

Senate Council
March 23, 2015

The Senate Council met in regular session at 3 pm on Monday, March 23, 2015 in 103 Main Building. 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 3:00 pm.

1. Minutes from March 2 and March 11, 2015 and Announcements

The Chair said that he received an edit (expanded language about the discussion on faculty disciplinary action) and a correction (Blonder left off the list of those present) for the March 11 minutes; he showed SC members the edited language on screen. There being **no objections**, the minutes from March 11 were **approved** as amended by **unanimous consent**. The Chair asked if there were any edits to the minutes from March 2, but there were none. There being **no objections**, the minutes from March 2 were **approved** as distributed by **unanimous consent**.

The Chair reported that the electronic curricular approval tracking system, eCATS, was on its last paws, so to speak. He and others, including UK's information technology department, have been investigating an off-the-shelf option called Curriculog. Things look promising; the Chair said he hoped the SC office would spend the summer getting its collective head around the new software and providing campuswide training.

The SC's annual retreat will be held over the summer and the Chair said he was already thinking about venues and agenda items. He asked SC members with thoughts and ideas about either aspect to email him and let him know. Also, the Chair talked with Board of Trustees Chair Dr. O. Keith Gannon at the recent Board of Trustees (Board) meeting and Dr. Gannon was very receptive to attending part of the retreat.

The Chair asked the faculty trustees, Wilson and Grossman, for an update on the recent Board meeting. Grossman explained that there was a little controversy over the proposed new Department of Integrated Strategic Communications – one trustee is a former journalist and questioned splitting the School of Journalism and Telecommunications into two units. The Board also had a first reading of the proposed changes to *Governing Regulations XI* ("Student Affairs"). Wilson said that the parking situation remained a problem on campus and he encouraged SC members to attend the open forums on the transportation master plan. Also, Wilson and Grossman expressed a desire to the Board's Academic and Student Affairs Committee to learn more about what UK would or would not do in response to hate speech that might emerge on campus.

2. Committee Reports

a. Senate's Admissions and Academic Standards Committee (SAASC) - Greg Graf, Chair

Guest Greg Graf, chair of the Senate's Admissions and Academic Standards Committee (SAASC), suggested that the SC first review the second of the SAASC's two agenda items and there were no objections.

ii. Proposed Revision to Doctoral Time Extension Policy

Graf explained the proposed change, which would give directors of graduate studies discretion in determining whether or not a doctoral student who requested an extension must retake the qualifying

exams. The Chair said that the motion to approve the proposed revision to the doctoral time extension policy came from the SAASC, so no **second** was required. There was no discussion. A **vote** was taken and the motion **passed** with none opposed.

i. Doctoral Committee Composition Change

Graf explained that the proposal involved two aspects: giving programs the option of decreasing the number of core program faculty members from three to two; and removing the requirement for a faculty member outside the academic program (department). The Chair said that because the motion to approve the proposed changes came from the SAASC, no **second** was required.

There were a number of questions and comments from SC members. Those participating did not object to the optional decrease in core program faculty, but did oppose removing the requirement for an outside faculty member. Grossman **moved** to amend the proposed new language of the policy as follows¹, to retain the requirement for an outside member [but keep the change to the number of required academic program members, from three to two]:

The advisory committee has a core of four members. This core must include a minimum of two faculty members from the academic program (with one being the major professor as chair) and one representative from outside the academic program (department). All members of the core must be members of the Graduate Faculty of the University of Kentucky, and three (including the major professor) must possess full Graduate Faculty status.

Mazur **seconded**. There being no further discussion, a **vote** was taken and the amendment **passed** with none opposed. A **vote** was taken on the motion to change the current doctoral committee composition policy to the following language:

The advisory committee has a core of four members. This core must include a minimum of two faculty members from the academic program (with one being the major professor as chair), and one representative from outside the academic program (department). All members of the core must be members of the Graduate Faculty of the University of Kentucky and three (including the major professor) must possess full Graduate Faculty status.

The motion **passed** with none opposed.

