
2012 Elliot Gertel (Library)
2011 Reed Dunnink (Medicine)
2010 Daniel Cheigo (Dentistry)

Student Relations Advisory Committee

Chair: Charles Koopmann (Medicine)
2012 Donna Hayward (Library)
2012 Shake Ketefian (Nursing)
2012 Richard Nye (Education)

OPEN ACCESS PUBLISHING POLICY

Chair Thouless reported that he has asked Dr. Fraser to lead an effort to explore open access publishing policy at the University of Michigan. He noted that Harvard and MIT already have such a policy. Dr. Fraser said that he has scheduled some meetings for Fall Semester to explore the topic. He suggested that actions at the U-M be coordinated with the CIC schools.

EXECUTIVE SESSION

The meeting entered executive session at 3:05 to elect candidates for additional committee memberships. The meeting remained in executive session to discuss proposed policy for dealing with any possible outbreak of influenza in the future.

The meeting resumed open session at 3:50 P.M.

GRIEVANCE TASK FORCE REPORT

Dean Emeritus St. Antoine joined the meeting at 3:50 P.M. to discuss distributed item 4. He described the deliberations and compromise recommendations of the task force. He pointed out that the most contentious issue was composition of the Grievance Hearing Board (GHB). Faculty representatives favored a structure whereby all three members of the Board are drawn from units external to that of the grievant and respondent. The deans and their representatives favored the present system whereby two members of the Board are internal members from the unit of the grievant. To resolve an impasse, both sides consented to a compromise whereby only one member would be drawn from the home unit.

Professor Rothman asked whether the new policy would cover a grievant whose complaint is that his title or position was removed unfairly. Dean Emeritus St. Antoine replied that the question was excellent, and that it represented a classic Catch-22 situation. He said that he had no hesitation in asserting that the policy clearly would apply to the case.

Professor Rothman asked whether hearsay evidence would be acceptable under the new policy. St. Antoine replied that in his long experience as an arbitrator, hear-say is acceptable, but it must be discounted in weight. Professor Rothman said that he thought it was unfortunate to rely on hear-say at all. St. Antoine responded that he fully agreed that the GHB should not rely heavily on rumor or innuendo. Professor Rothman asked about a case in which the administrators may argue that it is the culture of their unit to behave in a manner that would be regarded as unacceptable by others. The dean emeritus responded that it would be up to the two external members of the GHB to speak up and assert themselves. He added that he and his colleague from the Law School who served on the task force pointed out that some of these cultural practices might just be bad.

Professor Stark pointed out that the proposed policy states that the GHB may call its own witnesses and obtain relevant documents, but he asked how the GHB can compel attendance from administrators who are called. Dean Emeritus St. Antoine replied that it is true that the GHB does not have subpoena power, and that if the administrator had a very good excuse for not appearing, that might justify postponing the hearing for a week or so. He added that any time an administrator does not show up after being invited, there is a very clear course of action. He said it is well accepted in arbitration that if individuals refuse to appear as witnesses, or offer repeated excuses to evade questioning, it is accepted practice to assume that the individuals would have given testimony that is contrary to their own interests, and that conclusions may be drawn accordingly.

Professor Poe pointed out that issues often explode when faculty try to resolve a matter in face-to-face meetings with the administrator who made an adverse employment decision. Professor Smith described his first hand experience in trying to resolve a grievance informally.

He explained that it was well known that department chairs in the medical school falsely accuse subordinates of making threats of violence in order to justify reprisal, and so he had insisted on the presence of a witness at any face-to-face meeting. But he quickly learned that no administrator- no chair, associate dean, or section chief- would meet with him if he brought a witness, and therefore the informal process collapsed. Professor Smith added that there is another problem with hearsay evidence that had not been raised. He said that hearsay will always be biased toward the administration because the administration can bring in anyone they want, but the grievant cannot compel anyone to be a witness. Dean Emeritus St. Antoine replied that if a witness won't respond to the grievant's request, he would be prepared to say that the witness was not going to support the dean.

Professor Stark said that the proposed deadline of 90 days for filing a grievance seemed short considering the emphasis placed on trying to resolve matters informally and the propensity of administrators to delay things indefinitely. Dean Emeritus St. Antoine replied that administrative delay would be a cause for action to extend the deadline. Professor Rothman pointed out that there is a severe asymmetry in relations between administration and faculty and therefore administrators could claim it was reasonable for faculty to know that the clock had started even if they were still in the dark.

Chair Thouless declared that SACUA should deliberate about the proposed policy, present it to the Senate Assembly, and develop a response to the report.

The guest left the meeting at 4:40 P.M.

EXECUTIVE SESSION

The meeting entered executive session at 4:40 P.M. to receive an interim report from the Faculty Hearing Committee. The meeting resumed open session at 5:35 P.M.

The meeting adjourned at 5:35 P.M.

Respectfully submitted,

John Lehman
Senate Secretary

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University of Michigan Bylaws of the Board of Regents, Sec. 5.02:

Governing Bodies in Schools and Colleges

In each school, college, or degree granting division of the University, including those at the University of Michigan-Dearborn and at the University of Michigan-Flint, the governing faculty shall be in charge of the affairs of the school, college, or division, except as delegated to the executive committee, if any, and except that in the School of Graduate Studies the governing board shall be the executive board, and in the Medical School shall be the executive faculty.
