

FACULTY COUNCIL MINUTES
250 Student Union
January 14, 1997

President Halligan called the meeting to order with the following members present: Ackerson, Allen, Allison, Anderson, Bertholf, Boswell, Buchanan, Cole, Dawson, Farr, Gethner, Horn, Lawry, Marks, Moder, Moretti, Paustenbaugh, Richards, Robinson, Smith, Warde, White, Wilkinson, and Williams. Also present: Beer, Birdwell, Collins, Harrison, B. Johnson, S. Johnson, Keener, Magness, Mitchell, Najd, Pinkstaff, Sim, and Watkins. Absent: Finn, Knobbe, Krenzer, Lau, Schwarz, and Scott.

HIGHLIGHTS

Copyright Issues	1
Report of Status of Faculty Council Recommendations	3
Reports of Standing Committees	4
Budget	5
Retirement and Fringe Benefits	4
Liaison Representative Reports	5
Athletic Council	5
Emeriti Association	5
Staff Advisory Council.....	6

Dr. Allison moved acceptance of the December 10, 1996, Minutes. Dr. Williams seconded the motion. The Minutes were approved. Dr. Warde moved acceptance of the January 14, 1997, Agenda. Dr. Allison seconded the motion. The Agenda was approved.

SPECIAL REPORT: COPYRIGHT ISSUES — Sheila Johnson

Dr. Paustenbaugh introduced Sheila Johnson, Assistant University Librarian, who gave the report for Edward Johnson. Ms. Johnson said that copyright law is very complex and she would restrict her comments to the concept of fair use and the efforts of publishers, movie producers, and data base providers to curtail the application of fair use. The concept of fair use arose out of judicial rulings and was put into the 1976 bill revising the U.S. copyright law. However, the 1976 bill does not give a specific definition of fair use. The fair use doctrine involves four criteria. 1. It involves the purpose and character of the use including whether it is for commercial purposes or for nonprofit or educational purposes. The bill indicates that nonprofit and educational uses would not fall under copyright protection. 2. It involves the nature of the copyrighted work. Generally, works of nonfiction had less copyright protection than works of fiction. 3. It involves the amount of material being used. Reprinting the whole work would be considered a copyright violation whereas using a short excerpt would not. 4. It involves

the impact the use has on the marketplace. Does the use significantly impact the revenue for the author. Fair use is very important for teachers and researchers. Within certain limitations, it allows them to use copyrighted material without seeking prior permission from the creator and without paying copyright fees. They can thus advance new arguments, write reviews, criticize the work, or use it to instruct students. However, such use can not undercut what the author might gain from the work. The advent of computer networks and the digital transmission of data over such networks has caused many people in publishing, and the movie industry to become very concerned about their copyright privileges. These industries have been lobbying the administration to revise the laws. The administration set up a task force on intellectual property and the national information infrastructure. This task force issued a lengthy white paper which seems to be strongly biased toward the information industry in the digital environment. Not only does it limit the fair use doctrine but it also gets into privacy issues. The California State University System and the City University of New York have formed a consortium and have published a pamphlet criticizing some parts of the task force's white paper. For example, the white paper contends that when you view a document on the Internet it is stored temporarily in your RAM so is therefore an act of public publication, and consequently is subject to copyright protection. This would be illegal access unless you had prior approval and/or paid the copyright fee. Another example is in the area of first sale. If a book is purchased at a bookstore then the purchaser can do what they want with the book. It can be given it to a friend or to a library, traded for another book, or sold. The task force says that this right would not exist for something you acquire over the Internet, even if you have paid a fee for it. They recommend that producers of data should be encouraged to develop copyright management software that would track who downloads the data, when they downloaded it and even trace the use that was made of the data. This last part brings up some troubling privacy questions. The authors also imply that even small parts of the data should be protected since there could be interest in making a profit from it. They would support the idea of the scores of basketball games being the property of the NBA and you would need to pay a fee to use those scores. The task force also recommends teaching children in grade schools to think in the "correct ways," that is, it is not right to make a copy of something. They recommend teaching children the slogan, "just say yes to licensing." There have been bills based on this report introduced into both houses of the congress, but none of them have come up for a vote. However, many of the ideas from the report were included in the draft treaty on intellectual property with respect to data bases which was being considered by the World Intellectual Property Organization which met in Geneva, Switzerland, in December of 1996. Many people felt that this was an unfair end run to try to force the congress to pass these laws by including them in an international agreement. We need to be very vigilant to be sure that some of these attacks on fair use and first sale rights do not become law. Dr. Moretti said that his main concern was with access in terms of interlibrary loan and courier service between libraries. What are the limitations of interlibrary loan by fax? Ms. Johnson replied that under current law a certain number of copies of an article can be acquired from a journal without paying copyright fees. Any request over that number is subject to a copyright fee that is set by the publisher. In a worst case scenario, limitation of the first sale rights being proposed would mean that these same type of restrictions would also

