

Regular Meeting of the University Senate

April 14, 2005
IPJ, Board Room

Attendance

Arts & Sciences: Dobkin, Chair; Branch; Jubran; Lewis; Meter; Nadkarni; Nelson; Otto; Pachence; Pierson; Sullivan; Walsh; Williams

Business: Barkacs; Gin; Schubert

Education: Monroe; Quezada

Law: Kelly; Lazerow; Ramsey

Nursing: None

Ex-Officio: Drinan; Herrinton

Representative: Bridget Dixon

Dobkin called the meeting to order at 12:25 p.m.

1. Announcements

a) Draft response to President Lyons regarding UC expansion/two-year residency requirement (attached to agenda)

Dobkin distributed Hahn University Center Expansion Renovation document that was distributed to the Academic Assembly written by Daniel Sheehan in consultation with many people.

b) Ad Hoc Committee on Academic Review – Ron Pachence, Alejandro Meter, Tom Schubert, Tom Herrinton

c) Update on memo regarding Intersession. Herrinton reported that responses are being prepared to the memo questions; however, questions 4, 9, and 10 will need to be answered with a survey.

d) Retreat date: May 26, 2005. Location and agenda TBA; suggestions for agenda items are welcome

e) Other: Pachence announced that President Lyons has hired a consultant to review the Policy and Procedures Manual and make it into several different manuals. Dobkin met recently with Lyons and said suggested manual divisions may be: Board policy and procedure, institutional structure and governance, faculty handbook, staff handbook, Human Resources policies, and Student Life. Herrinton stated that the consultant is Dr. Thomas Emmett of Higher Education Executive Associates. Website: www.heeasolutions.com. The motivation is some of the policies lack clarity and need to be improved.

Senators discussed shared governance and jurisdictional issues.

Motion by Branch, seconded by Williams, for: THE EXECUTIVE COMMITTEE TO GATHER AND DRAFT A RESOLUTION AND SEND BACK TO THE SENATE.

Dobkin suggested that the resolution could list examples where process has not been sufficiently deliberative and inclusive and that the Senate has a constitutional mandate to have an active participatory role in these matters.

(suggested language from the floor to be deleted from minutes)

Lewis suggested: The Senate expresses its deep concern for the lack of Senate consultation in the decision making process of the University of San Diego. The Senate Constitution approved by the President and Board of Trustees sets jurisdictional standards for the University Senate participation and should be recognized and followed.

Barkacs: cite specific constitutional language

Williams: don't initiate statement with "expresses its deep concern" say "asserting our constitutional responsibility and therefore..."

Vote: 16 – Approve; 0 – Oppose; 3 – Abstain.

2. Approval of Minutes of March 10, 2005 and March 31, 2005

Motion to approve and seconded: TO APPROVE THE MINUTES OF MARCH 10, 2005 WITH THE FOLLOWING CHANGES: 1) Attendance: add Lazerow and Williams, 2) 1.c) first paragraph, last line, change "Dayanna" to "Dayanne."

Vote: Passed by voice vote.

Motion to approve and seconded: TO APPROVE THE MINUTES OF MARCH 31, 2005 with the following changes: 1) p. 3, first line, change "SOLITITING" to "SOLICITING," 2) p. 3, last paragraph, change the second sentence to read "If the process is aimed to prevent litigation by persuading the person that they have been dealt with fairly and correctly and ~~not~~ let them be heard before you "No, they have to sue," then we would not want a policy that eliminates the change for the person to appear before the committee. ~~and for the committee to stay with its decision~~

Vote: Passed by voice vote.

3. Old Business

Motion to accept amendments to the University's policy on *Appeals from ARRT Decisions* (made as recommendations in the Faculty Status Committee Report, attached). The Executive Committee has placed these recommendations on the agenda as individual amendments to the existing policy. The language to which each amendment refers is provided in the attached Faculty Status Report.

1. Add/strike language to the first paragraph in Section D as indicated.
2. Add language to Section D.2 as indicated.
3. Add a final paragraph of Section D as indicated.
- 3A. Amend Section E.1, introductory paragraph and subsec. D, as indicated.
4. Renumber Section E.2.e, and add to Section E.2 as indicated.
5. Divide current Sections E.4 into new Sections E.3 and E.4, and add language to a new Section E.3 (phrases have been added based on discussion at the last Senate meeting):

As part of this initial discussion at its first meeting, the ARRT Appeals Committee will determine (1) whether the requirements stated in Sections E.1 and E.2 of these rules have been fulfilled, and (2) whether the grievant has alleged facts, that if true, would be sufficient to establish one or both grounds for appeal as stated in Section D of these rules that, if proven, would permit the Committee to determine the appeal in favor of the grievant.

If the ARRT Appeals Committee determines that the requirements of Sections E.1 or E.2 of these rules have not been fulfilled, then it will return the appeal to the Provost with an explanation of the deficiency. If the ARRT Appeals Committee determines that the grievant has not alleged facts, that if true, would be sufficient ground for appeal under Section D of these rules, that if proven would permit a favorable decision, then it will dismiss the appeal and provide a written explanation of the reason for dismissal to the Provost and grievant.

6. Divide current Sections E.4 into new Sections E.3 and E.4, and add language to a new Section E.4 as indicated.
7. Amend Section E.4.c through E.4.g as indicated.
8. Amend Section E.5 as indicated.
9. Amend the first paragraph of Section E.6 as indicated.

