

# FACULTY SENATE

THE UNIVERSITY OF ALABAMA

## FACULTY SENATE MEETING

FEBRUARY 17, 2004 – 3:30 PM – FERGUSON FORUM

### APPROVED MINUTES

**ATTENDANCE:** Absent with Alternate: Jay Lindly (Pauline Brown, Alternate); Will Schreiber (Charlie Haynes, Alternate); Jessica Lacher-Feldman (Marcia Barrett, Alternate)

Absent without Alternate: Janis Nuckolls, Steve Miller, Carol Drolen

**Guests:** Marlin Caddell, Crimson White; Gilbert Cruz, Tuscaloosa News; Joanna Hutt, Dialog; Jim Holliman, Professional Staff Association; Ombudspersons Philip Johnson and Bryan Fair

The minutes of the January 20 Faculty Senate meeting were approved.

**Ombudsperson** Bryan Fair thanked the Faculty Senate for the opportunity to serve in this capacity. He has met with colleagues across campus to talk about matters and would continue to assist in any way possible. He, as Ombudsperson, has spent time talking to people about writing rebuttal letters, addressing misstatements about academic records and other matters regarding teaching and service at the University. It seems that standards vary tremendously from department to department even within the same college. There have also been inquiries regarding administrative functions in promotion and tenure conflicts. Some rebuttal letters have been effective and some faculty members have a scholarly record that at least meets the record of others who have acquired tenure. The question was asked if the faculty member should go through the grievance process before contacting the ombudsperson. Some go through the process if their problem is with some of their colleagues they work with each day. They may go to their Dean or the Provost and find favorable support. There is no grievance in tenure, retention and promotion decisions unless there is a violation of process. The primary issues that people had when contacting the ombudsperson was tenure and promotion conflicts. The ombudsperson does not have any power but is an advisor, investigator and counselor. There is not a method in place for the ombudsperson to evaluate the effectiveness of their terms and they do not have regular meetings. It was suggested that staff have access to the ombudspersons. It was pointed out that ombudspersons were people with academic backgrounds and would not have expertise in staff grievances. Staff is in the process of organizing a Staff Senate and could possibly establish ombudspersons for their organization. Bryan Fair agreed to provide a report to the Senate concerning arbitrary situations and will provide a short statement when he exits the ombudsperson position. Bryan's experience as Assistant Vice President for Academic Affairs and serving on the Tenure and Promotion Committee helped in assisting those with conflicts. There are four nominees for ombudsperson:

Pat Bauch, Professor, Educational Leadership, Policy and Technology Studies

Gary Copeland, Professor, Communication & Information Sciences;  
Telecommunication & Film

Jim Leeper, Professor, Community and Rural Medicine

David Roskos-Ewoldsen, Professor and Reese Phifer Professor of  
Communication Studies

The SGA has its own ombudsperson to deal with student affairs. It was pointed out that the bylaws pertaining to ombudsperson only mentions faculty. A motion made by Wythe Holt for unanimous consent for this motion to be in order passed. A motion was made and seconded to have the ombudsperson program and information presented to all new faculty members and others at orientation. The motion passed unanimously. It was pointed out that there was no mention of the ombudsperson in Part 5 Chapter One of the Faculty Handbook dealing with faculty participation in University administration. A recommendation should be made to that effect. The suggestion for the Ombudsperson to be available to staff was withdrawn. There are over 4,000 staff members and this could present an overwhelming situation.

At the Faculty Senate March meeting a President, Vice President and Secretary will be elected. **Nominations** are open and will be open until the March meeting. Nominations will also be taken from the floor. Nominations should be submitted to Bob Moore, Chair of the Senate Operations Committee. Candidates may submit written comments or make verbal comments at the March meeting. There will be an allotted time for the candidates to answer questions.

The Faculty Life Committee presented a "**Resolution on Support for Benefits.**" Faculty and staff of the University of Alabama are being threatened with increased costs and reduced benefits. Some cost increases went into effect in January.

