FACULTY SENATE

Minutes of February 4, 2003 - (approved)

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The Faculty Senate met at 2:00 p.m. on February 4, 2003, in the Center for Tomorrow to consider the following agenda:

1. Approval of the minutes of December 3, 2002
2. Report of the Chair
3. Report of the President/Provost
4. Report of the Faculty Senate Budget Priorities Committee
5. Academic Standards Policy -- Grading Committee -- FOR ACTION
6. 1st reading of the Resolution for University Support of Open Software and Standards -- Faculty Senate Computer Services Committee
7. 1st reading of the Resolution for Supporting Amendment of the DMCA and Opposing Enactment of Laws Like CBDTPA -- Faculty Senate Computer Services Committee
8. Report of the SUNY Senate meeting, Geneseo
9. Public vs. Private -- Harold Cohen
10. Old/New business
11. Adjournment

Item 1: Approval of the minutes of December 3, 2002

The December 3, 2002, minutes were approved as distributed.

Item 2: Report of the Chair

The Chair mentioned President Greiner's forthcoming retirement from the UB presidency and Dean Bernardino's upcoming departure from the School of Medicine. Dr. Margaret W. Paroski will become the interim acting dean. She has been the Medical School's Senior Associate Dean for Academic Affairs and Admissions.

Chair Cohen's memo to the Voting Faculty about nominating members of the full-time teaching faculty for six seats on the presidency search committee had indicated that UB Council chair Jeremy Jacobs would chair the that committee. More recent information is that Bob Wagner will chair the search committee.

Senators and their faculty colleagues are encouraged to nominate themselves or eligible others to serve on the search committee. Consent should be established beforehand because there will likely be many long meetings held over the summer months and until a new president takes office. FSEC will select the six faculty in executive session on February 12th.

The resolutions that Professor Ringland will be presenting later in this meeting were shown to Peter Knuepfer, Chair of the SUNY Senate Operations Committee, at the January 23-25 Senate meeting at Geneseo. The Operations Committee might develop some similar resolutions so the SUNY Senate can involve itself in the debate as well.

Chair Cohen said he had received a report showing that, even if SUNY's undergraduate tuition is increased by $1,200 or so, it's till a bargain relative to other large schools in the Northeast.

The election to select two SUNY Senate senators is currently in progress. Ballots for a new UB Faculty Senate chair will be sent out in a few weeks.

Item 3: Report of the President/Provost

President Greiner commented on the proposed Executive Budget which will probably undergo months of politicking before the Governor and legislators reach agreement on a final version. The Governor's proposal to reduce the General Fund support to SUNY means reducing tax support. This would reduce our budget by $183.5 million. There would still be $1 billion in tax support, but it's 15% less that we received last year. Most other state agencies were cut more, but the Chancellor made a strong case for SUNY, which wasn't a top funding priority during the 1990s.

It will likely be necessary for the Board of Trustees to raise undergraduate tuition by $1200 per year; graduate tuition will also be increased. The alternative would be to cut programs, but that's not likely to happen.

Tuition dollars stay in SUNY, and the proposed increases would offset the reduced tax support.

SUNY's desire to have a rational tuition policy so every year tuition would increase a small amount predictably would be possible only is there's a rational funding policy. That's not the case, so some students have attended SUNY schools without experiencing a tuition increase. For this year's students, it's a huge jump and a serious hardship for many. Relative to other schools, however, our tuition will still be quite competitive.

There's good budget news in that we're likely to receive substantial capital funding for building renovations.

The Chair then asked Professor Nickerson to comment briefly on the Rational Fiscal Policy resolution that was passed at the SUNY Senate meeting in Geneseo, because it provides a good segué to the Budget Priorities Report. Professor Nickerson said that the Rational Fiscal Policy calls for stability in overall funding, long term predictability in annual funding from all sources, and budgetary consideration for inflation and enrollment increases. The budget should be tied to higher education indexes and not be affected by State shortfalls. This policy has now been sent to Chancellor King for implementation.

Item 4: Report of the Faculty Senate Budget Priorities Committee -- Susan Hamlen

Professor Hamlen reported that the Budget Priority Committee had been asked to consider whether academic units' increasing use of part-time and non-tenure track instructors and teaching assistants has had any negative impact on UB's teaching and research mission. To accomplish this, they compiled data obtained from the Office of Institutional Analysis and sent a survey to all deans. All units except the School of Medicine responded.

The first question on the survey asked whether the mix of instructional staffing at UB has shifted significantly. Data from 1996-2001 shows that campus-wide reliance on non-tenure track faculty and teaching assistants increased from 41% to 51% of sections taught, and from 37% to 46% of credit hours taught. Deans attributed enrollment increases, program changes, faculty recruitment issues, and budget cuts as the reasons for instructional staffing changes.

