

University of Idaho
FACULTY COUNCIL MINUTES

2004-2005 Meeting #22, Tuesday, April 26, 2005

Present: Adams (w/o vote) Anderson, Baillargeon, Beard, Bechinski, Cloud, Exon, Farnen, Greever, McGuire, McMurtry, Reese, Reid, Rinker, Woolston, Zemetra

Absent: Bailey, Gunter, Hammel, McLaughlin, Morris, Young

Observers: 15

Call to Order: A quorum being present, Faculty Council Vice-Chair Zemetra called the meeting to order at 3:35 p.m.

Minutes: The secretary explained that a slightly revised “provost’s report” was in front of council members. The provost had suggested a few clarifications in her report over and above what had originally been included in the draft minutes sent to council last week. Since she was unable to be present at this meeting, the secretary had incorporated her suggestions in the form of the revised provost’s report. None of the clarifications were, in his view, substantive in nature and he was perfectly happy to view them as a “friendly amendment” which, in any case, he had written himself. It was moved and seconded (Rinker, McMurtry) to accept the minutes as distributed in their revised form. The motion carried unanimously on a voice vote.

Vice-Chair’s Report: The vice-chair explained that Chair Bailey, along with Provost Morris and Professor Young, were taking part in a daylong series of meetings with the deans concerning Phase II recommendations and thus could not be present. Nor could the president, also so engaged, and thus his previously scheduled appearance with council was postponed until next week.

The vice-chair reported on the Board of Regents/SBOE meeting that he had attended, in the chair’s place, at Idaho Falls last week. He noted that as a part of the board meeting there is an open forum. It was an opportunity for faculty concerns to be presented to the board but, in his experience, was decidedly underutilized for that purpose. He thought this resource should receive much more attention in the future. He also reported on the president of Boise State University’s remarks to the board on the necessity of reform in the state’s tax structure if the state’s vital public needs, including those of higher education, were to be met. One consequence of the current inadequacy of the tax structure was the curious and obviously inadequate 1% “merit-based bonus” that all public employees would enjoy, in lieu of any other increase in compensation, if and only if tax revenues were greater than anticipated.

The vice-chair also reported that Vice-President Chichester’s appointment, together with his rather remarkable compensation package, was approved without much discussion in the open meeting, presumably because any needed discussion had taken place before during the board’s executive session. The university’s request for a fee increase went smoothly and quickly, owing to the support given it by UI’s student representatives, in contrast to the situation with ISU’s tuition increase request which, owing to student opposition, used up three hours of meeting time and eventuating in a 1% reduction in the request. Fee/tuition increases were also accompanied by increases in mandatory student health insurance. The board has directed that future requests for increases come with data on peer and “aspiring” institutions (i.e., those to which we aspire to be peers). The vice-chair thought similar information on faculty salaries would also be appropriate. In addition to these matters, the board gave a first reading to the proposal to restructure the relationship between the University of Idaho and the University of Idaho Foundation. Finally, and perhaps worrisome for the future, the legislature has requested uniform workload productivity across state institutions.

Announcements and Communications: Professor Exon announced that as yet there have been no applications for the faculty ombuds position. The initial deadline was last Friday but the vacancy announcement had the proviso that the application period would remain open until “suitable applicants are found.” He urged council members to encourage likely candidates to apply.

Old Business:

FC-05-041: FSH 5400 “Employment Agreement Concerning Patents and Copyrights.” Professor Fran Wagner, chair of the Faculty Affairs Committee, introduced the newest version of this, the council’s, longest running topic of discussion. This version, which comes as a seconded motion from the FAC (though one that was not unanimously approved by that body), had been revised to include the suggested changes of both last week’s “version A” and “version B.” He added that it was FAC’s request that Faculty Council adopt this version as a temporary version only, one to replace the current temporary version, until such time (in the near future) when a better, permanent version could be crafted. If some temporary (or permanent) version were not adopted at this meeting and forwarded to the university faculty meeting next week, the underlying permanent version, last revised in 1992, would become the version in effect.

He noted that section B of this version, as of the last, incorporated essentially verbatim the State Board of Education’s policy concerning patents and copyrights. Neither he nor Associate University Counsel Sharyl Kammerzell were willing to defend the board’s language as elegant, clear, or unambiguous, but the FAC thought it important that the board policy, which binds the university, should be advertised to the University of Idaho community by inclusion in the Faculty-Staff Handbook. New to this version was a slight change to the section formerly known as “C” that shifted the onus from the faculty member to the student to ensure the student’s signature of the necessary memorandum of understanding.

In the ensuing discussion concern about the ambiguity, or even apparently self-contradictory, language of the board’s policy was raised as was the concern that the policy did not address the situation where a student came to the university with an idea and wanted to partner with the university in its elaboration and development. Mr. Albert Carlson, a graduate student in the Department of Computer Science, spoke for the situation of many students who came to graduate school in mid-career who brought employment experience and possibly legal agreements with former employers which precluded their signing the memorandum of agreement with the university. His point was that the university owned everything it paid for but that class-work, and ideas arising therefrom, was not paid for by the university and thus not owned by it. Another issue, not sufficiently addressed in his opinion in the draft before council, was the distinction between ‘incidental’ and ‘non-incidental’ use of university resources. He offered as an instance of incidental use any use of a computer program loaded on computers in student computing labs paid for by student computing fees while the use of an electron microscope bought with research project funds would be non-incidental. When the distinction is not obvious who has the burden of proof? Gene Merrell, Assistant Vice President for Research, answered the question by saying that the University Research Office was the arbiter. But that raised a further question: where did one go to resolve disputes that were not resolvable by the University Research Office. There was the Faculty Council’s Intellectual Property Committee who was charged with dispute resolution but that process might well be seen as inadequate, or even involving a conflict of interest (given that it is entirely composed of faculty), when one of the parties to the dispute was a student.

Continual reference to FS 5300 “Copyrights, Patents, and Maskworks” made it clear that the latter section was intimately bound up with 5400 and should be modernized as well.

As a friendly amendment, Professor Wagner accepted Dr. Kammerzell's suggestion that B-1 and B-2, specifying exceptions to the notion that copyright would remain with the creator, be deleted and replaced by a reference to the provisions of FSH 5300.

To allow some flexibility concerning who had to sign the memorandum of understanding in 5400 it was moved and seconded (Cloud, McGuire) to add at the end of the section formerly called "C" the following: "or an alternative document negotiated by the Research Office and the individual." The motion carried 13-1.

It was moved and seconded (Anderson, Farnen) to substitute a version of 5400 distributed at this meeting by Mr. Carlson for the version presented by the Faculty Affairs Committee. The motion to substitute was defeated 2-12.

The main motion being called, the motion carried 12-2 to approve the version of 5400 presented by the Faculty Affairs Committee, as amended, as a temporary version of that policy (temporary only until July 1st, 2006 or until superseded at an earlier date).

It was moved and seconded (Baillargeon, Bechinski) to direct the chair to appoint an ad hoc task force, widely representative of faculty and students (and including an undergraduate student representative) to review both FSH 5300 and 5400 for possible recommendations for change and to report back to Faculty Council no later than December 1st, 2005. The motion carried unanimously.

Adjournment: The witching hour having come, Professor Beard, with his customary aplomb, moved for adjournment. In this he was most ably seconded by Professor McGuire. The motion carried unanimously. The meeting was adjourned at 5:00 p.m.

Respectfully submitted,

Douglas Q. Adams
Faculty Secretary and Secretary of Faculty Council