

Academic Council Meeting
September 21, 2009
(Meeting of 9/14/09 reconvened on 9/21/09)
3:30 – 5:00 PM
CNS 200

[Approved by the Academic Council on 11/2/09.]

Present: Professors Bayers, Bayne, Bernhardt, Boryczka, Bowen, Dennin, DeWitt (Executive Secretary), Garvey, Lyon, Massey, Mulvey (Faculty Secretary), Preli (Chair), Rakowitz, Robert, Shea, Strauss, Tucker, Xu;
Deans Franzosa, Hadjimichael, Novotny, Solomon;

Guests: Professors Hlawitschka, Kelly; Executive Vice President Weitzer;
Student John Tiene, 2011

Regrets: SVPAA Paul Fitzgerald, S.J.

Meeting from September 14, 2009 Reconvened by Preli (Chair) at 3:34 p.m.

Chair Preli reminded everyone that we passed a motion to reorder the agenda at the last meeting, and we would be picking up where we left off at that meeting. New order of agenda: 7.a: Report from the Faculty Salary Committee; 4.a: AC Subcommittee on Governance; and 6.c: Report from Committee on Conference with the Board of Trustees re last meeting with Board on 6/4/09 and upcoming meeting with Board in October.

Chair Preli recognized the presence of a student representative to the AC meeting; John Tiene welcomed to the meeting.

Prof. Mulvey raised the issue of needing to resolve conflicts with the Academic Calendar and Final Exam Schedule for Fall 2009 semester (Item 7.c under new Business). Given the extensive agenda needed to be covered today, Prof. Mulvey requested permission of the AC to allow her to handle the issue with SVPAA Fitzgerald and notify faculty of all necessary changes. There were no objections.

Chair Preli reminded AC members that discussion will be stopped at 4:45 pm today (if no objections are raised) in order to allow time for action on motions. She also reminded the Council that there was a motion on the floor, and that council members should speak to that motion.

7.a. Report from the Faculty Salary Committee.

Discussion ensued regarding the motion put forth by the Faculty Salary Committee at the 9/14/09 AC meeting:

MOTION [Rakowitz/Dennin] That the AC recommend to the General Faculty that the Handbook be amended by replacing section II.B., Fiscal Policies, with the attached text.

Specific changes in the text were proposed under II.B.1 (Benefits) for the Health Care Plans, Retirement Plan, and Life Insurance.

Prof. Dennin spoke mildly in favor of the motion, stating that the FSC had worked long and hard in coming up with the proposals that had been agreed to by administrative representatives. While it was an important decision for faculty to make with regard to money issues and changes to the Handbook, it was not, in essence, too complicated a proposal. Details are laid out in the “Roadmap to the Proposed Changes to the Handbook” provided by the FSC. Some statements of benefits do remain in the Handbook (e.g. reference to staying with BC/BS). An increase in Life Insurance has been negotiated. Specific dollar amounts are being moved to the Benefit Plan Overview (BPO). Although protections for faculty may not be as strong as when these specifics remained in the Handbook, there is still protection in that any change to the benefits must be agreed to by both faculty and administration. Faculty also stands to gain from some of the proposed changes (e.g. statements have been added about FACHEX being continued in the case of death of a faculty member). Prof. Dennin felt personally that the proposal was a reasonable deal and that it was important for the AC to take the lead, vote up or down on the proposal, and let the Board of Trustees (BOT) then take their action. The proposal is a package deal like the MOU is a package.

Prof. DeWitt spoke neither in favor or against the proposal. Several issues should be addressed. Question raised about whether AC should decide on the proposal as a package or look at each item in the proposal separately.

MOTION [DeWitt/Bernhardt] That the original motion on the floor be divided in order for AC to discuss the three issues separately: cost sharing on health premiums, retirement plan, and life insurance.

Prof. Tucker, as a Point of Information, asked if the AC could table the current motion and vote on the original motion?

MOTION [Tucker/Dennin] That the current motion on the floor be tabled until the AC votes on the original motion.

After a brief discussion, Chair Preli ruled that the motion to table was out of order.

Prof. Tucker withdrew his motion.

CURRENT MOTION FAILED 3 in favor, 10 opposed, 2 abstentions.

Discussion of original motion by Rakowitz/Dennin resumed.

Prof. Tucker spoke in favor of the motion. Expressed the desire to bring this to the general faculty. Asked if the MOU has amendments that require a 2/3 vote by faculty?

Chair Preli stated that the current motion does not include amendments to the MOU.

