

Regular Meeting of the University Senate

September 11, 2003
University Center, Forum B

Attendance

Arts & Sciences: Dobkin, Chair; Branch; Herrinton; Lewis; Loer; Nadkarni; Otto; Pachence; Payne; Pierson; Sullivan; Williams

Business: Ayers; Schubert; Smith

Education: Monroe

Law: Horton; Kelly

Nursing: Orsi

Ex-Officio: Cordeiro; Drinan; Lazarus

Student Representatives: Castanos; Gallant; Niederkorn

Horton called the meeting to order at 12:20 p.m.

1. Announcements

a) Senate membership. A list of 2003-2004 Senators, incomplete with respect to alternates and student representatives, is included with the agenda.

b) 2003-2004 Senate calendar. The Senate's meetings for 2003-2004 are on the following dates and always from 12:15 to 1:45 in the following places:

Fall 2003

September 11 (UC Forum B)
September 25 (UC Forum B)
October 9 (Serra 209)
October 23 (UC Forum B)
November 6 (UC Forum B)
November 20 (UC Forum B)
December 11 (UC 107)

Spring 2004

February 5 (UC Forum B)
February 19 (UC Forum B)
March 4 (UC Forum B)
March 25 (TBA)
April 15 (UC Forum B)
April 29 (UC Forum B)
May 13 (UC Forum B)

c) President's address. The annual address to the Senate of President Mary Lyons is scheduled for the Sept. 25 meeting.

d) Address of VP Finance and Administration. The annual address to the Senate of the Vice President of Finance and Administration, Paul Bissonnette, is scheduled for the Oct. 23 meeting.

e) PAC and Cabinet meetings. Regular meetings of the President's Advisory Council and of the Cabinet, of which the Senate's Chair is a member, have been scheduled for the 2003-2004 academic year as follows: PAC – Oct. 21, Dec. 16, Feb. 17, and April 13; Cabinet – Sept. 23, Nov. 18, Jan. 27, March 23, and May 25. All meetings are from 9:30 to 11:00 a.m.

f) Parking proposal. President Hayes' response to the "parking proposal," dated May 14, 2003, is included with this agenda. The proposal had been the object of a 2002-2003 Senate Resolution dated April 3, 2003.

g) Summer senate meetings. Horton's notes of the Summer Senate's meetings of June 26, July 10, and Aug. 22 are included with the agenda.

h) Benefits Forum. Pachence's notes on the Benefits Forum sponsored by Human Resources and held on Aug. 6 for employees are included with the agenda.

i) Capital Campaign update. Dobkin, faculty representative to the Development and University Relations Committee of the Board of Trustees, reported on the capital campaign to the Summer Senate. Her report is included with the agenda.

j) Academic Assembly resolution. The Academic Assembly's resolution dated April 22, 2003, requesting that the Senate create a scholarship committee, did not reach the Senate in time to be placed on the agenda for the 2002-2003 term. A copy of the resolution is included with the agenda.

k) Reform of University budget process. A proposal for reform of the University's budget structure and process, made to the Senate in August by Larry Alexander, a 2002-2003 senator, is included with the agenda.

l) Faculty appointment policies. The policies regarding faculty appointments of the College and Schools of Business and Education have been submitted to the Senate for ratification. Copies of these policies are included with the agenda.

2. Election of officers

Horton thanked the executive committee for its marvelous work and unflagging dedication to the Senate's business last year.

The following senators were elected by acclamation to Senate positions:

Executive Committee

Dobkin (A&S): Chair
Ayers (Bus.): Vice Chair
Sullivan (A&S): Secretary
Kelly (Law): Parliamentarian
Gonzalez (Educ.): At-Large
Orsi (Nur.): At-Large

Alternates to Exec. Committee

Horton (Law)
Ahern-Lehmann (Nur.)
Lewis (A&S)
Monroe (Educ.)

Motion by Pachence, seconded by Sullivan, that the Senate expresses its appreciation to outgoing, two-term chair Horton for his dedicated service.

Motion passed by acclamation.