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

i. Proposed Suspension of MA in Theatre

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 University Senate approve that the establishment of a new Graduate Certificate in Latin American, Caribbean, and Latino Studies, in the College of Arts and Sciences. 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.

¹ Underlining denotes added text.

Brown asked how the vote to suspend the MA in Theatre was conducted. Guest Nancy Jones, chair of the Department of Theatre and Dance, offered additional information about the vote proceedings, as well as how individual faculty could be affected. McCormick asked Jones to send the minutes from the meeting when the vote was recorded and Jones agreed.

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

ii. Proposed New Graduate Certificate in Latin American, Caribbean, and Latino Studies

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 the University Senate approve the suspension of the Master of Arts in Theatre, in the Department of Theatre within 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.

There were a handful of questions from SC members about terminology and how Latino Studies differs from Hispanic Studies. Guest Connie Wood, chair of the Senate's Rules and Elections Committee (SREC), asked which graduate program the graduate certificate would be associated with. There was some discussion about whether there was a requirement that graduate certificates be formally associated with a graduate degree program. The Chair commented that there were a number of graduate certificates in existence, some quite successful, that were not associated with a specific graduate degree program.

When there were no further comments or questions, a **vote** was taken on the motion and the motion **passed** with four in favor, two opposed, and one abstaining.

3. Proposed Changes to 2015-2016 Dentistry Calendar

The Chair invited Guest Amanda Minser, curriculum coordinator in the College of Dentistry, to explain the request, which Minser did. There were no questions or comments from SC members. Wilson **moved** to approve the proposed changes to the 2015-16 Dentistry calendar and Christ **seconded**. A **vote** was taken and the motion **passed** with none opposed.

4. Update on Proposed New Governing Regulation on Faculty Disciplinary Action

The Chair explained that he was passing out three versions of the proposed new *Governing Regulation (GR)*: Version 1 was what the SC discussed at its special meeting on March 11; Version 2 was what General Counsel Bill Thro prepared, based upon the edits to Version 1; and Version 3 was the final report from the ad hoc Committee on Faculty Disciplinary Action. In addition, the cover memo from the Committee was also passed around. The Chair asked Watt to lead the discussion.

Watt apologized for the paperwork, but said he wanted to give SC members perspective on past efforts and current status. A majority of the Committee voted to approve sending the proposed new *GR* to the SC as the Committee's final report; Associate General Counsel Marcy Deaton did object, which was reasonable given her position on the Committee as the representative of UK's Legal Counsel. Watt said there were substantive differences between the Committee's thinking and that of Thro. Watt said he would walk the SC through the areas about which there was no consensus between the Committee and Thro. Watt said that an email communication from Thro indicated Thro's belief that President Eli Capilouto would reject the proposed *GR* because there were three components missing. First, Thro stated the President will require that a dean be able to appeal the hearing panel's finding that a faculty member is innocent. The second issue was that there must be clear language explaining that faculty and

tenured faculty cannot ignore UK's rules and regulations. Watt explained that the Committee agreed that that language should be in the *GR*, but the Committee was concerned that Thro's wording was overly legalistic and would be confusing to the average faculty member. Finally, the third issue dealt with misconduct by faculty who also hold an administrative position. The Committee's view was that faculty administrators will be subject to this new *GR*, the same as any other faculty member, but Thro's opinion was that the President would not approve of that. Watt opined that this last issue could also be one of semantics, as the President had said in the past that the policy would apply to all faculty, regardless of rank or title series.

Watt commented that the report, i.e. the proposed new *GR*, was in the hands of the SC now and where it goes in the future will be up to the SC; the Committee will not deliberate further on the matter. Watt said he thought Thro had negotiated in good faith with the Committee, as did the Committee with him, but any final decision should be made by President Capilouto, not Thro.

Watt said he would walk SC members through the specific parts that differed from language prepared by Thro, as well as point out the areas that constituted the "three substantive differences" between the Committee, and Thro and the President.