Motion by Pachence, seconded by Nelson, to: SUBSTITUTE SECTION E.1 THAT IS CURRENTLY ON THE FLOOR WITH THE FOLLOWING SECTION E.1.

“Be it resolved that the existing ARRT Policies and Procedure be continued as is (with editorial revisions) and be replaced by the following text beginning from “E.1.”

1. Commencement of Appeal: The faculty grievant commences an appeal when the faculty member communicates in writing to the Provost the grounds for the appeal (section ‘D’) and the related rationale or rationales for reversing the ARRT recommendation.
2. The Provost forms the Appeals Committee, convenes its first meeting, and provides the Committee with a copy of the grievant’s appeal and the documents of the ARRT Committee on the case. The Provost also transmits a copy of the grievant’s appeal to the dean, the chair of the ARRT Committee that made the recommendation, and to the grievant’s immediate supervisor, if not the dean.
3. The Appeals Committee selects its Chair, reviews materials supplied to it by the Provost, and decides by majority vote whether to:
 - a. recommend to the Provost that the grievant’s appeal appears to lack sufficient merit to proceed with further Appeals Committee deliberations; or
 - b. gather more information in writing in a timely manner from one or more of the following: dean, chair of the ARRT Committee, grievant, or other parties who may have perspective of utility to the Appeals Committee.
4. If ‘3.b’ is engaged, the Appeals Committee will re-convene to deliberate and decide to recommend one of the following:
 - a. The appeal lacks sufficient merit to require reconsideration;

- b. The appeal may have sufficient merit and should be directed to the original ARRT Committee for reconsideration;
 - c. The appeal is convincing in that the negative decision may have been improperly made, and the President and Provost should create an ad hoc faculty panel to review the merits of the case which will include faculty who are from the academic unit or units represented in the ARRT Committee but not necessarily from the ARRT Committee which made the original recommendation.
5. The ARRT Appeals Committee will forward its recommendation to the President and Provost with copies to the grievant, ARRT Committee members who made the original recommendation, and to the dean of the academic unit. The recommendation may include separate statements from ARRT Appeals Committee members.
 6. The President will make a decision within 45 days of receipt of the Appeals Committee recommendation; and
 7. If a negative decision ensues from engaging options '4.b.' or '4.c.' above, this Appeals policy and procedure will not be available for further appeals."

Kelly noted that it doesn't address the Senate's concerns in the following ways: 1) It doesn't address the most significant way to improve the process which is to remove reappointment and leave the tenure decision intact; 2) There is no standard for lack of sufficient merit; committees are at their own discretion to decide on merits; 3) The objection that it might go to a different body is retained;. 4) In eliminating section E.7, it forces three hearings where the current policy would allow two.

Motion by Williams, seconded by Lewis, to: POSTPONE THE DECISION UNTIL THE NEXT SENATE MEETING.

Vote: 16 – Approve; 1 – Oppose; 2 – Abstain. The motion passed.

4. New Business

A. Resolution.

Resolved: That the University Senate should continue to seek improvements in the ARRT appeals policy and procedures, including revising the scope of the appeals process, clarifying the conditions under which an appeal is warranted, and ensuring consistency between the ARRT appeals process and other relevant University policies and procedures (e.g., dismissal for serious cause).

Motion by Kelly, seconded by Barkacs, to: POSTPONE RESOLUTION A. UNTIL THE NEXT SENATE MEETING AND AFTER DISCUSSION OF THE ARRT APPEALS PROCESS.

Vote: 18 – Approve; 1 – Oppose; 0 – Abstain. The motion passed.

B. Motion to approve resolutions derived from the Recommendations of the Faculty Status Committee *(included with the November 18, 2004 agenda)*:

Resolved: The Senate urges the School of Law to provide its policy and procedure on faculty appointments to the Senate for its review and approval.

Resolved: The Senate encourages the College and Schools to adopt written policies and procedures for the appointment of non-tenure-track faculty.

Kelly said the Law School's ARRT policy is a single school policy and as a single school policy it doesn't come under Senate's jurisdiction. It may be dangerous to decide that the Senate's jurisdiction extends to any single school policy as long as the single school policy is included with other policies.

Schubert said all the schools have a single school appointments policy. The Jurisdiction Committee is reviewing a small portion of the policies in a specific way; not to approve it. When the ARRT policy was revised, the Faculty Procedures Policy 2.1.2 was passed which states: "The University Senate will review a school or college's proposed appointment policies and procedures, as well as any proposed amendments to such policies and procedures to determine whether they insure faculty participation in appointment decisions and provide an intra-school process for determination of appointment-related grievances." The Senate is concerned with issues that involve faculty campus-wide.

Herrinton said the policy doesn't apply to the Law school. The policy split out the ARRT policy of the non-law units – it probably is outside the Senate's jurisdiction.

Kelly said at the time the constitution was drafted USD had a general policy related to ARRT for the 4 units and a non-general policy for the other unit. Since then the document has been broken down into separate school units for the 4 units. When it is talking about general policies he thinks it is referring to the general policy that affected the other units, not the law school policy.

The meeting adjourned at 1:45 p.m.

Submitted by,

David Sullivan
Secretary

Peggy Agerton
Recording Secretary