

Academic Council  
DRAFT Minutes of Meeting  
December 7, 2009

**Present:** Professors Peter Bayers; Steve Bayne; Chris Bernhardt; Jocelyn Boryczka; Betsy Bowen; Joe Dennin; Rick DeWitt (AC Executive Secretary); Johanna Garvey; Doug Lyon; Dawn Massey; Irene Mulvey (General Faculty Secretary); Rona Preli (AC Chair); Susan Rakowitz; Tracey Robert; Joyce Shea; Debra Strauss; Michael Tucker; Min Xu.

Administrators: Deans Robbin Crabtree; Jeanne Novotny; Norm Solomon.

Guests: Professors Jim Simon; Robert Epstein; Ginny Kelly; Alison MacNeill (student)

Regrets: Dean Edna Wilson; SVPAA Paul Fitzgerald

1. Presidential courtesy.

No remark was given as SVPAA Paul Fitzgerald was unable to attend the meeting.

2. Report from the Secretary of the General Faculty

Prof. Mulvey remarked that all amendments to the handbook had been approved by the trustees. The administration and Salary Committee will sign the Memo of Understanding (MOU). Prof. Mulvey also reported that the Journal of Record has been updated and is online. Finally, Prof. Mulvey thanked the Council, and in particular, the Salary Committee and the AC Subcommittee on Governance, for their hard work.

3. Report from the Executive Secretary.

a Approval of minutes of meeting of 11/2/09 (attached)

**Corrections to the 11/2/2009 AC Draft Minutes:**

Page 3, 2<sup>nd</sup> line from bottom: “professor’s” should be “professors”

Page 4 line 26: “culd” should be “could”

Page 5 line 12: “ful” should be “full”

Page 7, line 3 under Old business: “in” should be “is”

Page 8, middle of main paragraph: insert “the” between “Prof. Rakowitz said” and “sub-committee”

Page 9: motion should be seconded by Robert

Page 10: add close quote after “negotiation

**MOTION [Massey/Robert] To approve the minutes as amended.**

**MOTION PASSED: 14 in favor, 0 opposed, 2 abstentions**

b. Correspondence

Email from UCC dated 11/16/09 (attachment). Prof. DeWitt introduced the correspondence from UCC for information. Prof. Dennin inquired about pending items listed in the AC agenda. Prof. DeWitt responded that pending items could be regarded as a to-do list. Prof. Mulvey explained that the size of the list of pending items was not reduced due to the busy schedule in this semester.

c. Oral Reports

None.

**MOTION [Massey/Dennin] to reorder the agenda to hear 7b immediately**  
**MOTION PASSED unanimously.**

7b. Report from the Committee on Conference on meeting with Board of Trustees

Prof. Ginny Kelly reported that the Committee on Conference met with the trustees last week and presented the six amendments to the Academic Affairs subcommittee. She reported that the trustees were very pleased.

Prof. Massey asked whether the trustees will butt out now.

Prof. Ginny Kelley replied that she had no way of knowing.

Prof. Bernhardt commented that it was hard to tell and the faculty needed to wait and see.

Prof. Kelley added that the trustees believed that this was a “new beginning” and seemed to be enthusiastic about the collaboration.

Prof. Mulvey commented that she was surprised to hear the word “collaboration” since the faculty were threatened, bullied and intimidated last year. Did anyone on the conference Committee suggest that “collaboration” was not the appropriate word?

Prof. Kelley was not sure if the trustees used the word “collaboration,” but the trustees seemed happy about the outcome.

Prof. Tucker asked whether the trustees were aware of how close the faculty vote was.

Prof. Mulvey commented that the details of the vote were not communicated to the trustees in any document that she saw.

4. Council Committee Reports

a. IDEA subcommittee

Prof. DeWitt thanked Joyce Shea for volunteering to fill the remaining slot for an AC representative, and noted she will join Johanna Garvey as the two AC representatives on the

committee. He noted that the IDEA subcommittee is now fully-staffed, and mentioned that he had communicated recently with Bill Abbott, chair of the subcommittee, who reported that the subcommittee was meeting regularly and making progress.

b. Subcommittee on faculty representatives to Board of Trustees committees

Prof. Bernhardt reported that the subcommittee met once and he was elected as chair. The committee will meet again this week.

c. Subcommittee on academic calendar and final exam schedule

Prof. DeWitt thanked Professors Massey for volunteering for the subcommittee on academic calendar and final exam schedule.