**Resolution on Support for Benefits**

Be it resolved that the Faculty Senate of The University of Alabama strongly advocates for both the retention of existing excellent health care benefits for faculty and staff at The University of Alabama and for minimizing the increases in cost for health care benefits.

Be it further resolved that President Witt, Governor Riley, all members of the Legislature and appropriate Legislative Committees be contacted by the President of the Faculty Senate to communicate the faculty's strong concern that any loss/reduction of benefits and/or a substantial increase in the cost of benefits pose an additional and grievous detriment to the current education crisis in Alabama, including a negative impact on faculty/staff morale and a severely reduced ability to recruit and retain high-quality faculty/staff.

Adopted by the Faculty Senate

February 17, 2004

It was suggested to change "this" in the third line of the resolution to "any". The suggestion to insert a percentage figure did not meet with approval. A motion made to reword the first paragraph to read "retention of existing excellent affordable health care benefits for faculty and staff of The University of Alabama" did not receive a second. It was also suggested to remove Governor Riley's name since the University is self-insured and this would not involve his office. It should address the specific action that the Faculty Senate would like to Governor's office to take. It was decided to retain the Governor's name in the resolution. It is not known how effective this resolution will be if it passes but it is a first step in the direction of protesting the increased costs of health care being primarily directed at faculty members. The main thrust is that these increases will hurt the

University. Wythe Holt made the point that this resolution originally included the topic of tenure. It was eliminated from this draft because tenure is not as threatened at this time as much as health care benefits. The tenure bill in the Legislature deals only with K-12 and because it only streamlines the process of removal of tenure as opposed to the process of tenure itself. There is a possibility this could threaten higher education also. The bill would remove most of the judicial steps in the process as it exists today. It is cumbersome and it is long. Under this there will be two administrative steps then an appeal to the Circuit Court. The Circuit Court is required to act on the record – that is the facts that are found by the administrators not by any judicial process. They are allowed to overturn any decision by the administrative process. Wythe suggested amending this resolution or a presentation of a new resolution by Wythe and Marvin Johnson regarding tenure. There was a call to question passed with four opposed. The resolution passed with one "no" and no abstentions.

Wythe asked for unanimous consent to be allowed to introduce a motion considering **tenure**. It was asked if this issue could be taken up at the meeting next month since the agenda was full for today's meeting. Action may be taken on the bill regarding tenure before the next Faculty Senate meeting. A motion was made and seconded to present the Resolution on Tenure.

### **RESOLUTION ON TENURE**

Whereas: Tenure is central to academic life and essential for the preservation and development of all the disciplines:

Whereas: Tenure is vital to the survival of the teaching profession in secondary and primary schools as well as in colleges and universities:

Whereas: "Accountability proposals" currently under review by the Alabama State Legislature, propose to make it easier to terminate tenure for K-12 teachers:

Therefore Be it Resolved: The Faculty Senate of The University of Alabama opposes legislation under review by the Alabama State Legislature designed to alter the current process by which tenured faculty may defend themselves against dismissal.

Adopted by Faculty Senate

February 17, 2004

Mathew Winston read a statement from Governor Riley indicating that the threat to tenure is far removed from Higher Education. The contention is that the process could be applied to Higher Education tenure and is a threat. Approximately fifteen teachers are removed through the present process taking about two years to complete. A friendly amendment was made that academic freedom be added to the resolution. The committee members did not accept the amendment. The vote was to pass the resolution with 5 "no's" and 6 Abstentions.

The "**Resolution on Importance of Following the Handbook**" was presented along with a supporting memorandum of specific instances of administrators failing to follow the rules, regulations and processes contained in the Faculty Handbook. These instances refer to the most important protections possessed by faculty members including the participation

in the selection of deans, tenure, takedowns of programs, etc. The brunt of this resolution is to attempt to protect faculty member rights procured by hard work and perseverance. The Steering Committee voted with one abstention to forward this resolution to the Senate. There was a friendly amendment to insert "AAUP says..." and the amendment was not accepted. The Senate voted unanimously to pass this resolution.

