

Senate Council Minutes
November 28, 2005

The Senate Council met on Monday, November 28, 2005 at 3:00 pm in room 103 Main Building. Below is a record of what transpired.

The meeting was called to order at 3:07 pm.

1. Approval of the Minutes from [November 7](#) and [November 21](#), 2005 and Announcements

The Chair asked if there were any corrections to the minutes, other than those already incorporated. There being none, the minutes were approved as amended.

The Chair assumed his prerogative as Chair and stated that the agenda items (2) "Discussion on Qualities of Next Senate Council Chair" and (3) "Nominations for Senate Council Officers" would be moved to the end of the meeting. He stated he would stop any discussion at 4:45 pm in order to accommodate discussion of these two items. Tagavi would be Acting Chair during that time.

4. [Proposed Changes to Senate Rules, Section 2 \(Calendar\)](#)

Jones, as Chair of the University Senate Rules and Elections Committee (SREC), introduced the proposed changes to Section 2 of the *Senate Rules (Rules)*. He explained that the SREC did not find the proposed changes controversial, save two issues. The first was the instance in which one employee has multiple titles. The question concerned how to refer to such a person in the *Rules*. Jones stated the SREC consulted with Don Witt, who holds the titles of University Registrar, Director of Undergraduate Admissions, and Assistant Provost for Enrollment Management, also an *ex officio* of the SREC. Witt suggested employing the use of the title "Registrar" in the *Senate Rules* at points discussing the University Calendar. The SREC discussed the issue and concurred.

The other issue of note was a reference to "Christmas break" in *Section 2.1.1*. The SREC wanted to change the current wording of the *Rules* to be consistent with University policy. T. Lynn Williamson reported there were a variety of terms ("Thanksgiving Day," "Christmas Day," and "December holiday break or period") official UK points of reference in the University Holiday Policy. However, T. Lynn Williamson reported that "Christmas Break" is not an acceptable term under University policy. As originally written, the

section was intended to imply that the Fall semester start early enough to finish before the “Christmas break.” As the SREC was uncomfortable continuing the use of that term in the *Rules*, but did not want itself to decide as a matter of policy what term the *Rules* ought to use, the SREC requested the Senate Council to decide what new phrase would be used for proposal to the University Senate in the revised *Rules*.

Jarvis suggested “winter break.” Liaison Greissman commented that there could be ramifications with the terminology in relation to SAP. Discussion commenced regarding an appropriate term to use, then evolved to a possible use of a specific date. Jones read *Section 2.1.1.A*, incorporating the suggestion: “...Fall Semester beginning in time to permit completion prior to December 25~~the December official late December holiday break holidays.~~” [Underlining indicates new text.]

Jones noted there was an inconsistency in the use of the words “semester,” “term” and “session.” There are two semesters, Spring and Fall. Four weeks of class is defined as a “term,” and eight weeks of class is defined as a “session.” The SREC corrected any misuse of these terms. Although the University is offering a winter intersession, it has not been officially approved.

Cibull **moved** to approve the recommendations from the SREC. Hobson **seconded**. Tagavi noted a reference to the Associate Provost [for Enrollment Management], which should have been “Registrar.” Jones apologized, explaining that all references to that in Section II of the draft *Rules* should have been changed to “Registrar.” There being no more discussion, a vote was taken on the motion. The motion **passed** unanimously.

[5. Proposed Changes to Senate Rules, Section 8 \(Printed Schedule of Classes and Bulletin\)](#)

As Chair of the SREC, Jones explained the proposed changes in *Section VIII* were largely editorial. The SREC recommended substituting “printed” (in reference to a schedule) with “published,” to acknowledge the reality that the schedule was also available electronically on UK’s website. In addition, language was added to indicate that the Registrar is responsible for publication of the class schedules. Cibull **moved** to approve the proposed changes. Hobson **seconded**. The motion **passed** unanimously.

[6. Academic Offenses](#)

The Chair reminded the Senate Council members that he would call a halt to discussion at 4:45 pm, noting that Cibull had to leave at 4:50 pm.

