

2013-2014 Faculty Senate

MINUTES—March 31st, 2014

Faculty Senate—East Tennessee State University

| UPCOMING MEETING: | FOLLOWING MEETING: |
|------------------------|---------------------------|
| April 7, 2014, 2:45 pm | April 28, 2014, 2:45 p.m. |
| Forum, Culp Center | Forum, Culp Center |

Present: Beth Baily, , Robert Beeler, Jim Bitter, Sally Blowers, Patrick Brown, Doug Burgess, Randy Byington, Kathy Campbell, Sharon Campbell, Bruce Dalton, Mohamed Elgazzar, Susan Epps, Virginia Foley, Allan Forsman, Evelyn Hammonds, Tammy Hayes, Bill Hemphill, Todd Jablonski, Ken Kellogg, Dharendra Kumar, Tom Laughlin, Mary Ann Littleton, Kurt Loess, Fred Mackara, Theresa McGarry, Lorianne Mitchell, Jerome Mwinyelle, Bea Owens, Kerry Proctor-Williams, Thomas Schacht, Melissa Shafer, Taylor Stevenson, April Stidham, Bill Stone, Kim Summey, Paul Trogen, Jennifer Vanover-Hall,

Excused: Charles Collins, Kathryn Sharp, Jim Thigpen, Meng-Yang Zhu, Yue Zou

Absent: Katie Baker, Rosalind Gann, Keith Green, Bill Hemphill, Nick Hagemeyer, Ron Hamdy, Jill Hayter, Alan Peiris, Deborah Ricker, Jerry Taylor, Teresa Wexler, Shimin Zheng,

Guests: David Champouillon, Bill Flora, Bethany Flora

CALL TO ORDER: President Byington called the meeting to order at 2:50pm.

President Byington requested approval of the minutes from March 17th. Senator Burgess moved to accept the minutes. Senator Beeler seconded the motion. The minutes were approved without dissent.

President Byington said that he would like to modify the agenda and discuss the Proposed Resolution on Optional Faculty Benefits first, so that Dr. Flora would be free to go. Senator Foley reminded everyone that a copy of Dr. Flora's proposal was emailed to senators on March 29th. She said that Dr. Flora is here to answer any questions we may have about it. It would be an optional benefit, but it is a way to realign university resources and also possibly get some extra money for faculty.

Senator Stone said that some of us are directors of the facilities like Core Laboratory. We have to have an office because we have to have people visit us to conduct the business of the facility. He asked how he could opt out of an office space. Dr. Flora replied that in that case, if you had to have an office for your position, you would not opt out of that one piece of that package. The plan is each of these options, A, B, and C, will have a supplementary stipend attached to them.

Senator Stone commented that a faculty member would get punished for running a facility. Dr. Flora replied that it is not intended to punish anyone that feels like they need a private office space. It is intended to encourage those who believe they could work more collaboratively.

Senator Stone said that if you run a facility you have to have a phone because you're dealing with contracts. How could you not have a phone? Dr. Flora replied that you could use a cell phone. If you were willing to use your cell phone number as your work phone number, then you would be rewarded for doing that. In a way this is outsourcing normal benefits we receive as faculty and paying us to do that.

Senator Schacht commented that in order to take this forward and have a credible dialogue with the administration there would need to be some numbers written down. Part of those numbers ironically is going to be how much it is going to cost HR to administer this program. In terms of opting out of individual office space how exactly is that going to save money because our space is fixed. We're not building new space. We're not going to save capital cost in building new space. The space exists already. With respect to university business being conducted on personal phones and personal computers, there are major privacy issues because we are a public institution covered by open records laws. Any computer including your personal computer on which university business is conducted is open to Freedom of Information. Ed Kelly can come and say he's going to have his guys copy your hard drive any time he wants to. OIT is also going to demand that they have the ability to remotely erase the hard drive on any device that's connected to the university network to protect against data breach sort of stuff.

Senator Beeler added that the math department looked into using individual cell phones versus landlines a few years ago as a cost saving measure. Most agreed that they didn't want landlines in their offices. It turned out we could not do away with the landlines in our offices because one, it was tied to the internet, and two, there are a number of phones that are tied to a single line and the math department does not have control over all of those lines. Even if we wanted to get rid of our landlines in favor of cell phones, it may not be practical because how the system operates at this time. The second thing is again going back to freedom of information concern with using cell phones. He said if he uses his cell phone for university business that would be a matter of public record. He asked if the university could come and say they want to see his cell phone records and confiscate his personal cell phone to get it.

Senator Schacht asked what happens if the faculty member isn't really supplying what they have opted out of; if they don't have an adequate computer equipment to take care of their business. Dr. Flora said that is a great question. She said that the analogy is similar to when businesses and industries stop providing a car and maintenance and they started giving employees a vehicle stipend. You are responsible for driving a car that is reliable and

dependable so yes the faculty would have to provide their own computer that would be accessible and reliable and dependable and if the person couldn't do that they would have to have alternative arrangements.