## **Resolution on Importance of Following the Handbook**

**Whereas**, the Faculty Handbook contains many elements and provisions which have been negotiated between University of Alabama administrators and representatives of the Faculty; and

**Whereas**, the Faculty Handbook contains many rules, regulations, and procedures which must be followed by Faculty members, most importantly those concerning hiring, tenure, and promotion; and

**Whereas**, the Faculty Handbook is generally understood by the faculty to contain rules, regulations, and procedures which are agreed upon, fair, and binding in the situations in which they are applicable ; and

**Whereas**, the administration of The University of Alabama expects faculty to observe the rules, regulations, and procedures contained in the Faculty Handbook, and the faculty in turn expects the administration similarly to observe those rules, regulations, and processes in good faith; and

**Whereas**, the usual legal rule is that administrative regulations adopted in regular fashion by an agency which is part of a government, even if done so voluntarily, are binding upon the agency; and

**Whereas**, in at least four separate recent important instances, detailed in a separate attached memorandum, one or another administrator of The University of Alabama has failed to observe particular rules or processes specified in the Faculty Handbook, to the detriment of faculty in important ways; and

**Whereas**, in at least two of these instances, higher-ranking administrators have admitted that an error was made in failing to follow the Handbook, indicating a judgment that the Handbook is as binding upon administrators as it is upon faculty; and

**Whereas**, some of the administrators involved seem to have justified their failures to read and follow the Handbook provisions on grounds that they are new to the University and have not read or understood those provisions, or that the Handbook is advisory, not mandatory and binding upon them,

**Therefore, be it resolved** by the Faculty Senate of The University of Alabama, that the rules, regulations, and processes contained in the Faculty Handbook are not guidelines and not merely advisory, but are important, widely agreed-upon, and just as binding upon administrators as they are upon faculty members; and

**Be it further resolved** that the Faculty Senate requests President Witt to announce in writing to all university academic administrators from the Provost to Deans to Associate and Assistant Deans to Department Chairs that the rules, regulations, and processes contained in the Faculty Handbook are not merely advisory, but are just as binding upon administrators as they are upon faculty members, and that all administrators of the

University are expected to know, understand, and follow applicable rules, regulations, and processes found in the Faculty Handbook.

Unanimously adopted by the Faculty Senate

The University of Alabama

February 17, 2004

Supporting memorandum of specifics:

(1) Instance One: The Chair of a College committee to search for a new dean gave no opportunity for the college's faculty to review the dossiers of all candidates prior to the search committee's narrowing the list down, despite repeated requests from faculty and despite the following explicit language of part B.2 of Appendix A of the Faculty Handbook (entitled in pertinent part "Policies and Guidelines for Faculty Participation in the Selection of Deans ..."), p. 72 of the current edition:

"Throughout the search process, the [college search] committee shall solicit, encourage, and provide for faculty participation .... Faculty members should have ample opportunity to review the credentials of qualified candidates .... On the basis of faculty evaluations and its own judgment, the search committee will reduce the list of candidates to those deemed to be best qualified for the position."

The Chair gave the erroneous explanation that "should" did not mean "must." The Chair was reprimanded by the Provost for the delinquency.

(2) Instance Two: The Chair of a Department of a College added new material to the dossier of a candidate for tenure after the departmental committee had considered the candidate, upon the original dossier, and had voted by split vote to award tenure to the candidate, despite the following explicit language of Part VI (entitled "Preparation of Dossiers; Subsequent Additions") of Chapter II of the Faculty Handbook, p. 28 of the current edition:

"A dossier serves as the basis for decisions regarding ... tenure .... The dossier shall contain all evidence and support material deemed by the candidate to be necessary for the review .... Dossiers are due October 1 .... The candidate submits his/her dossier to the departmental chairperson, who may add information which he or she considers to be relevant; in the event that information is added, the departmental chairperson informs the candidate who has the opportunity to add explanatory or rebuttal material. The dossier is then transmitted by the departmental chairperson to the departmental faculty committee. Generally, no new evidence is added to the dossier after it has been transmitted to the departmental committee. In extremely unusual circumstances, when new evidence becomes available which seems to the dean to be significant, the dean may reconvene the departmental and divisional committees and ask these committees and the departmental chairperson to assess the new evidence."