apply to books that are exchanged as well as journal articles. Dr. Lawry asked if there were any plans for institutions such as OSU to develop policies that would help protect access. Ms. Johnson replied that there were some such policies. For example, if you put a document on the Internet then it is thought to be copyright protected. You can add a statement that says permission is hereby granted to reproduce copies of this publication for nonprofit use. You are not giving up your copyright but are just granting permission for others to copy the material. One action universities could pursue is to develop policies and procedures where by faculty would grant journal publishers only limited rights to their work. Individual universities or consortia could then make the work of their faculty available through local servers with the goal of disseminating it freely. It will take a lot of coordination to make such a system work. Dr. Halligan said that we should track this and at the appropriate time bring it to the attention of Emily Elliott and our congressional delegation.

REPORT OF STATUS OF FACULTY COUNCIL RECOMMENDATIONS:

President Halligan, Executive Vice President and Vice Presidents

1. 92-03-01-FAC **Fixed Terms for Administrators:** Under study. Executive Vice President Keener is coordinating the review with President Halligan and soliciting input from Deans. On agenda for January 13 Dean's Council.
2. 94-12-01-SALR **Composition of Future Information Technology Committee:** Under study. September, 1996, draft currently under review by Executive Group. Dr. Birdwell added that there were two groups reporting on this committee. One was headed by Dr. Collins and the other by ETS and they are waiting for input from both and should have a draft next month.
3. 96-05-01-LRP **Strategic Management:** Under study. Dr. Keener is coordinating review including discussions with faculty.
4. 96-09-01-FAC **Adoption of OSU's Draft Smoking Policy:** Policy on Smoking and Use of Smokeless Tobacco in University Buildings has been approved and final revision is being finalized and included in OSU Policy and Procedures (P&P 1-0530). The approved version does not prohibit smoking within 10 feet of building entrances, but does prohibit smoking and use of smokeless tobacco at any time in buildings owned or leased by OSU for the Stillwater campus. Implementation is pending review by OSU Legal Counsel.
5. 96-10-01(1)-FAC **On Summer Compensation (1):** Under study. Dr. Keener is coordinating review.

6. 96-10-01(2)-FAC ***On Summer Compensation (2):*** Under study. Dr. Keener is coordinating review.
7. 96-12-01-ASP ***Late Course Drop Requests:*** Under study. Dr. Keener is coordinating review.
8. 96-12-02-ASP ***Guidelines for Priority Academic Appeals and Establishment of an Emergency Academic Appeals Board Recommendation:*** Under study. Dr. Keener is coordinating review. Dr. Halligan said he was supportive of this recommendation. Dr. Becky Johnson said it was being taken to the Academic Appeals Board for their input on the structure.
9. 96-12-03-ASP ***Academic Accommodations for Students with Disabilities:*** Under study. Dr. Keener is coordinating review.
10. 96-12-04-FAC ***Changes in Appendix D:*** Under study. Dr. Keener is coordinating review, to include review by Legal Counsel.

REPORTS OF STANDING COMMITTEES:

A. BUDGET: Nancy Wilkinson — Update

In response to faculty inquiries and concerns, the Budget Committee is in the process of reviewing faculty salaries within the university for equity across departments but within ranks. They recognize this as a separate problem from what they will call parity with peer or Big 12 institutions, an issue they will report on later in the Spring. They do not as yet have access to current salaries, but in studying the salaries from last year, especially the high/low and average figures among departments, they find wide disparities at OSU. These occur mostly, although not exclusively, in Human Environmental Sciences, Education (traditionally female disciplines), and Arts and Sciences in the Arts, Humanities and Social Sciences. The committee is looking for ways to recognize the outstanding faculty in these areas by bringing them up to a university standard for each rank. These standards have not been established, and of course, will depend on many factors. They plan to present Council with a specific plan and recommendation at the February meeting. Dr. Paustenbaugh asked if the committee was also looking at salaries in the library. Dr. Wilkinson replied that it was a separate question but was also being considered. Dr. White said that equity goes both ways. Dr. Wilkinson said that the committee recognizes that it is not in anyone's best interest to challenge a persons salary. The committee wants to see the lower level salaries increased. Dr. White asked if they were giving any consideration to market conditions. Dr. Wilkinson replied yes and no.

