

FACULTY COUNCIL MINUTES
250 Student Union
February 13, 2001

President Halligan called the meeting to order with the following members present: Achemire, Binegar, Bost, Breazile, Comer, Dickman, Eastman, Edgley, Fletcher, Fournier Gregson, Hoffer, Holcombe, Hsu, Hyle, Kimbrell, Martin, Masters, Mayer, Peeper, Sanders, Schestokat, Veenstra, Warde, and Wetzel. Also present: H. Birdwell, T. Collins, A. Goodbary, S. Harp, J. Hodgson, E. Hufnagel, E. Johnson, E. Mitchell, V. Mitchell, R. Rouse, A. Ryburn, U. Scott, N. Swann, and J. Van Delinder. Absent: Dohoney, Johannes, and Weeks

Faculty Council unanimously approved Katye Perry to replace Lowell Caneday and Tim Faltyn (OSU-OKC) to replace Laura Peck on Council through May 31, 2001.

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Bill Warde moved acceptance of the January 9, 2001, Minutes. James Breazile seconded the motion. The Minutes were approved. James Breazile moved acceptance of the February 13, 2001 Agenda. Brenda Masters seconded the motion. The Agenda was approved.

SPECIAL REPORT: Oklahoma Economics Development — General Al Goodbary

Gen. Al Goodbary reported the state Legislature is being asked to provide about \$170 million to fund an economic development program to create more high-tech jobs. Gen. Goodbary, Director of Military Relations at OSU, said the Oklahoma Institute of Technology is part of Senate Bill 694, which is now before the Senate Finance Committee. The bill would provide trust funds for endowments to be used in three economic programs: information technology/telecommunications; biotechnology/life sciences; and rural enhancement. "We think Oklahoma is truly at a crossroads," Goodbary said. "We think it is time for Oklahoma to start dealing with something that creates wealth and promotes growth. We're talking about high-tech growth. We can't make mistake after mistake." Goodbary said Oklahoma should follow the examples of other locations like Georgia and Austin, Texas, which have stepped to the forefront in recruiting high-tech jobs. He said Georgia, using lottery money and matching funds, created 165,000 high-tech jobs and leads the South in venture capital and new company formations. Goodbary said the University of Texas at Austin was the cornerstone of the city's economic boom by creating two large semiconductor research consortiums and other first-rate research centers. "They funded all of theirs through oil and gas revenues from privately-owned properties that were donated or attached to the University of Texas," he said. Goodbary added Austin is now the fastest-growing metropolitan area, created 2,000 new companies and 85,000 new jobs in 1996 and raised the per capita income. "When we looked at those examples and other similar examples around the country, we saw that high-tech presence was important," Goodbary said. He is optimistic funding will come through in the near future. "I know many claimants exist for that \$300 million (available legislative money) but what we are talking about is an investment in the future," he said. President Halligan commented that he felt it was very important that this document not be viewed as a university initiative – this is really an economic development initiative. He also expressed his appreciation to Gov. Bellmon and Gen. Goodbary for the leadership both have displayed regarding this issue.

SPECIAL REPORT: Library Budget Needs and UCITA (Uniform Computer Information Transactions Act) — Dean Edward Johnson

American Libraries are at war – with publishers, over the continued inflationary cost increases in scholarly journals, software vendors, and some public groups of politicians over attempts to restrict what library users, especially minors, can read or see. House Bill 1864 has been introduced which basically says that any library receiving public funds, either directly or indirectly, must install filters. It makes no distinction between adult or juvenile users. The Children's Internet Protection Act was signed into law by President Clinton last December which says that basically any library receiving federal funds either must install filters or control access to the internet by minors. The Library is looking at a zero percent budget increase for next year and are, again, looking at the possibility of canceling journals. Dean Johnson and Dr. Keener hope to meet, in the next few months, with different groups and colleges to talk about the prices of scholarly journals and what possible alternatives might be taken. The Big 12 librarians and 20 other academic libraries from the Pack 10 and other parts of the west are ~~banning~~ banding together. They met Feb. 10 to develop some strategies.

Dean Johnson next discussed the cons of the Uniform Computer Information Transactions Act (UCITA), a proposed state law that seeks to create a unified approach to the licensing of

software and information. Two states, Maryland and Virginia, have passed it. Hawaii recently defeated it. Johnson said it's a lengthy and complex law and many legislatures don't take the time to study it. It was introduced in Oklahoma as Senate Bill 1337 but died in committee at the end of last year's legislative session.