The evidence which the Chair added was not "new," since it was student evaluations of teaching already contained in appropriate departmental files which the Chair could have added to the dossier at the appropriate time in the process. The Dean stated that the Chair's action was in error, but explained it as being the error of someone new to the University, and then perpetuated the error by requiring the departmental committee – in starting its assessment afresh – to assess the evidence that the Dean intruded. In choosing to start the process anew, the Dean has in effect agreed that the evidence was not "new."

(3) Instance Three: In a tenure decision in another College, the negative recommendation of the divisional committee was transmitted to the candidate on a Friday afternoon at 1:30 p.m., and the Dean's negative recommendation was written and sent to the Provost on the following Monday, allowing insufficient time for the candidate to prepare and submit a rebuttal and, obviously, failing to allow the divisional committee to consider the nonexistent rebuttal or to allow the dean to give any consideration to the nonexistent rebuttal, despite the clear language in Part VIII of Chapter II of the Faculty Handbook, p. 31 of the current edition:

The candidate is given a copy of each recommendation made at the departmental or divisional level and has an opportunity to supply a written explanation or rebuttal statement. Any such statement by the candidate becomes a part of the dossier and is reviewed by the departmental/divisional committee or departmental chairperson/dean whose recommendation elicited the candidate's response; following this review, the candidate is informed in writing of the results and a copy is included in the dossier. The dossier is then forwarded for review at the next stage. ... The ... dean ... makes an independent recommendation after considering the dossier and all the preceding recommendations.

(4) Instance Four: The Dean of a College, and the Chair of a Department, have violated the Handbook in two separate fashions, and have arguably violated the Governance Document of the Department. First, the Dean appointed an acting Chair for this Department without consulting the faculty of the Department, in violation of subpart 4 of Part F of Appendix A, on p. 78 of the current edition, which clearly states:

The Dean will make interim or acting appointments [to a Chair] when necessary; such appointments will be made only after any advice and concerns stated by the faculty.

The acting Chair then made a unilateral decision to terminate the positions of two Instructors in the Department. When urged by the Department's Executive Committee to present such decisions to the faculty, the acting Chair was reluctant to do so, in violation of the spirit of the properly approved Governance Document of the Department, which states:

The philosophy behind this document of governance is ... the ensure the Department functions smoothly and fosters full participation by all its members. This overriding philosophy should be applied in all cases not specifically touch upon in this document ....Working together in a collaborative fashion, the Chairperson and the faculty as a whole achieve full organizational control of Departmental affairs, while allowing for significant input from Instructors and staff.

Termination of the position of one of the Instructors results in the termination of one of the Programs of the Department. This was not accomplished in the fashion required by Appendix N, entitled "Principles and Procedures for Merger or Discontinuance of Academic Units." That Appendix clearly requires, in its Part II (on pp. 132-34 of the current addition) a multistage process which includes the Dean's meeting with the appropriate faculty and a final decision by the University Committee on the Merger or Discontinuance of Programs. Appendix N is clearly applicable, as it states that it is specifically applicable to "colleges, institutes, departments, programs" (Part I, Principles, p. 132).