Another survey question asked how instructional staffing changes have impacted teaching quality. Most responses claimed that the use of part-time faculty had generally improved teaching quality rather than diminished it. Teaching evaluations support this claim. Also, using experienced practitioners in applications-based courses was regarded as beneficial. A few units expressed reservations about adjunct instructors, however, because they lack intellectual and scholarly depth.

Although most responses justified the instructional staffing shifts that have taken place, many academic units expressed hope for reversing the trend in the future. The Committee perceived underlying discontentment with the current situation because non-tenure-track faculty don't support the research mission of the University. Part-timers don't contribute significantly to collegiality

among faculty, nor do they share the administrative burden, which reduced the amount of time the full-time faculty can devote to teaching, research, and service missions of their units. The Committee supports efforts to reverse the trend by hiring more tenure-track faculty.

Item 5: Academic Standards Policy -- Grading Committee -- William H. Baumer

Professor Baumer explained that the revised "Academic Standards Policy" was being presented to the Faculty Senate for action (one reading only) so it might get approved in time for inclusion in the 2003/04 Undergraduate Catalog. The Catalog is a legal document when students are admitted, and students are entitled to the rights set forth in that document unless a newer policy favors them. Students who opt for a newer policy, however, are bound by all parts of it. It's not possible to be considered under selective parts of more than one policy. Today's revisions make the Policy's standards for good standing, probation, and dismissal in UB's undergraduate programs much clearer and simpler.

Good academic standing, as before, still requires that a student maintain at least a 2.00 cumulative grade point average (GPA). Probation, however, is redefined as being consequent upon failure to maintain a 2.00 cumulative GPA or failure to achieve a 2.00 semester GPA for two consecutive semesters. Not having a major after completion of 60 credit hours no longer imposes probation.

Criteria for dismissal has been redefined in the new Policy; the proposed criteria are having a GPA of less than 0.05 for the first two semesters of study, or failure to maintain a grade point deficit of no more than 20 grade points. A grade point deficit is the difference between the student's total grade points and the points required for a 2.00 cumulative GPA if the student's cumulative GPA is less than 2.00.

The Grading Committee's report said that the revised Policy "is projected to have much the same consequences as present policies in its implementation. Indeed, a major ground for the reformulation is not that present policies are somehow problematic in their consequences, but that they are overly complex in their formulation."

The revised Policy proposes that first semester students who do not attain a 2.00 GPA get an academic warning and an advising checkstop. Students who persist with a second semester GPA of less than 2.00 will be on probation.

Professor Schack asked for clarification on the "Academic Probation" provision that says "Summer session grades may be averaged with immediately previous spring semester grades to improve a student's most recent semester GPA and this measure used in determining a student's probation status." Can summer grades also be averaged with the following fall grades to improve a GPA? Who can make the decision regarding whether summer grades get counted? The policy is unacceptable as long as this unclarity remains.

Professor Schack then made a motion (which was seconded) to amend that item by adding the sentence "The student may so elect at any time before the first summer session in which he/she is enrolled." The motion passed when the Chair voted in favor to break a tie vote.

The motion to accept the amended "Academic Standards Policy" then passed unanimously.

Item 6: 1st reading of the Resolution for University Support of Open Software and Standards -- Faculty Senate Computer Services Committee -- John Ringland

Professor Ringland prefaced his reading of the two resolutions that had been been distributed with the agenda by explaining how the

Digital Millennium Copyright Act of 1998 (DMCA) and the proposed Consumer Broadband and Digital Television Promotion Act (CBDTPA, S. 2048) are contrary to academic principles relating to the free flow of information. Publishers of digital information can now encrypt the content so a de-scrambler is required to view it. The pretext is to prevent "piracy," but the real goal is create a pay-per-use system. The DMCA makes it a criminal offense to circumvent technological use-control measures.