RESEARCH COMMITTEE — Richard Bost

Due to the fact that Dean Johnson had just discussed UCITA, Richard Bost, Chair of the Faculty Council Research Committee, presented a recommendation from the committee entitled, "Oppose UCITA Legislation" as follows: **The Faculty Council Recommends to President Halligan that:** he direct the OSU legislative liaison to watch for and inform the OSU community of any attempt to reintroduce UCITA legislation. Further, we recommend that he convey to our state's lawmakers the strong opposition of the OSU Faculty to this legislation; it will undermine the academic freedom and scholarly efforts that are at the heart of the educational and research services that a university has to offer to the citizens of this state. We also ask that he keep the University community informed on this issue.

Rationale: The Uniform Computer Information Transactions Act (UCITA) is a proposed state contract law that is intended to standardize the law regarding the licensing of software and all other forms of digital information. It is a complex law that applies to libraries, individual consumers, businesses and industries, schools and universities – in short, anyone using software or any kind of digital information.

The UCITA legislation is intended to provide a uniform set of standards across the nation. However, this legislation is to be enacted at the state rather than the federal level, thus ensuring some variation from state to state. Oklahoma's lawmakers have been considering this legislation. It passed both the House and the Senate last year, but later died in committee. It has not been reintroduced this year, but may be at any time.

The wording contained in these versions raises several issues that are of particular concern to Oklahoma's universities, to its educators, and to its libraries.

University Concerns:

- Purchases of software products will no longer allow purchasers to own their purchase; instead, users will have to license software from the producers of these products. The publishers will determine the terms of these licenses. Software users will have little or no opportunity to negotiate the terms of such licenses.
- Publishers will be permitted to insert "back doors" into programs in order to monitor the use of their products, and to disable these products if disagreements with the licensee arise. No judicial process is required prior to such an action. Publishers will be able to remotely disable software, and not be liable for any damages caused by such behavior.
- Mass-market licenses, like those accompanying plastic shrink-wrapped software packages, as well as other electronic products obtained with "click-on" buttons over the Internet, will include restrictions that cannot be previewed. Individual employees or students of a university can thereby obligate the institution to comply with the terms of a license, even if they do not have the authority to do so.
- Mass-market licenses allow the vendors to specify a jurisdiction for litigation. Thus, licensees who wish to pursue a legal remedy would often have the added expense of multiple trips to the jurisdiction chosen by the publisher. This expense, when added to the other costs

of legal action, will make litigation prohibitively expensive or impossible and will impede universities from seeking appropriate legal recourse.

- Product return or litigation will be the only recourse permitted when licensees are dissatisfied with the performance of the product or with its licensing terms.
- Publishers can sell software with known defects, not disclose them and avoid liabilities for subsequent damages to licensees. Publishers may disclaim warranties normally expected with other products.

Educator & Library Concerns:

- Several kinds of traditional library services that are now permissible under copyright law will be threatened by this legislation. For example, interlibrary loan, distance learning, archiving, and preservation will be endangered. First sale doctrine, which allows libraries to loan materials, will be curtailed.
- Fair-use provisions of the current copyright law will be affected, since software will be licensed and not owned.
- Application of current legislative provisions will likely involve prohibition of public criticism of the software products. This provision effects everyone's First Amendment rights.
- Prohibit reverse engineering by not allowing faculty or IT professionals to engage in reverse engineering for teaching, research, or debugging.

These provisions of UCITA legislation, if enacted in Oklahoma, threaten to raise significant barriers to the ability of our universities to function effectively. Further, they seriously erode freedoms that are fundamental to the pursuit and dissemination of knowledge. These provisions must be modified to avoid reducing the benefits that universities provide to the people of our state.

REPORT OF STATUS OF FACULTY COUNCIL RECOMMENDATIONS:

President Halligan, Executive Vice President and Vice Presidents

00-11-01-BUDG ***Guidelines for Third Summer Month Salary for 9- or 11-Month Appointments (Response from Faculty Council):*** Under review. Faculty Council has responded to the recommendation sent forward from Dr. Keener and the deans. The Council endorses the view that payment could be for research, service or teaching activities and could be from state funds. Dr. Keener will discuss the recommendation with the deans at an upcoming Deans Council meeting.

99-09-01-FAC ***Criminal and Credit Background Checks for Potential Staff Employees:*** Under review. A meeting was held January 18 during which Faculty and Staff Advisory Council representatives and others discussed and finalized draft recommendations. These recommendations will now be considered by appropriate subcommittees of the two councils.

00-12-01-FAC ***Improving Performance of Students Participating in OSU Athletics:*** Under review. Recommendation has been shared with Athletics Department officials for their review and input.

