

Senate Council
April 6, 2015

The Senate Council met in regular session at 2 pm on Monday, April 6, 2015 in 359 Student Center. Below is a record of what transpired. All votes were taken via a show of hands unless indicated otherwise.

Senate Council Chair Andrew Hippisley called the Senate Council (SC) meeting to order at 2:03 pm.

1. Minutes from March 30, 2015 and Announcements

The Chair reported that he had not received any changes to the minutes. There being **no objections**, the minutes were **approved** as distributed by **unanimous consent**.

There were a few announcements.

- The likely date of the SC's summer retreat will be June 10.
- Regarding UK's soon-to-be-started construction on a new multidisciplinary research building, it would be good to have the University Senate (Senate) involved, particularly through the Senate's Academic Facilities Committee (SAFC). The Chair said he had a meeting scheduled with the SAFC chair, John Nash, and would suggest he come to the SC and request the SC formally charge the SAFC with looking at resource allocations for the new building.
- The faculty survey of President Eli Capilouto's job performance went out to faculty earlier in the day.
- The email to deans about college elections for senators was also recently sent out. The Chair said he would follow up with another email noting the importance of the elections and commenting on the hope that this year's election would not see any delinquent election results from any college. Having the election results submitted in a timely manner will allow the SC to create Senate committee compositions in June at the retreat, which will allow committees to begin working sooner in the fall semester.

2. Old Business

a. Final Report from Ad Hoc Committee on Faculty Disciplinary Action

The Chair said that he would like to have a quick chat about process, given that there were some questions about how the SC found itself in the current situation. He noted he would restrict the discussion to 10 minutes to allow sufficient time for discussion on the suggested edits to the proposed new *Governing Regulation (GR)*. The Chair suggested that faculty are viewing the proposed new *GR* from a couple of perspectives. There is the perspective that the *GR* is intended to protect the University, while another perspective is that the *GR* is intended to protect faculty. He said that both perspectives were fine, but he expressed reservations about a perspective of "dean versus faculty." The Chair noted that the processes laid out in the proposed *GR* starts when a faculty member is accused of misconduct of some sort. That type of allegation can come from any individual with a complaint, but such allegations will probably not come from a dean – an allegation will come from a student, teaching assistant, staff member, a patient, and, in many cases an allegation will come from another faculty member. The Chair thought that as opposed to "dean versus faculty," a more correct perspective would be "complainant versus faculty," and many cases the complainant will be another faculty member.

Mazur asked about the next step for the proposed new *GR*. She wondered if it would be sent to General Counsel Bill Thro prior to going to the full University Senate (Senate). Mazur said that it would be important for everyone to understand why the disciplinary action *GR* was being discussed and if SC has significant problems with it. She spoke against a “free for all” discussion on the Senate floor but said she did not exactly know how to prevent that or make the discussion more professional. The Chair responded by saying that the issue was somewhat new territory for the SC in the sense that SC was charged by President Eli Capilouto to do something, which the President could have easily accomplished via an *Administrative Regulation*. Instead, the President asked the SC and Senate to co-author such a policy and he offered the assistance of Legal Counsel as a resource for the deliberations. That assistance has subsequently made things a little more complicated because it begs the question, “who is the author of the proposed new *GR*?” The Chair said that originally he assumed the SC and Senate would be the primary authors, but knowing what General Counsel Thro and the President want was essential, although it meant that there has been quite a lot of discussion with Legal Counsel. During the course of those discussions, however, SC has found out some things that would be problematic if left in the proposed new *GR*. The Chair said that at the end of today’s meeting, the SC will have a recommendation to make to Senate for its first reading of the document on April 13. On that date, the Chair opined that a free-for-all discussion would be appropriate. With senators having the first right of the privilege of the floor, anyone will be able to comment, but no action will be taken.

McCormick asked about sending the proposed *GR* forward without a SC recommendation or without SC endorsement. The Chair said that it was technically possible for the SC to send something to the Senate without recommendation or endorsement, but the SC is the executive body of the Senate; the Senate looks to the SC for recommendations. Although there was one degree item in the recent past that went to the Senate without a SC recommendation, it would be unusual for the Senate to review a proposal without having the benefit of the SC’s opinion. Grossman said it would be a mistake to send it to the Senate without a recommendation from SC and it would also be a mistake to send something to the Senate that the SC knew the President would not like. If the Senate passed something the President did not support, the President would be obligated to make that report to the Board of Trustees (Board). At that point, President Capilouto would also have the ability to speak against the Senate’s action. Grossman went on to say that it was his opinion that the Board would do whatever it could to avoid taking sides between the faculty and the President. If such a conflict was present at the time of Board discussions, the Board would likely take the stance that the two parties get together and work out a compromise. In addition, the President can always create an *AR* that establishes a faculty disciplinary policy, about which the faculty could do nothing. Grossman said it was in the SC’s best interest to do everything possible to present something that the SC is comfortable with and something that the President is comfortable with. McCormick asked Grossman which party’s support was his priority; he responded that positive outcomes for both parties was his priority.