The CBDTPA would make it illegal to manufacture a computer which doesn't contain control measures in the hardware. It would also be illegal to distribute any software program that doesn't contain embedded control mechanisms. System-level programming would be potentially criminal and would impede adapting computers to specific research needs. The Computer Services Committee, therefore, has approved the following "Resolution Opposing the DMCA and CBDTPA:

1. WHEREAS, direct unmediated unfettered access to information is fundamental and essential to scholarly inquiry, academic dialog, research, the advancement of research methods, academic freedom, and freedom of speech; and

2. WHEREAS, complete control by a computer-user of the computer's operating system and hardware is essential to the use and adaptation of computers in research and to the preservation of privacy; and

3. WHEREAS, the continued existence of libraries as we have historically conceived of them depends on the rights to lend purchased materials afforded under the doctrine of First Sale; and

4. WHEREAS, the Digital Millennium Copyright Act of 1998 (DMCA) makes it an offense to circumvent technological use-control measures, or to provide the means for others to do so, thereby criminalizing the act of obtaining direct access to copyrighted information (and even public-domain information) for legitimate non-copyright-infringing purposes; and

5. WHEREAS, the proposed Consumer Broadband and Digital Television Promotion Act (CBDTPA, S. 2048 of the 107th Congress, the "Hollings Bill") would mandate the erection of an impenetrable barrier controlled by third parties between the user of a computer and the data on that computer, and furthermore create draconian constraints on computer programming and on the adaptation of computers to specific research and personal needs; and

6. WHEREAS, the DMCA and the CBDTPA-type mandates individually and in concert, will enable copyright holders to virtually extinguish the rights afforded by the doctrines of Fair Use and First Sale with respect to material in digital format; and

7. WHEREAS, the DMCA and CBDTPA thus undermine the core missions of the University at Buffalo; now, therefore, be it

8. WHEREAS, Section 5 of the proposed Digital Media Consumers' Rights Act (DMRCA, HR 107, introduced January 7th, 2003 by Representatives Boucher (D-VA) , Do little (R- CA), Bachus (R-AL) and Kennedy (D-RI) would amend section 1201 of the DMCA so as to limit prohibition of circumvention of access-control measures to instances of copyright infringement; now, therefore, be it

9. RESOLVED that the Faculty of the University at Buffalo strongly support the enactment of the DMCRA, and vehemently oppose the enactment of any bill such as the CBDTPA that would mandate access-restriction technology, and call on the President and Provost of the University to take these positions publicly; and be it further

10. RESOLVED that the Faculty of the University at Buffalo call on the President to direct the University's Office of Governmental Relations to lobby in favor of the DMCRA, especially Section 5, and against the enactment of the CBDTPA and any successor legislation that likewise threatens research and academic freedom.

Professor Ringland said that this is not a fringe position; it is supported by the Association of American Universities (AAU).

Professor Campbell questioned whether the Faculty Senate should

be getting involved in complex political matters that can take months of Congressional information gathering and debate.

Professor Schack said that this is about more than legislation -- it's about core values of academic life such as academic freedom and the free flow of information. We need to defend these principles.

Professor Campbell suggested that we leave lobbying to the AAU.

Professor Schack said that the Faculty Senate deals with many trivial matters, but here's a chance to do something that really matters. Defending academic values in this resolution is one of the most important things we can ever do.

Professor Campbell replied that, if that were the case, we could cut out the resolution and just state our values.

Professor Segal said we should take a stand and support something that is clearly in our interest.

Professor Hopkins said we should support the resolution so members of Congress know that we, as constituents, feel strongly about academic values.

Professor Bennett said that we should "yell and have tantrums" to let Congress know how we feel.

Professor Adams-Volpe said that Elsevier Science, a major publisher of academic journals, has already used the technology we are fighting against to delete content from the electronic versions that we all access -- once when plagiarism was involved and once for political reasons. This was reported in a recent issue of the Chronicle of Higher Education.

Chair Cohen said that lobbying is the only effective way to influence legislation. That's what this resolution is trying to accomplish.

Item 7: 1st reading of the Resolution for Supporting Amendment of the DMCA and Opposing Enactment of Laws Like CBDTPA -- Faculty Senate Computer Services -- John Ringland

Professor Ringland introduced the next resolution by saying that his presentation was running on a computer using OpenOffice, an open source software.

There is pressure from UB's Chief Information Officer to standardize campus computing on Microsoft software. Protests from individual faculty have been ignored, but perhaps a Faculty Senate resolution will receive better attention.

The "Resolution for University Support of Open Software and Standards" says:

1. WHEREAS, direct unmediated unfettered access to information is fundamental and essential to scholarly inquiry, academic dialog, research, the advancement of research methods, academic freedom, and freedom of speech; and

2. WHEREAS, complete control by a computer-user of the computer's operating system and hardware is essential to the use and adaptation of computers in research and to the preservation of privacy; and

3. WHEREAS, Microsoft Corp. has consistently created obstacles to the free flow of information by its creation and promotion of systems, documents, and programs that are incompatible with non-Microsoft systems - by the strategy of implementing Microsoft-specific modifications to open protocols (such as Kerberos), document formats (such as HTML), and programming languages (such as Java); and

