

University of Idaho
2009-2010
FACULTY SENATE AGENDA
REVISED

Meeting #8

Tuesday, October 13, 2009, 3:30 p.m.
BRINK HALL FACULTY LOUNGE

Order of Business

- I. Call to Order.**
- II. Minutes.**
 - Minutes of the 2009-10 Faculty Senate Meeting #7, October 6, 2009
- III. Chair's Report.**
 - Motion to Oppose Rule Changes
- IV. Provost's Report.**
- V. Other Announcements and Communications.**
 - Benefits Advisory Group (Mark McGuire, Mark Miller, Jana Stotler)
- VI. Committee Reports.**
- VII. Special Orders.**
- VIII. Unfinished Business and General Orders.**
 - Efficiency Cost Reduction Policy Memo
 1. Senate proposed recommendations concerning Y account management
 2. Department consolidation & department chair issues
 3. Travel freeze
 4. Open/vacant/staff lines
- IX. New Business.**
- X. Adjournment.**

Professor Jack Miller, Chair 2009-2010, Faculty Senate

Attachments: Minutes of 2009-2010 FS Meeting #7, October 6, 2009
Motion to Oppose Rule Changes

University of Idaho
Faculty Senate Meeting Minutes
2009-10 Meeting #7
Tuesday September 29, 2009

Present: Baillargeon, Baird, Christiansen for Baker (w/o vote), Barlow, Battaglia, Edwards, Eveleth, Fritz, Geist, Graden, Guilfoyle, Hill (w/o vote), Huber, Limbaugh, Marshall, Mihelich, Miller (chair), Murphy, Padaghm-Albrecht, Stark, Stearns, Williams, Wilson. Off-Campus Senators: Budwig (Boise), Dakins (Idaho Falls), Newcombe (Coeur d'Alene). **Absent:** Sullivan, Baker. **Guests: 5**

A quorum being present, the Chair opened the meeting at 3:30 p.m.

Minutes: It was moved to amend the minutes (Geist, Edwards) to include the following after the paragraph beginning "*When accounts are centralized to the dean's office*"

The provost was asked why the directive in his memo of August 25 regarding "all Y accounts will be centralized at the college level" was inconsistent with the UBAC recommendation. He responded that the deans were supposed to explain the policy, but in fact no policy has yet been decided, pending his discussions with the president.

Discussion: It was noted that the feeling was it was important to get into the record that the Provost's memo was sometimes represented as policy and other times represented as a proposal and clarification was needed.

The secretary noted that the minutes are written to record the true spirit of what was intended or conveyed at the meeting and it was appropriate for the majority to decide whether the full intention was captured.

There being no further discussion, the amended minutes were approved.

Chair's Report: The Chair noted that next week the Benefits Advisory Group would report on the effects on changes to the benefits package. The representatives would be the Group Co-chair, Professor Mark McGuire, Jana Stotler and a representative from staff affairs. He noted that General Counsel, Kent Nelson has been invited today to speak to the proposed SBOE policy change that impact salary reductions and furloughs. We will also have a presentation from Dr. Carmen Suarez, Director of the Office of Human Rights, Access and Inclusion, outlining a request to consider diversity in the faculty hiring process.

The Chair noted that Vice-Provost for Academic Affairs, Jeanne Christiansen was representing the Provost today as he is traveling on university business and invited Vice-Provost Christiansen to give the Provosts report.

Provost's Report: The Vice-Provost noted that the NWCCU review, five year visit to campus would occur next week. Many of the meetings are set but it could be possible for others who wished to meet with the reviewers to make appointments through the Provost's Office contact, Executive Assistant, Brenda Helbling. The proposed new standards are available in electronic form on the Vice-Provost's web-site. Next week is staff development week. The Vice-Provost also noted that the Presidential Inauguration celebration would occur next week on Friday, October 16.

The Chair added that he had just today, sent out an e-mail message to the faculty encouraging them to attend the Presidential Inauguration.

Questions: *The new standards appear to require much more frequent review. Will this not lead to increased efforts and greater costs to respond?* It is not expected that costs will be increased as the review team visits may be more regular but the teams will be smaller. There are additional advantages embedded in the changes that will more closely align the focus of the review priorities with the institutional strategic plan and in addition accreditation requirements will be focused at the regional level bringing tighter alignment with review objectives.

The Chair then introduced Dr. Saurez who provided a Power-Point presentation. The university has a strong initiative in place to increase diversity at all levels, students, staff, faculty. There will be very few opportunities to hire new faculty this year, but the director's office was available to help to include diversity as an element of the process of filling open faculty positions at every step. This in no way overrules the faculty's right to choose their colleagues. The office could help in casting the net as widely as possible to attract a diverse candidate pool.