Grossman noted additions to language in *b* and *d* of *Section 6.4.3.B.1*. Both sections mandated a minimum discipline of an XE or XF in a course if a student earned suspension. Grossman went on to say that a major issue for discussion was new language in *Section 6.4.4.A*.

Grossman stated his hope that the new language would address a concern regarding the right of a student to appeal overly harsh penalties, yet preserve the authority of the instructor. The new language would reflect the language in the *Rules* addressing grade appeals. In cases appealed to the University Appeals Board (UAB), there would be an additional action the Ombud could take in the dispute of a penalty for a minor offense to which a student admitted guilt. In this instance, the Ombud would offer his or her opinion as to the merit of the student's complaint.

Tagavi asked for confirmation that the appeal would be in reference to the penalty, and not the original charge of committing an academic offense. Grossman said that it was. Grossman stated that for offenses punished by less than an E, the Ombud would attempt to work out a resolution between the instructor and the student. If there were no resolution, the Ombud then would send a letter indicating the student's complaint either had merit or had no merit to proceed.

In regard to the Ombud's letter, Jones pointed out that the Ombud was not deciding if there was merit or not, but rather if there was sufficient merit versus insufficient merit. Grossman replied that he would be willing to change the reference in *6.4.4.B.3* to, "...the Ombud has found that the appeal has insufficient merit...."

Duke asked about the intent behind the phrasing in *6.4.4.A.2*, "...deference to the instructor's traditional autonomy...." Grossman explained that it was guidance to the Ombud, and not a mandate. Because each discipline, each course and each instructor may have unique standards, the Academic Offenses Committee wanted those aspects preserved. It is advisory language, but the action taken by the Ombud would ultimately be left up to the Ombud.

Tagavi expressed concern that if the proposal meant that if an instructor states his or her policy in class, and communicates it through the syllabus,

neither the Ombud nor the UAB should change it and the instructor's penalty should prevail. Grossman stated that it depended upon the Ombud and his or her judgment, and on the circumstances. Lesnaw expressed concern that the Senate Council was going to quite a bit of trouble to have guidelines, yet ultimately leaving the decision up to the individual Ombud. Jones noted this was only applicable for first offenses in which the penalty is less than an E. Grossman added that the student would have already admitted guilt, yet believed the penalty to be too harsh.

Cibull stated that the wording was a good safeguard for students and instructors alike. It would be fair to both in allowing latitude if an appeal had merit. Greissman suggested that language be inserted to direct instructors to include their academic offenses standards in course syllabi. Jones agreed, stating that if an instructor had a standing policy, it should be reflected in the course syllabus.

Hobson noted she and Jarvis had discussed the academic offenses issue with other students, focusing on XE and sunset clauses. Many students agreed with the concept of no minimum penalty, but voiced concern that there may be too much variety among faculty and across disciplines in deciding penalties. While students indicated it was the right of the instructor to use discretion in deciding upon a penalty, there should be some consistency. Lesnaw agreed, stating that she had previously suggested some type of mandatory consistency, and would like to see a mandatory policy addressing the tremendous variability among disciplines, as well as differing opinions among instructors and Ombuds.

Jarvis distributed [handouts expressing students' opinions](#). Hobson noted that the information was garnered through verbal and written communications with students in class, in a sorority and from two other Student Government Association members speaking with students.

Tagavi noted that the current discussion surrounding which penalty is appropriate for which type of offense was peripheral to the wording in the proposal being discussed. Grossman added that there were problems with imposing strict guidelines for penalties for academic offenses. Syllabi are already very long, not every possible circumstance can be foreseen, and individual circumstances play a large part in deciding upon a punishment. For example, the punishment for cheating on a test that is 20% of a final grade would likely be different from that of the punishment for cheating on a test that

is a much larger percentage of the final grade. Grossman agreed that it would be a good idea to have guidelines at the department or unit level.

The Chair stated that if the language could not be legitimately woven into the proposal, then discussion on it should cease. Cibull **moved** to approve the changes to *Sections 6.4.4.A.2* and *6.4.4.B.3*. Lesnaw **seconded**. There was no further discussion. The motion **passed** unanimously.