4. WHEREAS, Microsoft intends to facilitate the content industry's current attempts to wrest control of computers from the users of the computers, and curtail or entirely eliminate the rights of scholars and the public to Fair Use of copyrighted material, as is

manifest in its patent for a "Digital Rights management Operating System" (US Patent #6330670, Dec. 2001), and its development of Secure Audio Path and other technologies designed to prevent direct access by computer users to data on their own computers; and

5. WHEREAS, a closed-source proprietary operating system such as Microsoft Windows cannot be modified by the user to accommodate specific research or personal needs; and

6a. WHEREAS, Microsoft's lack of regard for Freedom of Speech is evident in the license agreement for their web-page composition tool FrontPage 2002, which states "You may not use the Software in connection with any site that disparages Microsoft, MSN, MSNBC, Expedia, or their products or services"; and

6b. WHEREAS, Microsoft's indifference to the right to private or anonymous access to information by scholars and the public is evident in the license agreement for the Windows Media Player patch package Q320920, which gives Microsoft remote administration privileges on the user's computer, and states that their activities "may disable your ability to copy and/or play Secure Content and use other software on your computer"; and

6c. WHEREAS, Microsoft's indifference to the right to private or anonymous access to information by scholars and the pubic is clear from the fact that Windows Media Player logs and reports Microsoft every instance of access to a DVD by the user; and

7. WHEREAS, excessive dependence of the University at Buffalo on Microsoft operating systems and/or application software renders the University powerless to resist unreasonable price increases for Microsoft software licenses and other unreasonable demands such as license changes forbidding benchmarking or reverse-engineering for compatibility; and

8. WHEREAS, the use of closed proprietary document formats and information management systems to store the work of faculty, students, and staff limits the ways these works can be accessed and archived, and jeopardizes access itself in the long term; and

9. WHEREAS, an alternative to Microsoft operating systems and application software that is robust, reliable and trustworthy - namely open-source, or "free" software - is available, and provides a means for the University community to retain complete control of its computer hardware and software, and to retain the rights of Fair Use of information, and preserve the means to adapt computer systems to specific research and personal needs; and

10. WHEREAS, open-source software has (in almost all cases) zero licensing costs; and

11. WHEREAS, the exclusive or predominate use of proprietary operating systems and application software is, for the reasons enumerated above, detrimental to the core missions of the University at Buffalo; and

12. WHEREAS, open-source software provides an alternative through whose use the core missions of the University at Buffalo can be preserved, nurtured, and enhanced; now, therefore, be it

13. RESOLVED that the Faculty of the University at Buffalo call on the University to provide support for the use by students, faculty, and administrators of the GNU/Linux operating system; and be it further

14. RESOLVED that the Faculty of the University at Buffalo call on the University to provide support for the use by students, faculty, and administrators of OpenOffice or another open-source productivity suite; and be it further

15. RESOLVED that the Faculty of the University at Buffalo call on the University to provide support for the use by students, faculty, and administrators, of open-source alternatives to proprietary application software wherever possible; and be it further

16. RESOLVED that the Faculty of the University at Buffalo call on the University to implement a policy of promoting open document formats and communication protocols wherever possible, and

discouraging the use of closed proprietary formats (such as Microsoft Word format) for general communication (with no attempt to preclude the use of proprietary formats in communication between consenting parties) in cases where open formats (such as plain text or HTML) would serve just as well.

Professor Ringland then summarized a list titled "Open Source Software: Notable Adoptions," which cited numerous news items about foreign countries and U.S. state governments that have switched to open source software. It also cited several efforts by Microsoft to quash open source computing or to sway decisions in its own favor.

The CIO's defense of Microsoft as the software that most of our entering students are used to is weak, and we shouldn't let the habits of freshmen set the course for others whose lives center around the process and production of information. On the contrary, UB faculty should take a leadership position in information technology matters. Promoting open source software is a way to take charge.

Professor Sridan said he didn't disagree with supporting open source software, but he doesn't think that bashing Microsoft is appropriate for the Faculty Senate to do.

Chair Cohen said he would invite CIO Voldemar Innus to attend next month's Faculty Senate meeting when the resolution will be discussed further at its second reading.

Professor Chen said that she needs Macintosh software for her teaching and research, and it took a lot of arguing before she was able to get it.

Professor Schack said that he is also a Macintosh user, and Microsoft bashing is appropriate because of the administrative resistance at UB. Academic needs should be setting the information technology standard, not the habits of incoming freshmen. A university should not dictate standards based on administrative convenience. It is inexcusable that Macintosh computers and

Netscape browsers crash because they're incompatible with some UB Web sites containing essential academic and personnel information.