Questions: *Do we have statistics indicating the diversity of faculty hires at the university?* The data we have needs to be checked for accuracy and completeness. It appears that the overall trend may be strongly male dominated in tenured and tenure-track lines. The largest number of minority faculty appear to be Hispanic. The Chair thanked Dr. Suarez for her presentation.

The Chair noted that last week the faculty senate chair of Boise State University had circulated to all university senate chairs a rough copy of a proposed change to SBOE policy. On meeting with General Counsel, Kent Nelson, last Friday, the Chair and the Secretary of the Faculty had received a more interpretable draft document.

It appears that the proposed policy revision would move language around salary reductions, employee benefits and conditions that were originally in policy in the context of financial exigency to a more general context and would also move the power to implement the changes from the SBOE to the presidents of the state universities. Presidents would have greater discretion to take personnel type actions to meet budget needs without the declaration of a financial exigency. Such actions would include salary reductions, furloughs, and also includes mid-year salary reductions

The Chair requested General Counsel Nelson to provide some context and to take questions.

Mr. Nelson outlined that the proposed changes would go before the Regents for an initial reading. There was a two-stage process for policy changes. On the first reading, there are two scenarios for the policy change to follow. If it is rejected, it is silent. If it is accepted, then input from interested parties is sought. At the second reading which usually occurs at the subsequent monthly meeting the policy can be directed under three possible scenarios: accepted, considered with recommendations for changes or rejected.

Questions: *Is it true that this language allows the President to close a program to save funds?* The program closure policy occurs in another section of SBOE policy and any program closure would be regulated under that policy. In this case, if the savings were greater than \$250,000 from closure of a program, it would be dealt with by the SBOE. If less than this amount, the President has power of program closure under the present policy. Program closure is a different issue from the intended policy changes.

As the policy revision is written it appears to allow salary reductions on a budgetary unit basis. The unit basis language was intended to prevent discrimination against individuals. Thus, reductions would be across an entire business unit.

In addition to salary reduction, could change to benefits also be implemented? This seems to be counter to conditions established in faculty annual contracts. All employment contracts are subject to board policy specific requirements. The changes would not violate contract law.

It appears that under these changes the employee is bound by the contract but the employer can vary those conditions at any time. Mr. Nelson did not agree. He argued that the contract could be written with many parameters to cover many different scenarios. His view was that this policy change would not violate employee rights.

He speculated that the policy change would provide tools to the institution to deal with imposition of short-term funding changes mandated by the legislature or the governor. For example, there could be an option that would allow some people to select furlough or a reduction in their retirement funds or other alternatives if a unit became subject to funding cuts.

Is there any allowance in this policy to more precisely define the conditions under which these changes might apply? Could the policy be amended to more precisely define specific circumstances? Implementation would be discretionary in the executive office.

Is it possible in theory for the university to over-spend in one area leading to a short-fall in another area? Mr. Nelson noted this point and suggested that this might be a perspective that is passed onto the faculty representative at the upcoming SBOE policy reading.

How does this policy fit with program closure policy? What criteria are used to decide whether program closure or a planned unit reduction might be implemented? One criterion for program closure is allocation of resources, so budget challenges could give rise to a review of a program and a determination that a program closure process is an appropriate mechanism.

The last sentence of Section IIB2c states that the employee cannot challenge that a budget reduction is necessary nor contest the CEO's means of addressing it unless such means violate constitutional or statutory protections. If there is a charge of discrimination, does this statement preclude that action? This policy change is intended to allow for challenges on the basis of discrimination.

The CEO could not be challenged if a decision was made on the basis of the budgetary situation. Yes, but it would be possible to appeal to the SBOE.

Is the President supporting this change? The university presidents are supporting taking this policy change to the SBOE. The presidents were not involved in drafting the document. Our President is aware of this document and has approved it going forward to the SBOE, based in large part on Mr. Nelson's recommendation to the President.

There will be a faculty representative at the SBOE reading. Will this person be the Faculty Senate Chair? The Chair replied that he intended to put a request before the board to appear, but offered that other volunteers would be welcome. He noted that he welcomed comments via e-mail from the senators and from all faculty.

Is the SBOE handing authority to the presidents, or is this also the creation of new tools? Could the measures that might be implemented under this policy be implemented under present policy? The proposed measures could be implemented by the combined efforts of the president and the SBOE (under the present financial exigency policy).

If this was a lawyer-generated document, which lawyers contributed?

The lawyers of the three universities along with the SBOE lawyer. The SBOE has a Deputy Attorney General delegated to their service.

Was the initiation from the SBOE or from the lawyer? This is not known but this information would be covered by lawyer-client privilege between the SBOE and its lawyer.

There appear to be no checks and balances in this proposed process.