B. RETIREMENT AND FRINGE BENEFITS: Steve Marks — Update

Last December it was mentioned that the entire benefits package would be put out for bids. The Personnel Office has established a review committee of approximately 25 members which has representation from across the campus. Both Faculty Council and Staff Advisory Council are represented. The dates for the bids to be sent to the OSU Purchasing Office has been extended to January 30. The committee is scheduled to meet during February. They expect the Board to act on any recommendations at the April meeting and new vendors will be in place by July 1, 1997. Dr. Halligan said that we do not have to take any of the bids. Dr. Birdwell added that if the bids are not superior in either cost or services then no changes will be made.

REPORTS OF LIAISON REPRESENTATIVES

Dr. Halligan introduced Ross Pinkstaff, an O'Colly reporter, who will attend and report on Faculty Council meetings.

Athletic Council — Margaret White

Athletic Council discussed several issues. Dr. Phillips is going to check with other schools on the invocation issue. The council spent a great deal of time discussing gender equity. Many of the school districts in the state have been sued recently over gender equity. OSU sent representatives to a state-wide meeting at UCO concerning forming a consortia to ask the legislature for some help with gender equity issues. The president has appointed a Gender Equity Task Force. They met with Jodie Conradt for approximately two hours while she was in town. Jodie Conradt is the new athletic director and head basketball coach at the University of Texas. She is the winningest women's basketball coach in the NCAA. The UT program is thought to be a program to be emulated and they just lost a suit. The Athletic Department got a clean audit from the university. The Athletic Department has paid on its debt each of the last five years and will do so again this year unless disaster hits. There is a women's basketball game Wednesday, January 15 at 7:00 p.m.

Emeriti Association — A. B. Harrison

The association now has one of its rooms in Bennett Hall ready for use. However, the room is not completely furnished, there is only one working electrical outlet, there is not a phone and there is no mail service. The second room that was to be used as a kitchen and an office is still bare concrete floor and walls. It may be 3 to 4 months before it is ready.

Staff Advisory Council — Tonya Magness

Staff Advisory Council has been very busy raising money to endow a scholarship for the staff. The Policy and Benefits Committee has been working on a recommendation for a fee waiver for dependents of staff. They would appreciate faculty input. They are considering a trade of accumulated sick leave for an up to half time fee waiver for up to one dependent. Last year sick leave used by faculty and staff amounted to over

FACULTY COUNCIL MINUTES

January 14, 1997

Page 6

265,000 hours. This benefit could improve attendance. The other thing the council is looking at is rewriting its recommendation for a sick leave bank to be submitted to the administration.

Dr. Halligan introduced the Graduate Student Association Vice President Nizam Najd.

Old Business:

Dr. Keener reported that a flyer was ready to be sent to faculty describing the Big 12 Faculty Fellowship Program. Copies of the flyer were distributed to Council. Dr. Halligan said he hopes that there will be faculty interested in this program. Dr. Williams asked Dr. Keener if the Big 12 Fellowship could be used to share ideas on teaching or extension as well as research. Dr. Keener replied that it could.

New Business:

Dr. Paustenbaugh said that the Council needs to nominate two people for vice chair at the February meeting. Please consult with the individual before nominating them.

Dr. Moretti mentioned two things that he did not want to discuss at this time but that have been brought to him. First, he has received a copy of a proposal from the students about an inclement weather policy. The second is seeking faculty opinion on having a physical facility for a faculty club. Dr. Halligan said that we should also seek the faculty's opinion on whether the ability to serve alcohol would be necessary in such a facility.

Dr. Allison moved for adjournment. Dr. White seconded. The meeting adjourned at 3:56 p.m. The next meeting of the Faculty Council is February 11, 1997.

Dennis Bertholf, Secretary