Professor Mayne said that the School of Engineering uses Microsoft software because that's what is being used by the majority of design engineering professionals, according to a national survey. There's a legitimate reason to keep supporting Microsoft software. It would be a terrible mistake to get rid of it.

Professor Ringland acknowledged that there may be selective cases when it's important to retain Microsoft software, but overall he still thinks it's detrimental to UB's teaching and research mission.

Item 8: Report of the SUNY Senate meeting, Geneseo -- SUNY Senator Peter A. Nickerson

Professor Nickerson and the other SUNY senators (Adams-Volpe, Durand, and Kramer) attended the SUNY Senate meeting at Geneseo on January 23-25; Chair Cohen and Dr. Coles also attended.

General education courses will need to be approved by a curriculum committee on campus and then sent to SUNY for approval. Any disagreements will be referred to the newly formed Advisory Committee on General Education. ACGE is composed of four appointees by the SUNY Senate, four from the Council of Community Colleges, and four from the SUNY Provost's office.

The Chancellor asked for advice on a policy and procedures for dealing with misconduct in faculty research after a charge has been proven. How should the information be communicated to the campus and the SUNY community? The process is confidential until a final determination is made.

A faculty survey conducted by the Higher Education Research

Institute has been completed. SUNY will be distributing the results to the campuses soon.

Item 9: "Public vs. Private" -- Harold Cohen

Professor Cohen is past dean of the School of Architecture. He has been very active in world health organizations, especially dealing with housing in underprivileged areas around the world.

Public universities have an obligation to the public sector. It is now time for UB, as a public university, to make a difference. Many of our students have become insulated from world affairs. The most important thing we can do is to teach students to be of service to other people. When the Peace Corps was founded, America was recognized as being special. It is not regarded as being so special any more; many foreigners perceive America as arrogant and pushy.

Public universities have a responsibility to teach students to become world citizens. They should be taught about other cultures and religions. Students would learn a lot by becoming involved in the community. Faculty and students should accept Buffalo as an obligation and support it with community service.

Item 10: Old/New business

None

Item 11: Adjournment

The meeting was adjourned at 4:50 p.m.

Respectfully submitted,

Will Hepfer
Secretary of the Faculty Senate

Present:
Chair: M. Cohen
Secretary: W. Hepfer
Parliamentarian: D. Malone
Architecture: H. Steiner
Arts & Sciences: W. Baumer, H. Bennett, C. Bloom, J. Campbell, M. Chen, K. Takeuchi, D. Eddins, T. Gregg, E. Hull, J. Ludwig, H. Luo, J. Ringland, R. Salvi, S. Schack, E. Seeman, E. Segal, T. Thurston, V. Watrous, R. Woodard
Dental Medicine: L. Ortman
Education: J. Almasi, H. Bromley
Engineering: S. Braynov, J. Jensen, R. Mayne, R. Nagi, R. Sridhar
Health Related Professions: G. Farkas, C. Golyski, S. Nochajski
Informatics: F. Tutzauer
Law: L. Swartz
Management: J. Boot, S. Gunn, W. Lin, M. Trivedi
Medicine & Biomedical Sciences: J. Hassett, C. Hershey, G. Logue, K. Mahran, F. Morin, D. Shucard
Pharmacy: G. Brazeau
SUNY Senators: J. Adams-Volpe, M. Kramer, P. Nickerson
University Libraries: S. Davis Bartl, J. Dickson, C.A. Fabian, J. Hopkins
University Officers: President Greiner

Guests:
H. Cohen, Professor Emeritus

S. Hamlen, Budget Priorities Committee
D. Longenecker, Reporter

Excused:
Dental Medicine: M. Donley
Medicine & Biomedical Sciences: J. Canty

Absent:
Architecture: GS Dandord
Arts & Sciences: S. Bruckenstein, A. Cadenhead, G. Finnegan, J. Mendoza, A. Monteiro, J. Pappas, A. Petrou, E. Scarlett, C. Smith, M. Sultan, M. Woldenberg
Dental Medicine: D. Garlapo, J. Zambon
Education: R. Stein
Engineering: T. Mountziaris, S. Thevanayagam
Institutional/General: O. Mixon
Law: I. Marcus, R. Reis
Medicine & Biomedical Sciences: A. Aquilina, A. Baer, R. Fenstermaker, W. Fiden, B. Flynn, J. Fudyma, C. Granger, J. Izzo, T. Langan, J. Leddy, B. Murray, N. Nielsen, J. Novak, M. Paroski, R. Schifeling, F. Schimpfhauser, G. Snyder, J. Yeh
Nursing: P. McCartney, E. Perese
Pharmacy: K. Boje
Social Work: S. Green
SUNY Senators: H. Durand