3. Approval of the minutes of May 8, 2003

Motion by Horton, seconded by Drinan, to: RATIFY THE SUMMER SENATE'S APPROVAL OF THE MINUTES OF MAY 8, 2003.

Vote: 17 – Approve; 0 – Oppose; 0 – Abstain. The motion passed.

4. Election of faculty representatives to committees of the Board of Trustees

The following Senators were elected by acclamation to committees of the Board of Trustees:

Mission and Ministry: Jack Crumley (A&S)
Finance: Sen. Tom Herrinton (A&S)
Athletics: Sen. Jim Smith (Bus.)
Academic Affairs: Sen. Virginia Lewis (A&S)
Development and University Relations: Sen. Beth Dobkin (A&S)
Facilities: Sen. Susan Ayers (Bus.)
Strategic Issues: Sen. Paul Horton (Law)
Student Affairs: Sen. Doug Payne (A&S)

Motion by Horton, seconded by Nadkarni, to postpone the election of the representative to the Investment Committee to the next meeting.

Passed by voice vote.

5. Amendment of Rank & Tenure Policy

Motion by Horton, seconded by Kelly, that: THE SENATE APPROVE THE MOTION TO AMEND THE CURRENT RANK AND TENURE POLICY APPLICABLE TO ARTS & SCIENCES, BUSINESS, EDUCATION, AND NURSING.

Motion

The Summer Senate approves, and requests that the 2003-04 University of San Diego Senate and the faculties of the pertinent College and Schools, the President, and the Board of Trustees of the University of San Diego likewise approve, the following amendments to sections I,II.B.4, and II.C of University policy 2.4.2 entitled *Rank and Tenure: Arts & Sciences, Business, Education, Nursing*. Amendments to the current policy are indicated by ~~strikeouts~~ (signaling deletions) and ***bold italics*** (signaling additions).

[to Section I:]

1. The Faculty's Role in Rank and Tenure Decisions

The University of San Diego maintains the quality of its faculty through objective and thorough appraisal by competent faculty members of each candidate for reappointment, promotion, and tenure. The Rank and Tenure Committee of each school or college is given primary responsibility for this appraisal. ***Each Committee will include the school or college Dean as a voting member.*** The Committee's functions include the recognition and encouragement of each candidate's achievements.

[to Section II.B.4:]

II. Procedures for Reappointment, Promotion, and Tenure

B. Initial Steps

~~4. A recommendation regarding reappointment, promotion, and tenure normally originates with the Department Chair or Dean. The recommendation~~ ***Recommendations concerning a candidate from Department Chairs, Program Directors, and/or the Dean in their capacities as such must be submitted to the Committee prior to the conclusion of its deliberations. These recommendations, and including any amendments or additions to them by the recommender, must be included as part of the evidence provided by the Committee to the President. These recommendations*** should include a comprehensive assessment of the candidate's qualifications; evidence in support of that assessment; and the recommender's report of his or her consultation with faculty members of the candidate's department or academic units, including any dissenting opinions.

[to Section II.C:]

II. Procedures for Reappointment, Promotion, and Tenure

C. The Committee's Responsibilities

6. After notification of the President's decision, the Committee will send the candidate a copy of its recommendation and accompanying rationale (or summary of report) made to the President.

Herrinton inquired whether recommendations from the department chairs, program directors, and the dean may be submitted to the Committee at any time prior to the conclusion of its deliberations and whether recommenders may rewrite their recommendations after the committee has made its decision. Dobkin responded that section II.B.4 is written to allow deans or chairs the flexibility to submit their initial

recommendation at any point during the committee's deliberations and to change or modify their recommendations on the basis of committee discussions. A revised recommendation could not be made after a committee decision is reached.

Drinan, noting that the proposed policy applies only to dean, department chair, and program director recommendations, would not affect current practices regarding peer letters submitted as part of the RRT process. A late peer letter may be added to a candidate's file, for example, but only if the letter is submitted before the committee has reached a decision on the file. The case may be reconsidered if the letter is in variance with other peer letters.