- 00-12-02-FAC ***Sabbatical Leave Recommendation:*** Under review. Recommendation will be discussed with the deans at an upcoming Deans Council meeting.
- 01-02-01-ASP ***Amendment to the Academic Appeals Board (AAB) Policy and Procedure Letter 2-0821:*** To President Halligan
- 01-02-01-RES ***Oppose UCITA Legislation:*** To President Halligan

REPORTS OF STANDING COMMITTEES:

ACADEMIC STANDARDS AND POLICIES — Jacqueline Fletcher

The committee presented Recommendation #01-02-01-ASP entitled "Amendment to the Academic Appeals Board (AAB) Policy and Procedure Letter 2-0821," which recommended amending the current policy, "Appeal of Final Grade Not Involving Allegation of Dishonesty or Misconduct." This was presented to the ASP committee by Deb Jordan, current Chair of the AAB, and she presented strong justification for these changes which specifically clarified and defined policies which have already been used for a number of years. There are no substantial changes in any policy or activity. The attempt of this recommendation is to add more information so any one who goes through this procedure will understand what the process is from the beginning. Their plan is to publicize this information in ways that will get it out to people who need to see it. The recommendation and justification are below:

The Faculty Council Recommends to President Halligan that: the Academic Appeals Board (AAB) Policy and Procedure Letter 2-0821, "Appeal of Final Grade Not Involving Allegation of Dishonesty or Misconduct," be amended as shown. [NOTE: copies can be obtained from Diane LaFollette in the Faculty Council Office, x48790].

Justification: The proposed changes clarify operational procedures only. Once these changes have been approved the AAB will disseminate this information widely. It will update the Student Rights and Responsibilities newsletter and website, the Academic Appeals Board Handbook, and other documents available to students and faculty. These clarifications should help to better inform all OSU parties of the processes and procedures involved in academic appeals. The intent and content of the P & P Letter in terms of impact on those involved in a grade appeal remain the same. A short explanation of the proposed changes follows.

1.02 This change adds the deadlines for grade appeals. These same deadlines have been adhered to for at least seven years, yet have not been a part of the P & P Letter. So that all are equally informed, this information should be published within the P & P Letter.

1.03 This information currently exists in the AAB Handbook (utilized only by AAB members) and emphasizes the non-adversarial nature of the Board in the P & P Letter. It helps to set a professional tone for all who use the system.

1.03a, 1.03b and 1.03c The jurisdiction of the AAB has been established and accepted by the university since 1969. That jurisdiction, which is quite narrow, is explained in the AAB Handbook (utilized only by AAB members). The section added to the P & P letter here is the same language found in the Handbook. Including it in the P & P Letter will help students, faculty, department heads, and deans make appropriate decisions about the grade appeal process.

1.05 In May 1998 Dr. Keener requested, and the Faculty Council approved, doubling the total number of AAB members from 10 to 20 to accommodate the large numbers of grade appeals. This enabled the AAB to divide into four full Boards and to hear cases four days a week (when needed). The Chair heads two of these "sub-Boards" while the Co-Chair heads the other two. As per previously agreed-upon guidelines, each Board has the full authority of the Board *in toto*. The changes proposed in this section bring it up to date with current approved practice.

2.01 a – e These guidelines clarify and specify operational procedures currently being used by the AAB and its representatives to ensure complete and thorough data gathering.

Note: Although changes in the policy for Priority Appeals were approved by Faculty Council and recommended to President Halligan in December 1999, this section has not yet been amended as it is currently under review by a subcommittee outside of the AAB. It will be amended when approved. The recommendation passed unanimously. President Halligan noted he will send this to Legal Counsel for their review.

RULES AND PROCEDURES — David Fournier

Faculty Council elections are forthcoming. Nomination petition forms will be mailed to all eligible members of the General Faculty within the week. These will reflect the new rules for composition of Council. Before nomination forms can be mailed out, the Faculty Council, at its regular February meeting, must nominate two faculty members for the position of Vice Chair for the ensuing year. Additional nominations for Vice Chair may be placed on the election ballot provided that a petition, signed by fifty members, is submitted March 9. Therefore, nominations were taken from the floor. Chuck Edgley nominated Ed Lawry, Philosophy Department and Bill Warde nominated Carol Moder, English Department.

REPORTS OF LIAISON REPRESENTATIVES:

Emeriti Association — Roscoe Rouse

The Association announced the completion of an agreement between the OSU Emeriti Association and the OSU Alumni Association regarding the use of the space in the proposed Alumni Association building that the Board of Directors of the latter named association has specified for the use of the Emeriti Association. The first of four intended surveys by Pro-Matura, Inc., of Oxford, MS, was completed in December. A second survey was put in motion. The first survey, conducted in the Stillwater area, indicated that there is a need for a retirement facility for OSU personnel adjacent to the campus. It is hoped that within a two year period (the construction) of such a retirement center will have begun in Stillwater. A fund raising project is planned for the OSU Emeriti Association. The purpose is to give assistance to the construction of the proposed OSU Alumni Association building in which the Emeriti Association will occupy a suite of rooms. Dr. Norman Durham has been named Chair of the Finance Committee which will direct the project.