Prof. Tucker stated his belief that faculty would first be asked to vote on any amendments and that he was in favor of putting the original motion in front of the faculty.

Prof. Massey spoke against the motion. Referenced a quote in a letter from Former President Kelly saying that any benefits not in the Handbook are subject to the “good will” of the parties. Feels that the current proposals represent crucial movements of protections for the faculty out of the Handbook. In the current climate of mistrust between faculty, administration, and BOT, these movements are not in the faculty’s interest.

Prof. Dennin spoke again in favor of the motion. Pointed out the process of reaching a compromise between administration and faculty. Recognized that the changes were not a continuation of Handbook protections, but were protections nonetheless. Administration cannot make changes to faculty benefits at whim.

Prof. Bernhardt spoke against the motion. Feels that protection is a crucial issue. The trustees have to come to an agreement with faculty or the status quo should be maintained. Faculty would be giving away a lot of our protections. We had binding arbitration in the past, and he would prefer that.

Prof. Mulvey spoke against the motion, raising two points. First, feels that the motion only takes things out of the Handbook but does not include the key contingencies, such as adding \$2250 to base salary in exchange for cost-sharing of premiums, caps on how fast costs of the premiums can rise in the next three years, the distribution of funds clause in the merit plan, etc. She might favor the motion if these protections were included. The motion doesn’t specifically put the protections in the BPO. The motion has been poorly phrased for the AC to consider. It is the wrong action for AC to take. This motion should be voted down and the FSC should come up with another. Second, feels generally confident about administration’s commitment to the 95th percentile. However, is not confident with benefits being removed from the Handbook. She predicted a decrease in the University’s contribution to retirement plans after the three years. This is a concern especially for young faculty. Feels that protection based on the 95th percentile commitment is flawed but that’s all we have, and that this is a motion to have benefits less well protected than they currently are.

Prof. Massey again spoke against the motion. Agrees with Prof. Mulvey’s comments. In reference to the responses of the FSC to questions by AC members, feels that the wording in the BPO is poor, that there are no teeth to the BPO, and that, since there have been no changes to the charge of the FSC, they have no ability to specifically change the BPO.

Prof. Rakowitz spoke in favor of the motion. Feels that the arguments have been made clear in past discussions. Protections for faculty are there with reference to the 95th percentile commitment. If that commitment is solid, then any changes would fall under that protection. In

terms of the power of the FSC to review the BPO: the FSC reviews the MOU and the BPO is part of that. As a point of clarification: the AC does not approve the motion itself, they give approval for the motion to be sent on to the general faculty. Stated that the FSC will put forth a motion that spells out more carefully all of the contingencies that have been discussed. Asked that AC members look at the whole thing in context.

MOTION [Bowen/Lyon] to call the question.

Prof. Mulvey, as a Point of Information, stated that AC only brings amendments to faculty as they have been put forth in AC.

MOTION TO CALL THE QUESTION PASSED. 9 in favor, 5 opposed, 1 abstention.

MAIN MOTION PASSED. 9 in favor, 6 opposed 1 abstention.

MOTION [Rakowitz/Dennin] That the AC recommend that the General Faculty approve the Guidelines for Faculty Annual Merit Review and Self-Evaluation as amended in the 9/17/09 memo from the FSC Chair to the AC (replacing “salary pool” with “increase in salary pool”).

MOTION [Tucker/Rakowitz] That AC grant EVP Weitzer speaking privileges.

Prof. DeWitt, as a Point of Information, stated that the second motion was out of order and needed to precede the introduction of the first motion.

Prof. Tucker withdrew the second motion with the general consensus of the Council.

Prof. Rakowitz withdrew the main motion with the general consensus of the Council.

MOTION [Tucker/Dennin] That AC grant EVP Weitzer speaking privileges.

MOTION PASSED unanimously.

MOTION [Rakowitz/Dennin] That the AC recommend that the General Faculty approve the Guidelines for Faculty Annual Merit Review and Self-Evaluation as amended in the 9/17/09 memo from the FSC Chair to the AC (replacing “salary pool” with “increase in salary pool”).

Prof. Tucker spoke in favor of the motion and asked, as a Point of Information, will the Administration firmly support the FSC amendments as separate from governance issues when they are presented to the BOT?

EVP Weitzer stated that he can't speak for the BOT, but that he and SVPAA Fitzgerald will definitely bring them forward for the Board's consideration.

Prof. Tucker stated that the AC needs to bring this motion to the general faculty.