Prof. Xu volunteered to fill the last vacancy on the subcommittee.

Alison MacNeill asked if the AC EC could check on the constitution of the committee and see if there was a way to allow for student input.

d. Subcommittee on grade changes

Prof. Bayne reported that the committee met once, he was elected the chair. The committee (Bayne, DeWitt, Fitzgerald) will meet again before the end of the semester.

e. Subcommittee on folding University Council into Student Life Committee

Prof. DeWitt reported that Professors Paul Caster and Cathy Giapponi agreed to serve on the subcommittee.. Prof. DeWitt said that last week Dean Pellegrino agreed to serve and that he heard at the end of last week that a student representative, Gregory Burke, had been appointed. This subcommittee is now fully staffed and should begin work soon.

5. Petitions for immediate hearing.

None.

6. Old Business

a. Conducting Council business (attachment)

Prof. DeWitt introduced this agenda item, left over from last month. Prof. DeWitt discussed the memo in the packet describing the Fairfield University governance structure and commented on the role played by the General Faculty, the Academic Council, Handbook Committees, and the Executive Committee of the Academic Council. Prof. DeWitt emphasized the Academic Council is the primary decision making body for academic matters and noted that it can be difficult for new AC members to get up to speed. We cannot presume that new members will know how the AC functions and suggested that this information be discussed at

the first AC meeting every fall. Prof. DeWitt went on to thank the Council for their good work over the course of our many meetings this semester.

Prof. Dennin suggested that in the future the paragraph on Executive Committee of the Academic Council should be updated to reflect the recently passed amendments to the handbook.

Prof. Rakowitz said that “communication” should mean “formal communication” in the paragraph describing the function of the Executive Secretary of the Academic Council.

7. New business

a. Issues involving the *Mirror* (attachments)

Prof. Jim Simon, Chair of English Department and Faculty Adviser to The Fairfield Mirror, first reviewed the history of the Mirror and observed the tightening of the control of the Mirror by the administration in recent years. In terms of “He Said”, Prof. Simon commented that free speech should rule. He said free expression covers saints and sinners; this column is a sinner. In terms of the students' reaction to the article, it is regrettable that four students felt harassed. In response, the Mirror confronted its critics, apologized, revised some policies, and considered an advisory board. Prof. Simon believed that students protesting the column they found offensive was Fairfield University at its best and was concerned about the reaction of the administration to the situation. In higher education, Fairfield is alone in choosing to punish a student for what he wrote. Prof. Simon then requested the Academic Council to consider the filing of harassment charges against The Fairfield Mirror to be in error since, according to the University's harassment policy, charges can only be brought against individuals. Concerning action item 3 (re harassment charges filed against The Mirror) on page 18 of the packet, he noted that Fairfield is alone in punishing a student for what he wrote and referenced a letter, received just last Friday, from FIRE (Foundation for Individual Rights in Education):

On the exacting legal standard of harassment as articulated by the Supreme Court in *Davis vs. Monroe County Bd. Of Educ.*:

“...the Office for Civil Rights of the United States Department of Education clarified in a July 28, 2003 open letter to college administrators that harassment is legally understood to require “something beyond the mere expression of views, words, symbols or thoughts that some person finds offensive.” Rather, to legally constitute “hostile environment harassment,” the behavior in question must be “sufficiently serious (*i.e.*, severe, persistent or pervasive) as to limit or deny a student's ability to participate in or benefit from an educational program.”

On the effects of Fairfield's response to the current situation:

“...by disregarding the principled balance enshrined in the *Davis* standard and punishing merely offensive speech, Fairfield will trivialize actual harassment and teach students an unfortunate and illiberal lesson: namely, that the proper way to react to speech with which one disagrees is by reporting it to authorities for official punishment and censorship. Having received their diplomas and entered the proverbial “real world,” however, Fairfield students will be disappointed to realize that the illusory “right not to be offended” that Fairfield seems intent on providing them in this instance does not exist.”