With respect to Herrinton's point on II.B.4., Horton said that the policy requires submission of the recommendations identified prior to conclusion of the RRT committee's recommendations, which would include prior to commencement of the recommendations if the tradition of the unit requires the dean, chair, or program director to submit an initial recommendation prior to commencement of committee deliberations. In schools that don't have that tradition, the requirement is only that these recommendations be submitted prior to conclusion of the committee's deliberations.

Horton explained that, in regards to section II.C.6., if the tradition within the school is to disclose the vote to the candidate, then II.C.6. would not alter that tradition. If the tradition or policy of the school is not to communicate the vote to the faculty, then II.C.6. does not require the committee to do so. Section II.C.6. is permissive as to those aspects; it is mandatory as to the file itself.

In response to Cordeiro's query about whether the proposed amendments would affect Education's rank and tenure policies, Horton responded that if the amendments are passed by the Trustees, then they would require the schools subject to the general policy to conform their policies to it. Anything inconsistent with the policies would be without authority; anything different from yet consistent with the policies would be allowed. There is room inside the proposed policies to allow differences among units in RRT methodologies and processes.

Motion by Herrinton, seconded by Williams, to: POSTPONE FURTHER DISCUSSION OF THE MOTION TO THE NEXT MEETING.

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

6. Amendment of PHS Policy

Motion by Horton, seconded by Sullivan, that: THE SENATE APPROVE THE FOLLOWING AMENDMENT PASSED BY THE 2003 SUMMER SENATE TO THE UNIVERSITY'S POLICY AND PROCEDURES ON PROTECTION OF HUMAN SUBJECTS.

Motion

The Protection of Human Subjects (PHS) policy of the University of San Diego, as adopted during the University Senate's 2002-03 regular term, is amended to substitute the following for its first paragraph, and to renumber sections I through V of the current policy as Part Two, sections II through VI, respectively. Once approved, the University's "Federalwide Assurance of Protection for Human Subjects" filed with the department of Health and Human Services will be conformed to the scope and terms of the PHS policy as amended.

Protection of Human Subjects Policy

The University of San Diego safeguards the rights and welfare of human subjects involved in all research projects conducted under University auspices. "Research projects conducted under University auspices: means research conducted by any University employee, student, or agent either in the course of his or her University responsibilities or when using the University's name, symbols, property or services in connection with the research.

Human Subjects Researchers – University employees, students, and agents who are or who are expecting to be engaged in such research – must be familiar with this policy. Part One of this policy applies to all Human Subjects Researchers. Part Two of this policy, including the procedures, forms, and other instruments at the end of Part Two, applies to Human Subjects Researchers whose research either (1) is supported or regulated by Federal or State governments, departments, or agencies, or (2) regardless of funding source, falls within a category listed in section I of Part Two.

Part One. In General.

The responsibility of Human Subjects Researchers will be guided by the University's Catholic identity and mission statement, and by generally accepted ethical principles for human-subjects research. The University adopts the report of the national Commission for the Protection of Human Subjects of Biomedical and Behavioral Research, entitled *Ethical Principles and Guidelines for the Protection of Human Subjects of Research*, commonly known as *The Belmont Report*, www.ohrp.osophhs.dhhs.gov/humansubjects/guidance/belmont, and included as Appendix 1 to this policy, as its statement of these generally accepted ethical principles.

Although the primary focus of *The Belmont Report* is on biomedical and behavioral research, its discussion of Basic Ethical Principles and Applications is easily adapted to most other types of research involving human subjects. Individual University academic units, departments and programs (collectively "University units") are encouraged to develop their own rules or procedures that adapt or supplement *The Belmont Report* to meet their research disciplines or needs.

Each Human Subjects Research must provide evidence to the University's Institutional Review Board (IRB), prior to engaging in research covered by this policy, that he or she is familiar with *The Belmont Report*, with the responsible University unit's rules or procedures governing human subjects research, and with this policy. Evidence of familiarity may be (1) taking a course in which these materials are covered in class and assessed, (2) satisfactorily taking an examination authorized by the IRB on these materials, (3) attending a seminar sponsored by the IRB on the ethical principles governing human subjects research, or (4) by resort to other mechanisms deemed appropriate by the academic unit with jurisdiction.