Prof. Mulvey spoke against the motion. Voiced questions about the specific plan for the distribution of funds to Standard and Additional Merit. What is the formula to be used? Will it be a distribution as a percentage of an individual's salary or a percentage of the mean salary for the rank? We will need data for faculty to be able to compute the MOU.

Prof. Rakowitz stated that, if CPI is 2%, and the salary pool increase is 3%, then standard merit increase would be 2¼%.

Prof. Massey spoke against the motion. Feels that many parts of the motion are sloppy. Important details have not been ironed out. In theory, feels that it is a good idea, but we need more details.

Prof. Dennin spoke in favor of the motion. The Merit Plan as put forth in this motion was discussed in detail last year (at Brown bag lunches, etc.). It was passed overwhelmingly by the faculty, but rejected by the BOT. Wants to bring it back for faculty to pass again.

Prof. DeWitt spoke "not against" the motion. Stated that the CPI clause does not give the assurance it is supposed to give, in that the CPI clause allows, over time, for Standard Merit to fall substantially below CPI while Additional Merit rises above CPI. Would suggest language that linked CPI, Standard Merit, and Additional Merit over several years rather than one year. It would be better to have a clause that references a three-year period, or at least a two year period.

Prof. Dennin again spoke in favor of the motion. Read from an old MOU where the percentages had been given, and stated that it will be done similarly under the new motion. The CPI clause is not perfect, but, with a Merit Plan in the picture, it does address it. Administration can choose to play games, but the clause does address CPI and it is tremendously better than the current situation.

MOTION [Tucker/Bowen] to call the question.

MOTION TO CALL THE QUESTION PASSED. 12 in favor, 4 opposed, 0 abstentions.

MAIN MOTION PASSED. 14 in favor, 1 opposed, 1 abstention.

4.a: AC Subcommittee on Governance

Chair Preli stated that responses by members of the AC Subcommittee on Governance to questions from AC members had been received by the AC Executive Committee today. Chair Preli asked for any motions to be brought forward for AC at this time. None were proposed.

MOTION [Massey/Robert] to reorder the agenda for AC to allow for presentation by members of the Committee on Conference with the BOT (CoCwBOT).

MOTION PASSED. 14 in favor, 1 opposed, 1 abstention.

Prof. Mulvey stated that this was an ongoing item for AC, and asked for reports from the Committee's 6/4/09 meeting with the BOT as well as input for their upcoming October meeting.

Prof. Kelly referred to the report that she had written for her colleagues in the GSEAP and shared with AC members over this past weekend. Professors Hlawitschka, Gibson, and Kelly, along with Professors Rakowitz and Mulvey, had all attended the 6/4/09 meeting with the BOT. In terms of the general tone of the meeting, BOT members seemed disappointed at the failure of the faculty to pass the package developed jointly by members of the FSC, the AC Subcommittee on Governance, and administration in May, 2009. Prof. Rakowitz had described for the BOT the number of faculty involved and their habit of independent thinking. The tone seemed to have changed somewhat by the end of the meeting, but members of the CoCwBOT left feeling unsure of how the BOT members would vote that afternoon.

Prof. Hlawitschka stated that they were denied permission to speak to the full BOT. They had discussed the situation with the Academic Affairs Committee of the BOT, and asked if the BOT had met and discussed or voted on the issues. There was an ongoing issue of non-specific threats concerning potential actions of the BOT. There were discussions but no action taken at that point. Since then, the BOT had voted down the proposals passed by the general faculty and passed the original package. There was no sense of threat from individual Board members, and there was a sense that the Chair of the Academic Affairs Committee of the BOT would ask the full Board to pass the proposals passed by the general faculty.

Prof. Mulvey asked if the BOT had communicated directly with the CoCwBOT?

Prof. Hlawitschka stated "no".

Prof. Mulvey stated that communication should have come to them as an official channel between the faculty and the BOT. Feels it is unclear what should be done with the 6/12/09 letter from President von Arx. Asked if the CoCwBOT had received any formal request by the BOT for faculty to revote on the original package?

Prof. Hlawitschka stated "no".

Prof. Tucker asked if there was any reason why faculty could not address the full BOT?

Prof. Hlawitschka stated "no".

Prof. Tucker asked if there was any precedent for that happening?

Prof. Hlawitschka stated that the CoCwBOT has met with the full BOT in the past.