Issue #1: Statement regarding requirement of faculty compliance with UK rules and regulations

Watt said that the Committee agreed that this reference is necessary, but disagrees with Thro on the exact language to use. Watt said Thro favored legal terminology and phrasing, while the Committee favored language more in layman's terms.

Issue #2: Statement regarding distinction of clinical rights and clinical responsibilities

Watt said that clinical faculty have difficult, challenging careers who earn their salary through seeing patients. There are regulatory bodies, such as the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), that oversee how clinicians deal with patients. Although clinicians could lose the privilege of seeing patients due to misconduct of some sort, anything that affects a clinical faculty member's clinical rights should fall under a different policy. Anything that affects a clinical faculty member's academic rights should fall under the proposed new *GR*.

Issue #3: Statement regarding who may register an allegation of misconduct

Because allegations of various types of misconduct already come from more than just employees (including patients, students, parents of students, and citizens of Kentucky), it is necessary to continue to allow reports from anyone.

Issue #4: Statement regarding the time at which a faculty member is informed of an allegation

It is necessary to state that the type of allegation will determine when a faculty member is informed of the allegation. This was inserted to ensure that a faculty member would be less able to destroy records that may be necessary for an investigation.

Issue #5: Statement regarding General Counsel as the only entity who can determine new evidence as sufficiently substantive to warrant reopening an allegation

There were concerns that there are areas in which General Counsel does not have sufficient expertise to determine if new evidence is substantive or not, e.g. biological cell lines.

Issue #6: Statement regarding General Counsel as the responsible entity for providing to the inquiry panel new findings of fact not considered in the original investigation

Watt said that a minority of the Committee expressed concerns about this matter.

Issue #7: Statements on allegations against a chair, dean, and other faculty administrator positions at the inquiry panel level

Watt explained that Thro wanted faculty administrators to be handled in vastly different fashions and by the President and Board of Trustees (Board). The Committee felt that faculty administrators should be treated like any other faculty member.

Issue #8: Statement regarding dismissal of the case upon a finding of no probable cause by the inquiry panel (no appeal of innocence by the dean)

Watt said this was a big difference in opinion between the Committee and Thro, although Watt said he did not know if Thro was as concerned about this “no appeal” as he [Thro] was about not allowing an appeal of the hearing panel.

Issue #9: Statement about clear and convincing evidence

Watt explained that Thro had said that “clear and convincing” was very similar, if not the same as, “preponderance of evidence.” Watt said if that was the case, he did not understand Thro’s insistence on the term “preponderance of evidence,” particularly because “clear and convincing” was more understandable to the average faculty member.

Issue #10: Statement regarding dismissal of the case upon a finding of no probable cause by the hearing panel (no appeal of innocence by the dean)

Watt said this was likely to be a point of contention with Thro, as Thro had said in the past that the President would not accept language that does not allow a dean to appeal a finding of innocence.

Issue #11: Statements on allegations against a chair, dean, and other faculty administrator positions at the hearing panel level

As with Issue #7, Watt said Thro wanted different procedures and timelines for faculty administrators, while the Committee felt that all faculty administrators should be treated equitably.

Issue #12: Statement about retaliation

The Committee added a phrase to make it clear that retaliation of any kind, regarding any activity, is prohibited.

Issue #13: Statement about Board of Trustees approval for involuntary administrative leave-with-pay

Because voluntary leaves with pay require approval by the Board, involuntary leaves with pay should also require Board approval.

Watt concluded his report by saying that the list of issues were those modifications made that were at variance with what Thro wanted; it was now the SC’s responsibility to discuss, decide what edits to make, and determine which actions to take. Watt added that Thro had mentioned on a number of occasions that the President could simply create a new *Administrative Regulation*, which would not require any input from the faculty at all. Watt expressed his preference for coming to an accord with the President and taking that document to the University Senate for review, although he was not sure that would be possible.