Staff Advisory Council — Nancy Swann

SAC continues to be very active. They are looking at background checks and will be making a recommendation shortly. They continue to raise money for staff scholarships. One way they are doing this is from concessions at the new Gallagher-Iba Arena. Their concession stand is the

south east concession on the lower level – first one on the right as you come in the front door. The President's Open House is April 5 for staff and faculty are encouraged to stop by.

Graduate and Professional Student Association — Adam Ryburn

Two recommendations that will be forthcoming are in relation to creation of a career services consultant for the Graduate College and the creation of travel funds for graduate students (other universities have this – OU provides \$250 per year). These funds will be helpful in the recruitment and retention of quality graduate students and this impacts GPSA's reputation at professional meetings. There are some departments which provide creative ways to support graduate travel. Chuck Edgley said that in the Sociology Department they teach large numbers of freshmen in an introductory class and they contract with a custom publisher to do a reader and everybody buys this reader and the royalties are earmarked for graduate assistants' travel.

Student Government Association — Emmy Hufnagel

Elections will be held March 6 and 7 for president and vice-president, living group senators and Vet Med senators. The candidates are Marilyn Martin, current SGA V-P and her running mate Brian Phillpott. The other candidates are Erin Lawler and Clint Bullard.

Graduate Faculty Council — Bill Warde

They met January 19 and will meet again February 16. One item of general interest was the new form for certifying admission to doctoral candidacy. The form requires three items of information – date of approval of plan of study, date of passage of the qualifying exam, and certification that a dissertation proposal or outline has been approved. The clock, starting the six-month time to graduation, will start from the date the form is approved. Also, the council tentatively approved a proposal to establish an MS degree in the Biomedical Sciences at the OSU College of Osteopathic Medicine.

Arts & Sciences Faculty Council — Jack Hodgson

A motion was approved to divide the college into seven groups for faculty representation purposes with 3-4 departments in each group. A three-person committee was named to look into how this might be implemented. One suggestion was that each department take turns with a representative. That way it would take care of the concern about larger departments tending to dominate smaller departments. This will be looked into at the next meeting. Some dissatisfaction was expressed in the way changes were made in the reappointment, promotion and tenure procedures. It was mid-fall before faculty were informed about those changes. This lengthens the time to submit additional materials but shortens the whole process for departmental personnel committee timelines.

Women's Faculty Council — Jean Van Delinder

Trish Long, in the Psychology Department, is the Women's Faculty Council Chair and therefore, the Council's web page is linked to that department's web page. The address is: <http://psychology.okstate.edu/WFC/womfacc.html>. The address for The Women's Studies Program is: <http://psychology.okstate.edu/wstudies/wstudies.html>. The Women's Film Festival has been very successful with standing room only. The Festival continues with a February 20

showing of "Calling the Ghosts" a 1996 documentary about two women's experience of war in modern day Bosnia-Herzegovina. The film is free and shown in CLB 203 at 7:00 p.m.

NEW BUSINESS:

Bill Warde read a letter that he had received from Michel D. Ransom, President of the Kansas State University Faculty Senate as follows: "I am writing to you as one Faculty Council Chair to another. The Faculty of Kansas State University wish to extend to the faculty, students, and friends of Oklahoma State University, our heartfelt condolences and sympathy over the tragic plane crash on Saturday evening. It is at times like these that we need to let the intra-state rivalries and institutional competition fade into the background and reach out to our colleagues and friends at our sister university. You are in our thoughts and prayers. Sincerely, on behalf of the Kansas State University Faculty Senate."

Dr. Warde then presented the following resolution to Council:

FACULTY COUNCIL RESOLUTION February 13, 2001

In light of the January 27, 2001 air tragedy which cost the lives of ten members of the OSU family returning from a basketball game at the University of Colorado, the Faculty Council, on behalf of the General Faculty, wishes to express their condolences to the families and friends of those who were killed in the crash.

The Council also wishes to commend the OSU Administration and the Athletic Department for the exemplary manner in which they handled this tragedy. The emotional task of contacting family members as well as the memorial service for the victims was conducted with grace, dignity, and sincerity in a manner that contributed significantly to the healing process.

The Council hereby directs that a letter of condolence be sent to the immediate family of each of those killed in the crash, and that a copy of this resolution be placed in the Minutes and archives of the Faculty Council.

James Breazile seconded the motion and it passed unanimously.

T. Sterling Wetzel added that he wanted to extend his personal thanks to Dr. Harry Birdwell for a job well done at the memorial service.

Larry Sanders asked the President if he planned to continue his "off-the-record talks" after Council adjourned. He indicated these would resume once the legislative session unfolds.

The meeting adjourned at 4:45 p.m. The next regular meeting of the Faculty Council is March 13, 2001.