Grossman offered a brief history of the proposed changes to *Section 6.4.3.A.3.c*, brought about by a discussion with Randall Roorda, Director of the Freshman Writing Program. Roorda preferred allowing a student to redo an assignment because if an offense occurred in a freshman writing course and the mandatory penalty were zero, the student would fail the course and be unable to progress toward graduation. Grossman stated that to avoid this, *Section 6.4.3.A.3.c* would read, “Otherwise, if there are no prior offenses or letters of warning in the student’s record, the instructor must award a grade of zero for the assignment on which the offense occurred. The instructor may also choose to impose one of the following additional penalties, after consulting with the Chair ~~may choose to impose any one or more of the following academic penalties after consulting with the Chair.~~” The first two bullet items would be deleted.

Jones asked if this meant that the “additional penalties” were not part of the punishment, but rather part of the course itself. Grossman replied that Jones’ interpretation was correct. To address that issue, language was added in the last paragraph of *Section 6.4.3.A.2* to include the following text: “If in the judgment of the instructor an action that can be construed as an academic offense is so slight or inconsequential that it does not warrant even the minimum penalty of a zero on the assignment, then the instructor should not treat the action as that of an academic offense, but simply as lack of mastery of the course material with all the usual consequences following therefrom. The instructor shall notify the student of such a determination.”

Tagavi noted his approval of this addition, saying it offered an appropriate reduction for bad performance. Jones commented that “lack of mastery” would not address something as simple as a failure to follow directions. Lesnaw expressed concern that if the act is not an academic offense, then there should be no language addressing it in the *Rules*. Discussion centered on this issue. Tagavi **moved** to approve this part of the proposal, to require instructors to have a minimum penalty of a zero for an academic offense, and provide guidance to instructors as to what

to do if a particular action is not an offense. Lesnaw **seconded**. A vote was taken, with seven in favor, zero against and zero abstaining. The motion **carried**.

Discussion then moved to the issue of sunsets. Grossman stated that the Academic Offenses Committee did not approve of automatic sunsets, but wanted the *Rules* to offer an option to change the grade later, under certain circumstances. Duke and Jones both stated their beliefs that the punishment should remain on the transcript. Grossman said that the University of Maryland and Penn State allow appeals after one year, with both institutions utilizing an XE for cheating. Most benchmarks do not mark an academic offense on a student's transcript. Some have an asterisk next to a grade received for cheating, but without indicating what the asterisk signifies. In response to a question by Jones, Tagavi stated that UK transcripts currently have a key on the back to indicate what a grade means.

Tagavi also noted concern that information regarding an academic offense should not be available for anyone to see. He also did not see an instance in which an advisor's knowledge of an offense would improve the interaction between advisor and student. Cibull replied that if the advisor was aware of an academic offense, the advisor could direct the student away from a career path that would likely be derailed due to the academic offense. Cibull also stated his belief that a grade given in response to an academic offense should have no automatic sunset, only a chance for an appeal. He asked the Senate Council members for suggestions on what time period was appropriate in which to file an appeal. Grossman stated that the proposed *Rules* as currently written allow for an appeal of XE or XF after one year, a suspension or dismissal after three years, and no appeal on expulsion.

Tagavi introduced a [handout](#) that illustrated various opinions on the current *Rules* held by a variety of individuals polled. Cibull asked about the students' opinion. Jarvis stated that it should not be easy to appeal an XE and that the student should have to admit being accused of an academic offense, even if it does not appear on the transcript. Grossman noted that Marcy Ches (Office of Legal Counsel) was present and asked for her input on the legality of including information about an academic offense on the transcript. Guest Ches stated that it was based on a "need to know" basis for "a legitimate educational interest." She further explained that the Family Educational Rights and Privacy Act leaves the definition of a "legitimate educational interest" up to the institution, as defined in the institution's own policies.

Hobson, using admission to Law School as an example, stated that applications require a student to acknowledge simply being accused of cheating. She had reservations about a student pretending an event did not happen. Hobson stated that identifying a student as having been accused of cheating did not brand the student; rather, the student is forced to take a different educational/vocational route and can admit to the accusation while displaying how it was a growing experience.