Watt supported Grossman’s point about having a recommendation. If the SC does not offer a recommendation, the Senate will probably vote it down and the President will issue an *AR* that does not benefit from faculty input about protection for faculty and other faculty-related aspects. Watt said he did not think General Counsel Thro should review the proposal prior to the April 13 Senate meeting. There will be an entire month during which edits can be proposed and discussed with General Counsel Thro and others. Bailey said that it would be to the Senate’s advantage to have a recommendation. If the President does not like what the Senate endorses, then it will be up to the President to create an *AR* on his own. The faculty trustees can speak on behalf of faculty when the issue reaches the Board.

Blonder said she agreed with the previous comments. It would be really important for the Senate to endorse something that faculty are happy with. If the Senate endorses it on a close vote, that closeness will not be reported, rather the report will merely be that the Senate endorsed it. She said that the SC should be reasonably happy with the proposed *GR* prior to sending it to the Senate. Brown asked if there was an ability to send the Senate a couple versions to choose from, but Guest Connie Wood, chair of the Senate's Rules and Elections Committee (SREC), said the SC cannot send something to the Senate with options.

In response to a question from Blonder about what would occur at the May Senate meeting. The Chair said that according to *Senate Rules 1.2.3*, when the Senate considers a major policy change, a first reading is a proper step. The Chair said he would encourage senators to send in written amendments after the first reading. SC can then review those in advance of the Senate meeting and make recommendations about the submitted amendments. Kraemer asked about the SC editing it further, but the Chair opined that the SC could merely recommend one edit over another, not prevent the Senate from seeing an amendment.

The Chair suggested moving away from the discussion on process to the actual document; there were no objections from SC members. The Chair explained that subsequent to the ad hoc Committee's submission of their final report, a handful of suggested edits were submitted by Christ, Grossman, and Wilson. Blonder sent in her edits on the document that included the suggestions from Christ, Grossman, and Wilson. Strikethrough formatting indicates deleted text, underline formatting indicates added text, and the colors were a holdover from the previous version with suggested edits from three SC members.

[Please see the SC-amended and approved draft version of the proposed new *Governing Regulation* as Appendix A in these minutes. The line numbers referenced below were based on a working copy and may not always match up to the Appendix due to the SC's insertions and deletions.]

There was brief discussion about the changes in lines 19 – 42. Porter **moved** to accept the wording in lines 19 – 42 and Watt **seconded**. Grossman offered a friendly amendment to add to line 40 the phrase “the rules, standards and procedures that arise under” in line 40 – 41. Both Porter and Watt **accepted**. A **vote** was taken and the motion **passed** with none opposed.

Watt **moved** to accept the changes to lines 63 – 67 and Mazur **seconded**. There was brief discussion and a **vote** was taken. The motion **passed** with none opposed.

SC members next discussed Blonder's edits to *Section A, Allegations* (specifically lines 106 – 115). Brown **moved** to accept the changes to lines 106 – 111 and Watt **seconded**. Grossman **moved** that the term “non-university counsel” be replaced with “outside university counsel” and Porter **seconded**. A **vote** was taken and the motion **failed** with none in favor. A **vote** was then taken on the original motion and the motion **passed** with one opposed.

The next section for discussion was in *Section B, University Investigation* (specifically lines 128 – 130). There was general consensus that as long as a known complainant receives a final report to the extent required by law, an intermediate report was unnecessary. If an allegation does not find anything to support an allegation, the complainant (if known) will be informed of that. Bailey **moved** to accept the change to line 128 and Christ **seconded**. A **vote** was taken and the motion **passed** with none opposed.

Blonder explained that her edit to line 136 was intended to ensure the faculty member has a copy of the report, as opposed to the faculty member being allowed to review a copy of the report, but not physically have it. Watt opined that the ad hoc Committee had assumed the faculty member would be given a copy of the report. Watt **moved** to accept the edit to line 136 and Christ **seconded**. A **vote** was taken and the motion **passed** with none opposed.

The next section under discussion was *Section C, Notification and Mediation, 3, Sanctions* (specifically line number 162). A number of SC members were uncomfortable with the proposed cap on salary reduction, so that edit was not accepted. After some additional discussion, Grossman **moved** to accept the edits in lines 149 – 151. Brown **seconded**. A **vote** was taken and the motion **passed** with none opposed.