Senator Kellogg said that he requires certain software on his computer and cannot get away with simply Microsoft suite. Is he going to be responsible for buying all those software licenses? Dr. Flora replied that in this vision, he would be responsible for the hardware portion only. She did not see software support or software licensing changing, only hardware.

Senator Kellogg postulated that he could end up with two cell phones, one that is just designated as university property that he could leave it in his office.

Senator Loess said that he wanted to clarify that Dr. Flora is just proposing a study; that she is here to ask if we want to explore it. Senator Schacht stated that he would to make a motion that we go ahead and endorse the idea of a study. He shares everybody's concerns about the complications. But this is an attempt to be creative about our benefits program and it is entirely possible that even if none of these ideas work, the process of the study will involve brainstorming that could yield some other idea that nobody here has thought of. Senator Loess seconded the motion. Senator Mackara commented that as long as it is very clear that no policy action be taken as a result of this study until it is reviewed by the faculty senate again he would endorse it. Senator Bitter said that he hopes they would also think about things that we actually have already assessed and measured, such as opting out of a personal printer which prints at 7 cents a page as opposed to a department printer that prints at 1.5 cents per page.

Senator Epps asked who would conduct the study. Dr. Flora responded that part of her thinking was we could hand this to Rick Staslov's group to run the numbers and show us what the package would look like. Senator Foley suggested that there may be people in the senate that would be interested in being a part of the study group. Senator Blowers stated that she would much rather have an internal study rather than hand it over to a group that is from the outside. There is a different perspective, a different set of lenses to look at issues. Senator Schacht said that to clarify Rick Staslov's group really isn't from outside. He is simply acting as a facilitator for the group which is made up of university people.

Senator Mackara asked if Dr. Flora had an idea about what the amount of compensation will be. Dr. Flora replied that we would have to know the per faculty member cost of office spaces and the per faculty line cost of phone lines. There would need to be a start up fund to have the money to be there available to make these base salary increases then recoup the money over time.

President Byington asked for a vote on approving a study to explore a study on Optional Faculty Benefits? 28 voted in favor, 5 opposed, and 2 abstained. The motion was approved.

Senator Foley stated that she would like to ask Dr. Flora if she is willing to lead the study group. She also thinks we need faculty senate representation on the study group and if people are interested in volunteering to serve to please let her know.

President Byington moved on to the next item on the agenda which was the Faculty Code of Ethics. On behalf of the working group, Senator Loess had forwarded the revisions that were discussed at the last meeting.

Senator Burgess made a motion to take the Code of Ethics off of the table. Senator Blowers seconded the motion. The motion carried without dissent. Senator Burgess stated that we have gone through the document a couple of times and wondered if it is time to make a motion to adopt the document.

President Byington said that motion is back on the floor now. The motion was to approve this faculty code of ethics and send it to Dr. Noland for his pleasure.

Senator Bitter said that he was going to vote against this and is going to urge other people to vote against it because there is no ethics within the Code of Ethics. There is a generalized statement but there is nothing in there. Not even the most basic things that we might agree on like 'you cannot trade favors for grades'. He said that in every professional ethical code he is a part of, it starts at some basic level. In the counseling profession and in the psychology profession it starts with 'do no harm'. He continued that he would not vote for an ethical code that didn't say 'you can't have sex with your students'. He would not agree with any ethical code that failed to suggest that you could not sell grades. There are just certain kinds of things that constitute actual concrete ethical misbehavior that are not addressed.

Senator Stone said that in the guidelines for hearings it seems to suggest an infinite number of witnesses could be called. If each calls 15 witnesses, you could be meeting for a year consuming entire afternoons. He said that calling witnesses should be at the discretion of the committee.

Senator Foley responded that it says that the right to call witnesses subject to the constraint that the panel may require. She believes that limiting witnesses is included in the document.

Senator Stone said that he thinks that they should have the right to suggest. It says shall have the right. It's the committee that should decide what witnesses. He made a motion to amend the document to change the wording to say suggest rather than shall. Senator Burgess seconded the motion.

Senator Schacht said that he understood the logistical problems faced by a committee. The ability to call witnesses is a fundamental component of any justice system. He said that is what Senator Foley said this document already does. It gives the committee the discretion to reject the complainants or the defendant's suggestions. If you leave it entirely to the discretion of the committee, then a person who wants to present evidence in their own behalf doesn't even have the right to put it in front of the committee to have the committee decide whether it is relevant or redundant.

Senator Brown commented that it does say right in the language that if the party cannot justify the relevance of a witness to the satisfaction of the committee, then that witness shall not appear. So if someone calls 15 people but they're all determined by the committee to be irrelevant then they shall not appear.