In response to a question from Cibull, Grossman stated there would be no automatic sunset. Notations on the transcript would only be removed upon successful appeal. Duke wondered under what circumstances the XE should be taken off, assuming it was an appropriate penalty. Grossman indicated it could be a desire to show mercy, but that a successful appeal was not guaranteed, only the right to appeal. Duke stated that the concepts of cheating and associated punishments are not first introduced at the freshman level of college, but reach back to students' experiences in high school, at the very least.

Tagavi spoke to the consensus of the Senate Council members to note an academic offense on the transcript. He stated he was resigned to this, but also asked about how long the record would need to be kept. The current practice of the Ombud's office is to destroy records after three years. If the student were allowed to appeal after a longer length of time, he wanted to know who would be responsible for retaining the records. If it were to be on the transcript, he supported either leaving it there permanently or utilizing an automatic sunset.

Greissman stated that leaving a reference to an academic offense on the transcript would offer the student an opportunity to demonstrate to a concerned individual (employer, admissions officer, etc.) that the student felt remorse and had a new sense of purpose. Jarvis noted that even if the offense were not noted on the transcript, the student would still have to answer affirmatively if asked about any accusation of cheating. Of 110 students polled, 75 were in favor of a sunset clause. Jones said there should be some finality to the system, after which there would be no purpose in haranguing the system.

Cibull stated opposition to automatic sunsets and appeals to change an XE. If given the choice of allowing removal or making it permanent, he stated he would prefer permanency. His pragmatic concern was that permanency might

not be approved by the full Senate, and the entire proposal could die. He stated that admitting a mistake is better for the student than having the issue expunged from their record. Tagavi corrected him, stating it would be removed from the transcript, not expunged. Cibull countered by noting that most individuals would be looking at the transcript, not the student record. Tagavi asked if the current system relating to sunsets was broken – if not, it should be left alone. Cibull replied that it was not intellectually honest, but it was not worth discarding the entire academic offenses proposal. He stated he was willing to work toward a compromise, similar to the position stated by Tagavi, but not an automatic sunset.

Tagavi reiterated that he was not opposed to an automatic sunset. Cibull queried Tagavi as to whether or not Tagavi would argue against permanency in the full Senate. Grossman clarified that Tagavi would prefer an automatic sunset to permanency.

Cibull **moved** that there be no automatic sunset. Duke **seconded**. Tagavi stated he would **amend** the motion to include “and there will be no petition to remove the notion on the transcript” but it was not accepted by Cibull. Cibull stated it was not friendly and he would **not accept**. Due to a lack of a second, the motion **failed**. A vote was taken, and the motion **passed**, with seven in favor, one against and no abstentions.

Cibull stated that the next issue to address was allowing or not allowing appeals. Duke wondered if not allowing appeals would bring down the entire proposal. Grossman interjected a clarification, stating that the issue currently being discussed was allowing a student to petition to remove the grade from the transcript, not an appeal of the offense. Duke asked for clarification of the difference between the record and the transcript. Tagavi stated that records are only released in certain circumstances, but the transcript is the document a student would widely distribute. Grossman pointed out the record is internal, but is discoverable. Greissman noted that even if a reference to an academic offense is expunged, the student should still answer honestly if questioned about being accused of cheating. Duke spoke to the practicality of a student having to come to UK to speak at a hearing if the student was living out of state. Grossman stated that was the purpose behind adding a sentence (“The [University Appeals] Board may require a former student to appear in person before the Board if it would not represent a substantial difficulty for the former student.”) to *Section 6.4.8.B*.

Cibull stated that after having a better understanding the difference between the transcript and the record, the issue of a [petition] was not as heavy as he had thought, since nothing can be removed from the record. He suggested these types of details should be clearly and explicitly explained in the full Senate. He again noted concern that disagreement over this issue could derail the entire academic offenses proposal. He asked for clarification from the Chair if this issue could be voted on separately. The Chair stated it could be parsed out and voted on separately. Cibull **moved** that there would be no petitions allowed, no automatic sunsets and no petitions for removing from the transcript a grade received for cheating. Lesnaw **seconded**.