The Chair reiterated that there were three primary areas in which language preferred by the Committee was not approved by Thro. The first issue, that of not allowing an appeal of innocence from the hearing

panel, by the dean, illustrated mistrust – while the faculty were concerned that a rogue dean could appeal innocence to retaliate or harass a faculty member, the administration was concerned that five faculty could just get it wrong and incorrectly determine innocence or that five faculty acting in collusion. A compromise was suggested by Thro, in which a new body, an appeals panel, would hear appeals. This differs from the previous suggestion by Thro that the President hear all appeals. The appeals panel would be comprised of the Provost, the SC Chair, and the University Appeals Board chair.

The second issue, regarding treating administrators differently than rank-and-file faculty members, was rooted in the idea that there are additional consequences for misconduct for faculty administrators at and above the level of department chair, which are directly related to the person's administrative responsibilities. The Chair said the President wanted to be able to act quickly and in a different way for chairs, deans, and other faculty administrators. The third overall issue was the President's desire to have language that states that tenure and academic freedom do not allow faculty to break the rules. The Chair said the President's intent was for it to be perceived as fair to staff and faculty employees alike. The Chair then suggested an open discussion on the three primary issues.

Wilson said that the President already has the administrative authority to deal with faculty administrators by removing them from the administrative position. Wilson expressed confusion – was the insistence on a separate policy for administrators an attempt to punish such an individual for their faculty role? Wilson commented that it is not unusual for a dean to teach and do research and that it was feasible that a dean could have problems related to their faculty role. The Chair wondered aloud if Thro was not considering the bifurcated faculty-side and administrator-side responsibilities of faculty administrators. Wilson also commented that it was reasonable that administrative-responsibility rights are ceded to the President, which would be consistent with making faculty-responsibility rights subject to the proposed *GR*. Wilson opined that the real disagreement was about a dean's appeal; the other two issues could probably be worked out with better wording.

There was lengthy discussion among SC members regarding the issue of a dean's appeal. Towards the beginning of the discussion, Wilson floated the idea of an appeals panel with a constriction that overturning a decision of the hearing panel would require the appeals panel to offer a justification. At one large university, such appeals with justification must be heard by the executive committee of the governing board. This idea was relatively attractive to SC members, although there was also mixed support for language that would require a dean to justify her/his request for an appeal. Another option with some support was for language that would simply not allow any appeal from anyone, faculty member or dean, but would still allow for appeals to UK's Board on matters affecting employment.

The Chair thanked those present for their discussion and asked the SC to turn to thoughts about next steps. Christ suggested having a conversation about the proposed new *GR* directly with President Capilouto, particularly about the three sticking points, but without firm determinations of the exact language to support. She thought it would be best to give the President some time to think about the language prior to the SC proposing concrete language. There was additional discussion about next steps, although those participating in the discussion were supportive of Christ's suggestion.

Christ **moved** to accept the final report of the ad hoc Committee on Faculty Disciplinary Action and Mazur **seconded**. After brief discussion, a **vote** was taken and the motion **passed** with none opposed.

Blonder **moved** that the Chair: let President Capilouto know that the SC officially accepted the final report of the ad hoc Committee; give the President a copy of the final report; encourage the President

to attend the SC meeting Monday when discussion will continue; and let the President know the proposed new *GR* is a work in progress that the SC would like to discuss with him. Christ **seconded**. Wilson suggested that the Chair also give the President an idea of the tone of the discussion, too. A **vote** was taken and the motion **passed** with none opposed.

5. Area and Advisory Committees

The SC discussed the numerous nominees submitted by faculty and made a few changes to what was presented. When all the compositions were reviewed, Watt **moved** to approve the nominations and Christ **seconded**. A **vote** was taken and the motion **passed** with none opposed.

Due to the time, the Chair called for a vote to adjourn. Mazur **moved** to adjourn and Porter **seconded**. The meeting was adjourned at 5:26 pm.

Respectfully submitted by Andrew Hippisley,
Senate Council Chair

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

Invited guests present: Monica Diaz, Greg Graf, Brian Jackson, Nancy Jones, Amanda Minser, David Pienkowski, Margaret Schroeder, Catherine Seago, and Connie Wood.

Prepared by Sheila Brothers on Wednesday, March 25, 2015.