This also appears to be an erosion of employee rights – faculty and staff and is ‘bad policy’ and unlikely to lead to collegial interaction between the faculty and the leadership.

Clarification was sought about who would be in the room at the SBOE reading and who may speak. This is an open meeting that anyone may attend but to speak one would need to be invited. At present, one faculty from each institution will be allowed to represent their constituency.

Mr. Nelson thanked the senate for the opportunity to address the meeting.

The Chair moved on to address the Provost’s cost reduction and efficiency memo.

A written statement addressing aspects of the memo had been circulated and this item was open for discussion. Thus:

“Based on Dean Jack Morris’ presentation to the Faculty Senate on September 29, 2009, we understand that the University Budget Advisory Committee is contemplating the following recommendations:

- That a budget reserve should be established equal to 5% of appropriated funds funded using three different sources: 25% from salary savings, 5% from F&A (already budgeted to central administration and, a 2% G&A tax. Based on past experience this would replenish the reserve in the region of \$2M-\$3M annually. Once this reserve has been fully and stably funded the same budgeting mechanisms would be used to build a Strategic Initiative Fund.
- That the reserve will be used to protect departments from the first 3% of future rescissions.
- That the university use an “All Funds” model of budgeting as a best-practice.
- That all Y accounts be budgeted on a three-year cycle. Faculty and staff with Y accounts would need to establish budgeted revenues and expenditures for these accounts. For accounts in which there was significant variance over or below the budgeted amount (established between the faculty member and the department head and at the next level between the department head and the dean) justification at year’s end would need to be established. On-going unbudgeted funds would be subject to reallocation at the college level.

The Faculty Senate recommends that President Nellis adopt the recommendations as described above.”

It was moved to adopt this recommendation (Murphy / Stark).

The issue that the motion does not address is that there is still equivocal language around whether Y accounts are intended to be centralized at college level. Professor Murphy noted that UBAC is not interested in central control, and responsibility for accounts should reside where they are generated. The issue was to provide a budgeting mechanism for these accounts so that they could be accounted consistent with the UBAC proposal for an “All funds” budgeting model. The intention is that accounts should be budgeted annually. Only after three years of funds being at variance with the annual budgets as agreed between the faculty and their department chair, should the variances become available to the dean.

Why is it good for the university to have a 5% reserve and not good for individual faculty to do so? Professor Murphy replied that these are different issues. The institutional reserve is meant to buffer from influences of outside forces – such as enforced rescission by the state legislature. Within a faculty’s budget, there were no external forces acting on the account.

What consideration should be given to Y accounts with small balances? At what point does it become counter-productive to invest time in budgeting a small account balance? The total number of these accounts is around 2700 – about 1200 have a zero balance and about 2/3 have balances less than \$10,000. There are about 40 accounts with balances in excess of \$200,000. The total fund pool was around \$13M-\$14M. To select any group from this small balance category for an exemption could be considered.

There was broad discussion of the issue of a recommendation for a set minimum balance for accounts that would be exempt from the budgeting policy. Suggestions ranged up to \$30,000. It was also discussed that the notion of budgeting these accounts was a sound financial strategy. It was not that minimum balances per se needed to be justified with a budget, rather what may be important is the break-point at which it became counter-productive to budget a small account.

Why had UBAC not addressed the minimum balance issue? Professor Murphy suggested that it may be because the committee was taking an holistic view. It may also have been because the committee sentiment was with the notion of an “All funds” budgeting model.

Another perception was that UBAC was light on faculty representation and the consensus of UBAC might be more influenced by an administrative agenda.

It was suggested that the scope of the present motion before the senate was too broad and that the dot-point that dealt only with the Y-account issue would be more appropriate for senate discussion as a single item.

Given that the hour was late and no clear consensus had been reached, it was moved (Graden/Battaglia) to table the motion. Approved.

Adjournment: It was moved (Murphy/Huber) to adjourn at 5:03 p.m. The motion carried unanimously.

Respectfully submitted,

Rodney A. Hill, Faculty Secretary and
Secretary to Faculty Senate.

Motion from Jack Miller, Chair UI Faculty Senate

The Faculty Senate of the University of Idaho hereby expresses its opposition to the proposed changes to THE IDAHO STATE BOARD OF EDUCATION/UNIVERSITY OF IDAHO BOARD OF REGENTS HUMAN RESOURCE POLICIES II.B, II.F, II.G, AND II.N, currently scheduled for a first reading on October 15, 2009.

WHEREAS, there is before the University of Idaho Board of Regents proposed changes to the following Human Resource Policies:

1. Section II.B: Human Resources Policies & Procedures-Appointment Authority & Procedures
2. Section II.F: Human Resources Policies and Procedures-Policies Regarding Non-classified Employees;
3. Section II.G: Human Resources Policies and Procedures-Policies Regarding Faculty;
4. Section II.N. Human Resources Policies and Procedures-Financial Exigency Procedures,

And

WHEREAS, under the proposed changes University presidents are granted unfettered discretion to dishonor contracts of employment, selectively or collectively, on a retroactive basis with no recourse in the employees.