University vice president, deans, department heads, and program supervisors are charged with the implementation of Part One of this policy. To this end, they have responsibility: (1) to assure that Human Subjects Researchers within their units are familiar with *The Belmont Report* and any other rules or procedures of their unit governing human subjects research; (2) to authorize projects involving research on human subjects that are proposed by Human Subjects Researchers within their units; (3) to determine which research projects submitted to them for authorization, in addition to those indicated in section I of Part Two, should also be submitted to the IRB for review.

Part Two. Projects Requiring IRB Review

All Human Subjects Researchers whose research is governed by this Part must (1) familiarize themselves and comply with 45 Code of Federal Regulations §§ 50 and 56.110 if engaged in medical or biomedical research, and with any other laws and regulations pertaining to their research; and (2) submit their research proposals to the University's Institutional Review Board (IRB) for review. The IRB has authority to approve, require modifications in, or disapprove research projects governed by this Part.

I. Research Governed by this Part.

Research projects of Human Subjects Researchers are governed by this Part if they fall in any of the following categories.

- A. The project is supported, in whole or in part, by funds or equipment provided by the Federal government, a State government, or any Federal or State governmental agency.
- B. The project encompasses research over which a Federal Department or Agency has specific responsibility for regulating as a research activity.
- C. The project involves the use of medical or biomedical tests or procedures or other invasion of the human body.
- D. The project targets (not simply includes) any of the following groups for research: (1) minors; (2) prisoners; (3) mentally disabled persons; (4) pregnant women; (5) fetuses; (6) a particular religious, racial, ethnic, or sexual-orientation population.
- E. The project is a type that the responsible University unit has specified to require IRB review and approval.
- F. The external funding source for the project has required that it be submitted for IRB review and approval.

Horton said the motion adopts the Belmont Report as the core statement of ethical principles involving human subjects research. Researchers who conduct human subjects research at USD would become familiar with the Report and would identify the researchers and projects that would be subject to review procedures in the current policy. Herrinton said it is a necessary narrowing of the scope of the jurisdiction of the IRB.

Drinan said the IRB could take on an additional pedagogical role in terms of dealing with ethical issues associated with research through sponsoring faculty forums and seminars that would deal with ethical issues more broadly.

Lazarus said the expanded scope of IRB oversight at universities is the result of research that was shut down at some universities when they weren't in compliance with federal regulations. He noted his support for reducing the scope of the document, but cautioned that USD's IRB could become a test case. This scope is correct within the rules of the Belmont Report; however, it is not considered "best practice" by many research universities.

Horton said research on human subjects is governed by federal regulations enforced by the Dept. of Health and Human Services. The guidelines never sought to regulate research on human subjects the way they are now applied. Research and human subjects are defined in a broad, expansive way. Universities are required to sign terms of assurance 1) for all their human subjects regardless of funding source, or 2) only for federally supported research. USD and other institutions have, regardless of funding source, checked the wrong box and are out of compliance in conducting human research that implicates federal regulations by not claiming exemption or undergoing IRB review with respect to all the research. This motion requires USD to check the right box, to bring USD into compliance, and to provide education for ethical standards for research on human subjects.

Drinan said the motion will reduce some vulnerability for USD by providing tighter compliance within a narrower standard. Some units at USD have not been using the IRB process and have made USD vulnerable under existing policy. The education process will need to be programmed and planned.

Lazarus recommended passing the motion, although it will decrease the scope of IRB oversight, and joint faculty research with other institutions may be more difficult.

Horton said Part 2 of the motion adds several other categories of human subjects research projects for IRB review which may include joint projects and external funding sources that require IRB review. There are other categories that, independently of federal funding and support, would require IRB review.

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

Herrinton asked that the Provost investigate two additions to the Tuition Remission Policy: 1) the sentence regarding NROTC instructors, and 2) section 5.a., which cites policy limitations for part-time employees. Those two sentences are not in the policy as approved by the Senate, but they are in the policy as posted on USD's web site.

The meeting adjourned at 1:45 pm

Submitted by,

David Sullivan
Secretary

Peggy Agerton
Recording