Jarvis expressed concern that this motion would, if ultimately passed, put instructors in the same position they are currently in regarding a hesitancy to accuse a student. Cibull stated he hoped the other lesser penalties allowed would address that.

A vote was taken on the motion and it **passed** unanimously.

Discussion centered on how to practically present the proposal with and without language relating to petitions. The Chair ultimately requested Grossman prepare two documents, one with all references to petitions struck through. If the full Senate votes to restore the section on petitions, they then can vote on the omnibus proposal as amended. Lesnaw expressed concern that the difference between an appeal of the initial award of an XE and the removal of the option to petition to remove the grade from the transcript could be confusing to senators, as it had been to Senate Council members.

Tagavi stated that there was one other issue concerning him – that of written justification by the UAB. Cibull asked for the original rationale for requiring written justification. Grossman replied that some individuals felt they were not treated fairly by the UAB and wanted to understand the rationale behind a decision. In addition, after an instructor goes to the trouble of accusing a student, if the UAB finds the student not guilty, the instructor also deserves to understand the rationale.

Tagavi informed the group that a tape recording is available of the deliberations. Discussion commenced on this issue. Lesnaw asked if cases to the UAB were first seen by the Ombud. Tagavi stated that it goes through the Ombud. The Ombud writes a letter summarizing the case. Cibull stated that if there is a tape recording, the need for written justification is unnecessary.

Tagavi **moved** to remove the requirement for written justification on the condition that a tape could be made available to the student, including the deliberations. Cibull **seconded**. Grossman noted his support for this. Jones stated it could educate faculty members about the existence of the tape, noting he had not been aware of it. Tagavi asked if he was correct in assuming that if the tape does not exist or the deliberations were not taped, the issue would have to be revisited. The Senate Council members concurred. Tagavi offered to be **responsible for finding out** that information.

A vote was taken, and the motion unanimously **passed**.

The Chair indicated it was time to vote on the proposal as a whole, minus the section [petitions] that was already parsed out and voted on. Grossman **moved** to send the proposal, as amended, to the University Senate with a positive recommendation. Jarvis **seconded**. The motion **passed** unanimously.

2. Discussion on Qualities of Next Senate Council Chair

The Chair left, making Tagavi Acting Chair. Discussion commenced regarding procedures of the Senate Council.

Grossman **moved** to establish an ad hoc committee to discuss codification of Senate Council operating procedures. Lesnaw **seconded**. Asked about the committee make-up, Grossman stated it should be left to the discretion of the Chair. A vote was taken, and the motion **passed** unanimously.

3. Nominations for Senate Council Officers

There was discussion regarding the timeline for nominations, as well as the desire by some Senate Council members to discuss qualities of future Senate Council Chairs. Lesnaw **moved** that the Senate Council discuss the qualities sought in future Senate Council Chairs. Jones offered a **friendly amendment** to include where the discussion would take place, and when. Lesnaw **accepted**.

Grossman asked about the procedure required to waive the limit of two terms for the Senate Council Chair. Jones stated the situation had to be an emergency, but the *Rules* did not define an emergency. However, the emergency must be reported to the Senate. Grossman asked if there was a high threshold for this. Jones replied it [i.e., the Senate Council invoking the

emergency clause in relation to Senate term limits of the SC Chair] would be unprecedented.

A vote was taken on the motion that the Senate Council discuss the qualities sought in future Senate Council Chairs at a meeting on December 5, and that nominations will be accepted during the week of December 5, closing on Wednesday the 7th. A special meeting of the Senate Council would be called on Monday, December 12, so that the Senate Council will meet either prior to or immediately after the University Senate meeting to vote for Senate Council officers. The motion **passed** unanimously, with six in favor and no abstentions.

The meeting was adjourned at 5:07 pm.

Respectfully submitted by Ernie Yanarella
Senate Council Chair

Members present: Cibull, Duke, Grossman, Hobson, Jones, Lesnaw, Moore, Tagavi, Yanarella.

Liaison present: Greissman.

Guests present: Ches.

Prepared by Sheila Brothers on November 29, 2005.