President Byington asked for the vote on the motion to amend the wording. The vote was 1 in favor, 27 against, and 7 abstentions. The motion failed.

President Byington said that we are back to the original language of the document. He asked if there was any more discussion on the document before we take a vote on approving the document.

Senator Schacht said that he would like to speak to Senator Bitter's objection about there not being any ethics in the document. He said that he is with him in spirit and this is not the ethics code he would wish that we would be able to adopt. We've been struggling with this for half a decade and haven't been able to get past this point so he is going to vote in favor of it, not because it is everything he wants, but because it is better than what we've got. Maybe we can take further steps in the future. That said, there was one other idea that was part of the original thinking about this that he would like us to consider today. The original thinking about a Code of Ethics was that prior to final adoption, it would be submitted to the faculty as a whole for a vote. Anything that is going to be binding on the faculty as a whole in this way, if we want it to have legitimacy, needs that step. So whether we incorporate that into this motion or whether we just consider that idea separately, he would like that to be on the table.

Senator Burgess added that he did not know if there is such thing as a perfect Code of Ethics but to echo Senator Schacht, we proposed this idea 5 or 6 years ago over at the Teaching and Learning Center. UT had a Code of Ethics imposed on them by fiat. There is nothing that says we can't continue to work on this year by year to improve it.

Senator Bitter stated that he will make a motion for an amendment that this shall not go into effect until the entire faculty has had a chance to review it and vote on it. Senator Trogen seconded the motion. President Byington said that the motion is that this be approved and would go to the faculty for endorsement or rejection. He called for the vote and the motion carried without dissent.

President Byington said that as a matter of logistics, we have 2 more senate meetings before the end of the year. He asked if we would like the Code of Ethics to go to the faculty in the month of April or in the fall. Senator Bitter replied that it can go to the faculty now and to vote on it in the fall.

President Byington asked if there was any update from the Workload Committee? Senator Epps replied that their work is still in progress.

President Byington asked for an update from the Convocation Committee. Senator Shafer replied that Dr. Bach approved the faculty survey at the end of last week and that will be sent out very shortly. There was talk about combining the faculty and staff convocation and then dove-tailing the student convocation onto the end. The faculty convocation becomes the distinguished faculty awards, the emeritus faculty, and new faculty.

President Byington asked if there are any other ad hoc committees that he has overlooked that were tasked with looking at various issues this year. Senator Burgess stated that the only thing

we had left was the fitness for duty review. President Byington said that is another thing we have not taken any action at all on this year. For those who may be new, ETSU does not have any mechanism for intervention with someone with drug abuse or other mental health issue other than immediately seek tenure revocation and firing. This would be a mechanism to help someone go from being not fit for duty, to returning to being fully fit.

He said that we have accomplished a considerable amount in the two months that we have met every Monday. What is the pleasure of the senate regarding the April meeting schedule? Senator Dalton stated that he had a question about the remaining two meetings that are scheduled now. The College of Arts and Sciences has their meeting on the 21st of April at 3 pm. There are about 13 senators from the College of Arts and Sciences that would have to be in two places at once. President Byington asked what the thoughts are about resolving that conflict. Senator Foley made a motion to meet on the 7th and 28th of April. Senator Epps Seconded. The motion carried without dissent.

President Byington commented that the other thing he wanted to talk about has to do with a flurry of emails that happened over the weekend. The College of Arts and Sciences has been taking a poll of their faculty as to whether or not their college could implement term limits for their senators. He said that his opinion, his response has been that section 1.14.1 says “the term of an office shall be 3 years with the exception that...” so an exception to that rule is listed in the constitution. The term of officers elected to the senate shall be 3 years is not a stand alone sentence. Since there is one exception listed, that in order to implement term limits for their college, they are actually asking for a second exemption to the rule of term of elected office shall be 3 years with the exception that Arts and Sciences College faculty senate representatives will be subject to 2 year term limits or however many they decide.

Senator McGarry clarified that they are not arguing that term is not three years. They’re arguing that they don’t want to give a person more than two of those terms in a row.

Senator Schacht said that he agreed with President Byington that it does require constitutional amendment simply because under the current scheme of things, there are no restrictions on any faculty member’s ability to stand for office or membership in the senate. In order to disenfranchise any group of faculty and say nope, you can’t be a candidate for the senate anymore, we are fundamentally changing the ground rules for how this works. That’s a constitutional level issue.

President Byington commented that he has talked to at least one of the individuals involved and he doesn’t think it is a bad idea to look at this. He does think it is a bad idea to look to do this in the middle of elections.

Senator S. Campbell added that it is a bad idea to do it for one college. It should be the whole senate and not just one college.

President Byington asked are we correct in that this would require a constitutional amendment? Several senators indicated that yes, it would require an amendment.