The next item on the agenda was the "**Faculty Governance Resolution**". Similar resolutions were presented in March, 2003, to the Faculty Senate. One addressed selecting

administrators from the ranks of tenured UA faculty and the second addressed selecting administrators from the ranks of tenured UA faculty with term limits. Last year's vote was 75% against and 25% for the resolution. A faculty survey conducted last year with 308 responses had 60% not supporting this or the other resolution and 80% not supporting either resolution with one of those resolutions limiting administrative terms to one five year term. The resolutions last year were different than the resolution presented this year. The faculty governance resolution presented at this meeting intends to change the current system. According to the proposed resolution current administrators are career minded and do not necessarily have faculty members best interest as a priority. Under the proposed changes faculty would govern themselves with administrators coming from that body. They would receive modest supplements and return to the classroom after five years with the possibility of renewal of another five-year term. Under this system administrator and faculty goals might diverge; for example, tenure protection would be a primary goal since they themselves would be faculty members, provide a measure of control over spiraling administrative salary costs and would limit the terms of the Provost, Deans and their assistants normally to a single term in office. Criticisms included that faculty members would have difficulty crossing over into administration and vice versa, there are ways to evaluate administrators and to make changes and the opportunities to hire excellent administrators would not be possible. The point was made that there would be difficulties in bringing in new ideas with the internal filling of positions. One senator stated that this resolution was the most profound legislation ever brought before the Senate. A leadership-training program would help address this issue. There are divisions and schools that are completely satisfied with the leadership in their area. The point was made that if the administrators of an institution are changed every five years, the direction of the institution would change every five years. In the discussion it was stated that those that have dealt with acquiring tenure would be best to deal with tenure situations. The Vote of the Senate was For: 14 Opposed 21 Abstentions 3

The proposed revisions of the **Faculty Senate bylaws** were presented and any changes should be sent to Bob Moore, Chairman of the Senate Operations Committee. These will be voted on at the March meeting. The revisions are not major. Some items have been relocated to a more appropriate area of the bylaws. One of the changes would be for the Ombudsperson to have seven years rather than ten years required service and some committee restructuring.

There are sixteen proposed changes to the Blue Cross/Blue Shield **health care plan** by the University. It has been proposed and supported by the Steering Committee to have a faculty-wide meeting on February 24 at 3:30 pm in the Ferguson Center. The proposals are not widely known by the faculty. The members of the Faculty Senate Benefits Committee will be on the panel along with possibly other University members. Health care costs have increased in premiums and co-pays. Most funding of the proposals would come out of faculty and staff pockets. The faculty suggestions will be provided to President Witt and Vice President Kennedy. One senator was surprised that the University is self-insured and does not possess catastrophic disease insurance. It is not a great expense to buy catastrophic insurance. People wanting to use more expensive drugs and willing to pay for those drugs should have the right to do so. There might be circumstances such as side effects of those drugs paid for by insurance. The proposed 90-day waiting period for new faculty and staff to be covered by insurance would critically hurt recruiting faculty members. Tests that are ordered and conducted in different facilities should be covered. The suggestion on the list of sixteen by Wythe Holt was disagreed with by this senator stating that testing coverage under Major Medical subject to 80% payment of allowed costs after an annual \$200 deductible per person per contract saving \$7500 would certainly alienate a lot of people and the savings are minimal. Human Resources has nothing in writing to explain the new health care specifics. They have also not made health care

coverage changes available to faculty members before changes are made. The changes that have already been made have created a small financial cushion for the insurance program. The University refused to offer any additional funding for health care coverage. Wythe Holt will bring up to the Faculty Staff Benefits Committee that they should refuse to accept any changes by the University until they know what the University plans are. The University has not pursued advertising the Bamaflex health care plan. The February 24 date set for the faculty wide meeting comes during a time of weeklong teaching seminars. The meeting date was changed to Tuesday, March 2 and everyone was encouraged to attend and bring a colleague. It is critical that this meeting be well attended.

Information about the nominated Ombudspersons will be on the Faculty Senate website. An email will be sent to faculty that the information is located there and the entire faculty voting will be in March.

**Higher Education Day** will be in Montgomery on Thursday, February 26 with buses departing from the Moody Music Building parking lot at 7:00 AM. A free lunch will be provided. One bus will return early and the other buses will wait for those students participating in the job fair.

The senators were encouraged to look at the UAB resolutions proposed at the Board of Trustees meeting.

Meeting adjourned 5:25 PM