EVP Weitzer made several points: 1) the BOT communicated directly with the President with their 6/12/09 statement, the President communicated with the General Faculty; 2) the BOT didn't feel the need to communicate separately with the CoCwBOT; and 3) there is an invitation going out shortly for the CoCwBOT and other faculty leaders to meet with the BOT on 10/1/09.

Prof. Dennin noted that the 6/12/09 letter from the BOT did ask faculty to revisit the full original package at the earliest time possible.

Prof. Massey asked how the BOT had communicated directly with the faculty?

EVP Weitzer stated that there were 2 items: the 6/12/09 email from President von Arx with the 6/12/09 statement from the BOT attached to it.

Prof. Hlawitschka asked if AC wanted the CoCwBOT to seek a meeting with the full BOT?

MOTION [Tucker/Strauss] for AC to direct the Committee on Conference with the BOT to seek a meeting with the full BOT.

MOTION PASSED. 14 in favor, 0 opposed, 1 abstention.

Prof. Mulvey offered additional directions for the CoCwBOT: 1) considering the indications that the BOT members viewed the faculty vote as a lack of support for President von Arx, to inform the BOT that the faculty vote was based on the merits of the proposals and that the general faculty is surprised to hear the view that we're not supporting President von Arx; and 2) concerning references to the "President's model of shared governance", that the AAUP has a model that is the standard for higher education, that governance issues are deep and complicated, and that there aren't models of governance to choose from.

Prof. Dennin offered support for Prof. Mulvey's first point above, saying that faculty and administration has spent a lot of time doing what we think the BOT want us to do, and asked if the BOT can also offer their support to the President for future agreements worked out between the faculty and administration?

Prof. Mulvey offered the view that faculty are tired of feeling bullied or threatened. This has been very draining for faculty. We want to get back to the business of higher education. We need honest communication from the BOT. The current attitude seems to be far from the Jesuit ideal.

Prof. Massey stated that there seems to be a misperception that faculty is stalling or stonewalling. Wants the BOT reminded that, as academicians, we take a reasoned, rational approach to issues. Faculty have been willing to attend many extra meetings in the interest of resolving the issues. The BOT may need to consider extra meetings as well.

Prof. Kelly stated that the BOT do see the faculty as moving slowly on these issues, and have asked why we could not have moved more quickly?

Chair Preli thanked the CoCwBOT members for their hard work. She asked if there were any objections to having Faculty Secretary Mulvey take care of resolving the issues with the Academic Calendar and the Final Exam schedule? None were expressed. Further discussion with the Subcommittee on Governance will take place at the next AC meeting. She then asked the Faculty Secretary for advice on how to proceed with presenting the motions from AC to the general faculty, given the time constraints.

Prof. Mulvey described her charge of setting the agenda and dates for general faculty meetings, and the required time frame for getting information out. Asked for suggestions on how to proceed with the general faculty meeting tentatively scheduled for 9/25.

Prof. Tucker asked when the next faculty meeting was scheduled for?

Prof. Mulvey stated "10/23".

Prof. Tucker asked if scheduling the items for 9/25 would be a violation of procedure?

Prof. Mulvey stated "yes".

Prof. Tucker asked if it would be reasonable to put the items on the 10/23 agenda?

Prof. Mulvey stated that AC next meets on 10/5 and that some things needed to be cleaned up before then. She is not comfortable putting items as they currently exist on the agenda.

Prof. Massey asked what the standard procedure would be?

Prof. Mulvey said items passed by the Council today would go on the agenda for the 10/23 GF meeting.

Prof. Rakowitz stated that it was past time for the 9/25 meeting. Asked if we could bring the AC votes to the 10/1 BOT meeting, and use the 10/5 AC meeting to finalize things.

Dean Franzosa asked about the 9/25 meeting?

Prof. Mulvey stated that it could either be cancelled, or we could use the time for some discussion.

Dean Franzosa asked if the general faculty would want the opportunity for more information/discussion about the issues?

Prof. Tucker asked if the Handbook amendments could be linked to the MOU for the 10/23 faculty meeting?

Prof. Mulvey wants the BOT to understand what the AC has done and what their plans are now. She is concerned that amendments as now passed by the AC are unlikely to pass with the general faculty.

MOTION [Bowen/Rakowitz] Motion to adjourn.

MOTION PASSED UNANIMOUSLY.

Meeting adjourned at 5:04 pm.

Respectfully submitted,

Joyce Shea

Assistant Professor
School of Nursing
Recording Secretary

[Approved by the Academic Council on 11/2/09.]