Dr. Champouillon stated that the preamble says college and department bylaws cannot supersede the faculty handbook. Senator Bitter said that there is no statement whatsoever in the constitution about term limits. If college individually decides that they as a group want to say we're simply not going to put anybody up for a vote that has had 2 terms, that's their business. They must think there is a whole bunch of people that want to be on faculty senate which is a surprise.

President Byington asked for a show of hands on whether senators thought this requires a constitutional amendment so he had some guidance. 18 senators raised their hands in affirmation, 5 raised their hands that it did not.

Senator Loess stated that he didn't vote either way because he is unclear. If the College of Arts and Sciences votes in one year to pass term limits, then how many years into the future is that binding? Because people are retiring, people are coming in and it is disenfranchising people.

President Byington postulated what if the College of Medicine says we want to elect a senator for a 3 year term, but we want that senator's responsibilities shared by 2 people. What if the college of X decides that they want to have an even different way, it gets to the point where you can't function. He continued that he looked at all the faculty senate constitutions across the Tennessee Public universities. Some have term limits. Some don't have term limits. Some have even specified in their constitutions that there shall be no term limits. It is all over the board. He said he looked at what he believes is the most powerful faculty senate in the country, UVA. Their university board of directors fired their president and their faculty senate was successful in having their president reinstated and actually modifying their board of directors. At UVA their terms are 4 years. There are no term limits and they specify that the method to each unit uses to elect their senators has to be approved by the faculty senate.

Senator Bitter asked since we are going to send out the Ethics Code to faculty, why not send them out several different options on this and let them decide. Senator Schacht responded that this requires amending the constitution. We have a procedure for that and that wouldn't follow that procedure. Senator Burgess added that the constitutional by-laws give this structure and it is not the prerogative of certain chairs.

President Byington stated that it is not a bad idea that the senate or the university look at this over the next year and come up with better language or different terms or term limits or whatever is best for the senate and the university.

Senator S. Campbell stated that she was in favor of term limits because she has been here 12 years and is just tired. She would love to see someone come in here with new ideas.

Senator Bitter said that he is going to switch and say it should be done by constitutional amendment. How does that get initiated? President Byington replied that it can be initiated by the senate or by a 1/5 petition by the faculty who then bring it to faculty senate. Either of those two manners. Senator Bitter said that he would like to suggest that senate initiate it because that will control what we would like to have considered.

Senator Kellogg stated that he believed it is a constitutional issue. He said that he would hate to lose the history that we have with some of our senators. If we decide to go to term limits and we want to go two consecutive terms, then one term off and you can come back in, that's great. He has been on senate now for two terms and he appreciates the fact that we've got the likes of Senators Burgess, Bitter, and Schacht and everybody else that's been here. They can bring up the history because its puts everything in context. He said that it helps him to understand what is going on and to understand what position may be best for the faculty.

President Byington stated that there has been a suggestion that maybe this should be something that should be explored during next year's senate.

Senator Bitter replied if as a group a significant number of us thought term limits were important than we should construct it. If virtually there is next to nobody who wants to do it, let them send the petition forward.

President Byington stated that we agree that this appears to be in the collective wisdom of the senate a constitutional issue. We are not of like mind yet about whether or not to pursue this on our own. Certainly the process for amending the constitution that initiates with the faculty is appropriate if that route is taken.

Senator Schacht said that there were two points he would like to make. One, it is critical that this body affirm its authority over the interpretation of its own constitution. The chairs can have their opinion about it, but their opinion is not controlling. This body has to be in charge of its own constitution. The second thing is that his understanding of the basis for the disagreement on the chairs part is this logic: Since there is nothing specifically said in the constitution about term limits, they are free to do anything they want. If you extend that logic, anything the constitution is silent about is fair game for any department or college to take on. If we acknowledge that as an operating principle, then it's a huge can of works.

Senator Beeler asked what is to keep the College of Arts and Sciences or any other college from deciding that any faculty member of the college is limited to 2 terms. Senator Schacht replied that anybody who was excluded on that basis would have grounds for a grievance. Secondly, if a college chooses to ignore existing procedures and enact its own modifications to the senate constitution and expect them to be followed, then he would contact the AAUP and invite an investigation for possible censure for a shared governance violation.

Senator Mitchell stated that she had a three part proposal. The first part is to table this discussion, the second part is when we bring it back for discussion that we also discuss things that are in the constitution and bylaws that are not being enforced such as the absentee policy, and the third part is a motion to adjourn. Senator Epps seconded the motion. The motion carried.

ADJOURNMENT: The meeting was adjourned at 4:40 p.m.

Please notify Senator Melissa Shafer (shaferm@etsu.edu or 9-5837, Faculty Senate Secretary, 2012-2013, of any changes or corrections to the minutes. Web Page is maintained by Senator Doug Burgess (burgess@etsu.edu or x96691).