Re Action item 2 on page 18 of the packet, Prof. Simon remarked that the Mirror is an independent entity and the administration should not shut down the Mirror and requested that the administrative control of the Mirror to be transferred from Student Affairs to Academic Affairs. At this point, according to the contract with Student Affairs, a violation of the AP style book is enough to void the contract.

Prof. Epstein added that The Mirror affects the English department as a whole as well as the Journalism program. If the Mirror was shut down, it would have a major impact on the curriculum in the Journalism program and the English Department. He emphasized that students must have modes of self-expression without fear of disciplinary reprisal.

The floor was opened up for questions.

Prof. Bernhardt asked about the role of the Editor in Chief of the Mirror.

Prof. Simon replied that the Editor in Chief works with and makes decisions in consultation with other editors

Prof. Boryczka asked (re action item 1 on page 17) whether there was any precedent for moving control of the Mirror from Student Affairs to Academic Affairs.

Prof. Simon replied SVP Fitzgerald had asked him to research this question and it is the norm to be under Academic Affairs. In particular, at the Loyolas, it's under AA.

Prof. Massey asked about the review process in other colleges.

Prof. Simon replied that the norm is that there was no pre-publication review. The advisor is a resource and critiques the paper after publication. Anything else would be considered an ethical violation.

Prof. Strauss asked about the role of University funding.

Prof. Simon replied that many colleges fund their students' newspaper. He would prefer and is recommending that funding for The Mirror be phased out and it should be self-funded by advertisements.

Prof. Boryczka requested information on post-production reviews.

Prof. Simon replied that he and the staff of the Mirror meet on Thursdays, addressing students' critiques and experts were also brought in to critique. Mirror editors also attended national conferences on journalism annually and learned from their peers. Students getting credit have more intensive consultation, meeting with faculty, writing reflective essays, etc. There is a seminar for students getting credit and all students are encouraged to attend.

Prof. Lyon asked whether the contract between the University and the Mirror on funding is still void.

Prof. Simon replied that he was hopeful that the next installation of payment by the University will be made.

Prof. Mulvey reflected on the importance of free speech and went on to ask about the real issues Prof. Simon is asking the council to address.

Prof. Simon replied that there were two main issues to be addressed. First the current harassment code is very problematic and should be reviewed by an ad hoc committee. Second, the uneasy relationship between Student Affairs and Academic Affairs in oversight of The Mirror. Student Affairs continues to tighten the control of the Mirror, but the expertise is on the Academic Affairs side. He noted again the contract with SA that makes any violation of the AP style book sufficient to void the contract.

Prof. DeWitt requested the clarification whether English department intended to divorce from the Mirror, if appropriate changes were not made.

Prof. Simon said this was a very difficult decision. The English department wants to support journalism, but must hold on to faculty prerogatives on curriculum.

Prof. Epstein clarified that English Department did not vote to separate from the Mirror, but rather, expressed its support of the decision, if made by the Chair of English Department should the Chair decide it is best for the department to sever ties with the Mirror. If Prof. Simon feels that the independence of The Mirror would be so compromised under current structures, then the English Department is unanimous in supporting his decision.

Prof. Tucker asked about the liability issues for the University re the Mirror.

Prof. Simon replied that there is an arm's length contract. The Mirror is an independent entity, registered with the Secretary of State. The University's liability was increasing with the way it handled the current controversy. More administrative control means more University liability. Prof. Lyon asked about the source for the funding for the Mirror.

Dean Crabtree suggested it was the subscription agreement.

Prof. Simon replied that there were many models of funding.

Prof. Massey asked whether students participated in the pre-production review with Academic Affairs

Prof. Dennin asked what was the policy about response/rebuttal letters.

Prof. Simon replied that online version of the Mirror published all letters but there was space limit in the paper version of the Mirror. Essentially, if a letter is not libelous, it is published.

Prof. Bowen asked, re the email from Tom Pellegrino on page 20 of the packet, about his request to the AC for an opinion paper.

Prof. DeWitt replied that the email on page 20 was to students. DeWitt had followed up with Tom Pellegrino asking him to send a memo if he did want the AC to provide an opinion paper, but no request has been made of the AC.