Blonder opined that wording about conflicts of interest should be included. SC members all agreed, but thought such language should appear in the section regarding each of the three types of panels (inquiry panel, hearing panel, and appeals panel). Watt **moved** that the Chair and Blonder insert appropriate wording to cover conflicts of interest in the relevant spots and Bailey **seconded**. A **vote** was taken and the motion **passed** with none opposed.

SC then discussed the proposed changes to *Section F, Faculty Hearing Panel*. Watt **moved** to approve the edits in *Section F* and Christ **seconded**. There was extensive discussion regarding the circumstances under which a faculty member and/or a dean can appeal a finding of the hearing panel. Concerns were expressed about symmetry between a dean's appeal and faculty appeals, and if President Eli Capilouto would accept parameters for a dean's appeal to prevent a dean from automatically appealing any determination that contradicted the dean's opinion. Christ noted that she had a colleague bring to her attention a situation in which the colleague desperately wished a dean would discipline a rogue faculty member, but the dean refused to do so. Christ acknowledged that she was typically cynical about administrators' intents, but it was entirely possible the SC was being a little paranoid about unintended consequences associated with a dean's appeal. A **vote** was finally taken and the motion **passed** with four in favor, three opposed, and one abstaining.

Blonder explained her proposed edits to *Section G, Appeals*. SC members spent a lot of time discussing Blonder's edit that would have involved the Executive Committee of the Board of Trustees in the appeals process. Wilson commented that it was not possible to obligate the Executive Committee to get involved in an appeal, but he spoke in favor of having a report to the Executive Committee if the appeals panel reversed a finding of the hearing panel. Wilson said the Executive Committee could very well be interested in a report on a situation in which someone is found guilty, but then on appeal is determined to be innocent. Such a report (as opposed to Blonder's suggested requirement of formal action by the Executive Committee) would increase transparency and in and of itself raise the bar for overturning a decision of the hearing panel on appeal.

Grossman **moved** to accept Blonder's proposed changes to *Section G*, with the exception of the proposed edits in *subsection 9*, which would have required Executive Committee action. SC members also discussed Blonder's suggested edit in lines 395 – 397 which would have made an entire situation confidential unless the faculty member waived their right to confidentiality in writing. Some SC members were concerned that not having such language would allow someone to share information about a case with someone else, who could in turn share it with someone else, on campus or at a neighborhood association meeting. Watt stated that restrictions on discussions at a neighborhood association could not be enforced through the proposed new *GR*. Grossman commented that the phrase "to the extent required by law" could be added to subsection to accommodate federal and state

requirements to disseminate information to a complainant in certain situations. Watt **seconded** Grossman's motion.

SC members continued discussion about confidentiality. Guest Marcy Deaton, associate legal counsel, explained that the University already required confidentiality for various situations through *GR XIV.B.2* ("Code of Conduct"). Wilson **moved to amend** the motion by replacing the language in lines 395 – 397 with an allowance for the complainant to be informed if required by law; and by adding a reference to *GR XVI.B.2*, which requires confidentiality of the record. Watt **seconded**. A **vote** was taken on the amendment and the motion **passed** with none opposed. A **vote** was then taken on the Grossman's motion (to accept Blonder's proposed changes to *Section G*, with the exception of the proposed edits in *subsection 9*), as just amended. The motion **passed** with none opposed and one abstaining.

The SC then discussed Blonder's final edits, in *Section VI* ("Administrative Leave with Pay During the Process"). A question was raised regarding responsibility in *Section VI, Subsection 1* – who would determine if a faculty member posed a risk to campus? The SC as a whole agreed with the premise that the imposition of involuntary leave without pay should be done upon determination by the Provost that a risk was present. Once the responsibility for determining risk was discussed, SC discussed the specific types of risk listed in *Subsection 1* and whether they were valid concerns. Grossman suggested rewording *Subsection 3* to make it an action, rather than in passive voice and there were no objections to that. Grossman **moved** to approve the edits for *Section VI* and McCormick **seconded**. A **vote** was taken and the motion **passed** with none opposed.

[Please see the SC-amended and approved draft version of the proposed new *Governing Regulation* as Appendix A in these minutes.]

Mazur asked about some of the language regarding the Code of Faculty Conduct, which is in *Section 7* of the *Senate Rules*. Watt explained that a portion of the language, about disciplining faculty, will need to be removed because there is nothing in the *GRs* or *Administrative Regulations* that delegated that responsibility to the University Senate (Senate).

The Chair noted that the Senate will have a first reading on the proposed new *GR* for its April 13 meeting. The Chair said he would ask senators to send their amendments in written form by April 22. Requiring amendments to be submitted by that date will allow the SC sufficient time to deliberate on the amendments and offer recommendations to the Senate on each amendment.