NOW, THEREFORE, BE IT RESOLVED that the Faculty Senate of the University of Idaho expresses its opposition to all of the proposed changes to Idaho State Board of Education Human Resource Policies II.B, II.F, II.G, and II.N.

ADOPTED by the Faculty Senate of the University of Idaho at its regular meeting held on the 13th day of October, 2009.

RESOLUTION NO. FSR-2009-01

A RESOLUTION EXPRESSING OPPOSITION BY THE FACULTY OF LEWIS-CLARK STATE COLLEGE
TO THE IDAHO STATE BOARD OF EDUCATION'S REVISIONS OF
HUMAN RESOURCE POLICIES II.B, II.G, AND II.N,
CURRENTLY SCHEDULED FOR A FIRST READING ON OCTOBER 15, 2009

WHEREAS, the Idaho State Board of Education has proposed changes to the following
Human Resource Policies:

1. Section II.B: Human Resources Policies & Procedures-Appointment Authority & Procedures
2. Section II.G: Human Resources Policies and Procedures-Policies Regarding Faculty;
3. Section II.N. Human Resources Policies and Procedures-Financial Exigency Procedures, and

Policy Section II.B

WHEREAS, under the proposed change to **Section II.B**, administrations will have the ability to invoke furloughs or salary reductions even where no financial exigency exists; as such, the action effectively enhances the powers of the administrations without a corresponding accountability that is required in times of financial exigency, an accountability dictated by public policy; and

Policy Section II.G

WHEREAS, the proposed policy on faculty contracts, **Section II.G**, eliminates the protection of employment afforded by contract, or the right to a thorough appeal before a panel of peers based on institutional reduction procedure; and

WHEREAS, by these changes, the Idaho State Board of Education effectively strips a faculty person's ability to rely upon a contract by modifying the contract, without clear guidelines at any time, at the will of the institutions. As such, institutions will have the ability to engage in unethical acts that undermine the trust and respect of their own faculty. We believe a policy like this will provide the perfect "loophole" that could be used against faculty--in times of financial exigency or not. Any salary reduction procedures must be approved by all parties involved, and contract law and ethics must be followed; and

WHEREAS, the institutions of higher education in Idaho state that they follow and support the AAUP statement on academic freedom and tenure. This is stated many times throughout polices, procedures, and accreditation self-studies. The policy proposals are in direct violation of this and this puts all Idaho educational institutions at risk of being sanctioned in the form of

censure by the AAUP if the new policies go into effect. The negative publicity that sanctioned institutions of higher education receive has a perilous effect on the institution and state. Historically, it is very difficult to retain and recruit faculty at sanctioned institutions and school enrollments are at risk due to the negativity and publicity sanctioned schools receive; and

WHEREAS, recruitment, retention, scholarship, creativity, morale, legal issues, and institutional efficiency are at risk if the policies go into force. The policy change disregards over 30 years of progress with higher education and shared governance in the great state of Idaho; and

WHEREAS, if Idaho is looking to boost its economy, we believe it is the institutions of higher education that will produce the work force that will contribute to any such recovery and/or growth. Fundamental to these institutions are the many men and women of the faculty who have committed their daily lives and efforts to the advancement of their students (at salaries already compressed at 20-40% below the median salary with their peers). That the State Board can disregard these efforts by essentially creating an at-will relationship after drawing in a faculty member with a contract of employment is simply unconscionable and unethical. Additionally, tenure in itself is an achievement that is rewarded with longevity, including sustainable contracts. This is a direct violation of contract ethics and potentially the federal rules and regulations that pertain to them; and

Policy Section II.N

WHEREAS, the financial exigency policy, **Section II.N**, which creates a possibility of curtailing, modifying or eliminating some of its programs in agencies or institutions (including layoffs of non-classified contract employees, tenured and nontenured faculty and classified employees during the term of their contract of employment), is now being expanded to include invoking furloughs and salary reductions *without* a declaration of financial exigency. In essence, this provision gives unilateral power to the administration to declare reductions in force by fiat. Again, this is contrary to the public trust given to the State Board and it ignores the accountability required by public policy.

NOW, THEREFORE, BE IT RESOLVED by the Faculty of Lewis-Clark State College that it expresses opposition to all proposed changes to Idaho State Board of Education Human Resource Policies II.B, II.G, and II.N.

ADOPTED UNANIMOUSLY by the Faculty Senate of Lewis-Clark State College at a regular meeting held on the 8th day of October, 2009.