**MOTION 1. [Bowen/Rakowitz] In recognition of the academic value of a student newspaper to a university, the Academic Council asks President von Arx to transfer administrative control of The Mirror from Student Affairs to Academic Affairs, and asks the English Department to work with SVPAA Fitzgerald on an appropriate contractual relationship between the University and the newspaper, including consideration of a Mirror Advisory Board.**

Prof. Strauss asked if the English Department had ever had a role working on the contract. Prof. Simon: No.

Prof. Boryczka spoke in favor of the motion and she felt that it was clearly a pedagogical issue and supported the transfer of the administrative control from Student Affairs to Academic Affairs.

Prof. Massey expressed her concern about the legal liability for the university.

Dean Crabtree spoke in favor of the motion. With this change, academic administrators can be more involved when situations like this arise. Dean Crabtree went on to comment that the exchange between the students and the editors about "he said" was Fairfield at its best.

**MOTION 1 PASSED: 15 in favor, 0 opposed, 1 abstentions**

**MOTION 2. [DeWitt/Strauss] Because a free and independent student newspaper is an essential component to student's learning and provides a**

voice for students and a place where issues can be debated, the Academic Council asks President von Arx to assure that the funding agreement reflects the independent nature of The Fairfield Mirror.

**MOTION 2 PASSED** unanimously, 16 in favor, none opposed or abstaining.

**MOTION 3.** [Rakowitz/Bayne] The Academic Council considers the filing of harassment charges against The Fairfield Mirror to be in error since, according to the University's harassment policy, charges can only be brought against individuals.

Prof. Tucker spoke in favor of the motion.

Prof. Boryczka spoke in favor of the motion. She commented that with the harassment charge, the students had hoped to make a statement about the campus culture and it was not appropriate to switch the target to the Mirror.

**MOTION 3 PASSED** unanimously, 16 in favor, none opposed or abstaining.

**MOTION 4** [Tucker/Rakowitz] The Academic Council recommends that student news gathering operations be specifically exempted from the current Fairfield harassment policy in recognition of the watchdog role they can play in protecting the rights and the voice of students. Such news gathering operations shall be bound by their own published codes of conduct, by ethical standards in their field, and by all state and federal laws regarding libel/slander, hate speech and harassment.

Dean Crabtree inquired about whether this was more appropriate for the subcommittee mentioned in the next motion and suggested the motion be tabled.

Prof. DeWitt clarified that motion 4 refers to the *current* harassment policy.

Prof. Massey asked whether this exemption applied to all news gathering organizations.

Prof. Simon replied that the intention was for all news gathering organizations.

**MOTION 4 PASSED:** 12 in favor, 1 opposed, 0 abstentions

**MOTION 5.** [DeWitt/Tucker] The Academic Council directs the Executive Committee of the Academic Council to arrange for membership for a new ad hoc committee of faculty and administrators to be convened to examine the current harassment policy on campus because of demonstrated problems with its broad prohibitions against any verbal or written communication that could cause "embarrassment" or be seen as "demeaning."

Prof. DeWitt clarified that with the recent changes to the structure of the AC Executive Committee, that committee now includes SVP Fitzgerald, and so we will have both faculty and administrative input on the composition of this new subcommittee.

Prof. Dennin inquired about the structure of the ad hoc committee and whether members would be solicited.

Prof. Mulvey suggested that the committee should consist of three faculty members and an administrator, like a previous committee on academic freedom

Dean Crabtree emphasized the members of the committee should have expertise and interest.

**MOTION PASSED: 12 in favor, 1 opposed, 0 abstentions**

c. Journal of Record language regarding minors (attachment)

Prof. DeWitt distributed the proposed text for the Journal of Record since the page in the packet had “accepted” the tracked changes.

**MOTION [DeWitt/Massey] To amend the Journal of Record entry on Policies for Minors with the language on the handout. Specifically, replace “by his/her School or Department” with “by the Chair or program director of the prospective minor”.**

Dean Crabtree stated that she was in favor of this motion. The Dean of individual colleges still had the opportunity to react.

Prof. Mulvey clarified that the council had approved the change last year and now this motion was about the Journal of Record language to reflect the approved change.

**MOTION PASSED unanimously, 12 in favor, none opposed, 1 abstaining.**

8. Adjournment

**MOTION to adjourn [Tucker/Dennin]**

**MOTION PASSED unanimously.**

Meeting adjourned at 5:05 pm.

Respectfully submitted,

Min Xu

Recording Secretary