Christ **moved** to recommend the amended *GR* to the Senate in April for consideration and first reading. Mazur **seconded**. A **vote** was taken and the motion **passed** with one opposed and one abstaining.

3. Committee Reports

a. Senate's Academic Programs Committee (SAPC) - Margaret Schroeder, Chair

i. New University Scholars Program: BA Art History and MA Art History and Visual Studies

The Chair asked Guest Margaret Schroeder, chair of the Senate's Academic Programs Committee (SAPC), to explain the proposal, which she did. The Chair said that the **motion** from the SAPC was that the SC recommend the Senate approve the establishment of a new University Scholars Program of a BA Art History and MA Art History and Visual Studies, within the School of Art and Visual Studies in the College of Fine Arts. Because the motion came from the SAPC, no **second** was necessary. He asked if there were any points of information or discussion for or against the motion.

Bailey asked if a master's degree is the terminal degree in the area of Art History and Visual Studies. Christ replied that an MFA is the terminal degree. The proposed University Scholars Program will help prepare students to work on a PhD or MFA. In this particular field, however, students are encouraged to complete their educational careers at different schools, so students with who graduate with the master's degree will likely go elsewhere for additional schooling.

There being no further questions, a **vote** was taken and the motion **passed** with none opposed.

ii. Proposed New MS in Finance

The Chair asked Schroeder to explain the proposal, which she did. The Chair said that the **motion** from the SAPC was that the SC recommend University Senate approve, for submission to the Board of Trustees, the establishment of a new MS Finance, in the Department of Finance and Quantitative Methods within the Gatton College of Business and Economics. Because the motion came from the SAPC, no **second** was necessary. The Chair asked if there were any points of information or discussion for or against the motion.

Multiple SC members asked if the faculty in Accountancy and Economics were given the opportunity to vote on the use of their courses in the proposed new MS. Guest Brad Jordan (BE/Management) explained that those faculty were part of a college-wide vote on the new MS in Finance, so it was logical to assume they supported the use of their courses. Due to continued concerns among SC members, Jordan agreed to submit memos from the chairs of both departments. The Chair asked that those two items be submitted to the Senate Council office the following day, due to the timing of posting the Senate agenda and Jordan agreed. A **vote** was and the motion **passed** with none opposed.

b. Ad Hoc Calendar Committee - Kevin Real, Chair

i. Final Report

The Chair reported that Kevin Real had experienced a flood and was not able to attend the meeting; the Chair said the report would be rescheduled for a future SC meeting.

4. Faculty Exit Survey - Interim Assistant Provost for Faculty Affairs Sonja Feist-Price

The Chair introduced Guest Sonja Feist-Price, interim associate provost for faculty affairs. Feist-Price said that she had reviewed two sets of data to explore faculty attrition rates. Of the faculty hired in 2005-2006, when reviewed again eight years later, there was a 61% attrition rate. There was no information about why faculty were leaving, though. Feist-Price explained that the exit survey was an attempt to learn more about why people leave UK. She asked SC members for their comments and invited questions. There were a variety of comments and questions from SC members. Those who spoke were supportive of this method being used to help determine why faculty leave UK. When discussion died down, the Chair volunteered to send Feist-Price a copy of the report of the Faculty Committee on Review, Rewards, and Retention.

5. Proposed Changes to Governing Regulations II ("Governance of the University of Kentucky")

The Chair asked Guest Marcy Deaton, associate legal counsel, to explain the changes, which she did. McCormick **moved** to send the proposed revisions to the Senate for endorsement and Christ **seconded**. A **vote** was taken and the motion **passed** with none opposed.

6. Tentative Senate Agenda for April 13, 2015

There was extensive discussion about the tentative agenda, particularly its length and the order of agenda items; there were concerns the Senate could not address all the items on the tentative agenda. The SC opted to remove one agenda item, add another, and reorder some of the items. Mazur **moved** to approve the tentative Senate agenda for April 13 as amended and Christ **seconded**. A **vote** was taken and the motion **passed** with none opposed.

There being no further business to attend to, the meeting was adjourned at 4:40 pm.

Respectfully submitted by Andrew Hippisley,
Senate Council Chair

SC members present: Bailey, Blonder, Brown, Christ, Grossman, Hippisley, McCormick, Kraemer, Mazur, Porter, Watt, and Wilson.

Invited guests present: Marcy Deaton, Sonja Feist-Price, Brad Jordan, Margaret Schroeder, and Connie Wood.

Prepared by Sheila Brothers on Wednesday, April 8, 2015.