

UNL FACULTY SENATE MEETING MINUTES

October 1, 2019

City Campus Union, Presidents Kevin Hanrahan and Nicole Buan, Presiding

1.0 Call to Order

President Hanrahan called the meeting to order at 2:35 p.m.

2.0 Announcements

2.1 EVC Candidate Presentation

President Hanrahan noted that EVC Candidate Laurie Nichols's public presentation coincides with the Senate meeting, but the presentation will be recorded. Any Senator wishing to view the presentation should email Coordinator Griffin so she can provide the link.

2.2 Data Quality Committee

President Hanrahan reported that he was contacted by VC Nunez and Chancellor Green to ask for the names of faculty members who would be interested in serving on the RCM Data Quality Committee. He noted that this committee would oversee the data that goes into the budget model. He stated that anyone interested should contact either himself or Coordinator Griffin.

2.3 Faculty Appointments to Committees and Taskforces

President Hanrahan announced that an agreement has been made with the Chancellor and EVC's Office that they will contact the Senate President to get recommendations of faculty to serve on committees created by the administrators. He stated that the idea is for the Committee on Committees to create a database of faculty members who would be interested in serving on an administrative committee. He noted that anyone interested should contact the Senate Office or the members of the Committee on Committees.

3.0 Approval of September 3, 2019 Minutes

President Hanrahan asked if there were any revisions to the minutes. Hearing none he asked for approval of the minutes. The minutes were approved, with four abstentions.

4.0 Committee Reports

4.1 Commencement Committee (Professor Gorman)

Professor Gorman, Classics & Religious Studies, reported that for the 150th anniversary of the University, new regalia was introduced, and was well accepted by the students. He stated that due to the large number of undergraduates this year there had to be two separate ceremonies. He noted that although more members of the Marshall Corps were needed, the events were successful.

4.2 Executive Committee Summer (President Hanrahan)

President Hanrahan reported that the Executive Committee met over the summer, and the topics of discussion are listed in the report.

4.3 Academic Rights and Responsibilities Committee (Professor Falci)

Professor Falci noted that faculty members who have a grievance or concern relating to their academic freedom, conditions of employment, or professional conduct go to the ARRC for either advice or potential relief of the problem. She pointed out that the Committee tries to resolve the issue informally, but when this is not possible the faculty member can file a formal complaint with the ARRC, which will then form a special hearing committee to investigate the complaint. She stated that the special hearing committee would make recommendations and it is up to the appropriate administrator to carry out the recommendations. She noted that the special hearing committees are: Academic Freedom and Tenure A, which involves a violation of a faculty member's academic freedom; Academic Freedom and Tenure B, which is brought by the President or the Board of Regents to dismiss a faculty member before the end of an appointed term;

Grievance Committee; and Professional Conduct Committee, which hears claims that a faculty member has committed misconduct.

Professor Falci stated that last year, the ARRC received four complaints, two of which required a special committee to be convened. She stated that there were six informal contacts with the ARRC chair, three of which were resolved, and three where the individuals did not want to file a formal complaint. She noted that the special hearing committees are selected from the Academic Rights & Responsibilities Panel which has 36 elected faculty members.

5.0 Unfinished Business

5.1 Motion to Revise the Academic Rights and Responsibilities Procedures and the UNL Bylaws, Section 3.1.5

President Hanrahan noted that the motion to revise the Academic Rights and Responsibilities Procedures and the UNL Bylaws was presented at the September 3, 2019 Senate meeting. He noted that in addition to the proposed changes to these documents, there is a resolution to support revisions to the Board of Regents Bylaws. These revisions coincide with the proposed changes to the ARRC procedures. He declared the motion as a resolution and called for a vote to approve the emergency motion. The Senate approved the emergency motion.

President Hanrahan then turned the meeting over to President-Elect Buan so he could speak on all of the proposed changes. President-Elect Buan first thanked the members of the Ad Hoc Committee to Address the AAUP Censure for all of the work they have done to revise all of the documents. She thanked President Kevin Hanrahan, Professor Christina Falci, Professor Julia Schleck, Professor David Woodman, Professor John Lindquist, Professor Kristen Blankley, Professor Regina Werum, Associate Vice Chancellor Judy Walker, and Assistant to the Chancellor Tami Strickman.

President Hanrahan stated that the Ad Hoc Committee was charged to review the Bylaws and existing procedures to see if sufficient policies were in place for suspending a member of the professional staff. He noted that the only mention of suspension in the Regents Bylaws was tied to termination, in anticipation of dismissal. He pointed out that the faculty on the Ad Hoc Committee felt that there should be a faculty review before the suspension of a faculty member is invoked, and clarifications were needed on sanctions, suspensions (immediate and regular), suspensions that are terminations, and terminations. He noted that proposed procedures for immediate suspension would involve an informal inquiry by a faculty committee, which for UNL would be the Academic Rights & Responsibilities Committee.

To see the complete list of proposed changes to the Board of Regents Bylaws, go to <https://www.unl.edu/facultysenate/senate/BOR-Bylaw-recommended%20changes%20FINAL%20WEB.pdf>.

Professor Lee, Communication Studies, asked if these proposed changes would apply to non-tenure track faculty members. President Hanrahan stated that they would apply. He noted that if any faculty member's contract is terminated, there is the question of whether the termination is a violation of their academic freedom. Professor Schleck, English, pointed out that the review by the ARRC itself constitutes our academic freedom. She stated that the review by the faculty committee checks to make sure that the administration has not violated someone's academic freedom.

Professor Brown Kramer, Psychology, asked if any previous suspensions would be grandfathered in if the proposed changes are approved. President Hanrahan stated that he assumes that no previous cases would be grandfathered in.

Professor Gorman, Classics and Religious Studies, noted that the definition of suspension is broad. He asked what would happen if a faculty member's duties are changed due to low course enrollment. President Hanrahan pointed out that the person's teaching duty hasn't been changed,

but there needs to be appropriate consultation with a faculty member and the chair/head when duties are reassigned.

Professor Weissling, Special Education & Communication Disorders, asked how professional staff is defined. President Hanrahan noted that professional staff is defined in the Regents Bylaws and includes faculty, administrators, and even post docs, basically anyone who is in the classroom or research lab.

Professor Dussault, Chemistry, asked if the changes would apply to a post doc who was terminated before they could explore a grievance. President Hanrahan noted that the proposed changes only deal with issues of suspension. He stated that Academic Rights & Responsibilities Procedures for AFT-A, AFT-B, and Professional Conduct procedures are specifically associated with faculty members. He noted that there is some language in the Regents Bylaws that relates to other staff members. He stated that the Ad Hoc Committee felt that it was important to protect everyone from suspension.

Professor Gardner, University Libraries, asked if there was any legal standing to support the language of testimony given under oath. Professor Falci, Sociology and Chair of the ARRC, stated that the special investigations are not legal proceedings and the testimony under oath would not hold in a court of law, but she noted that there is a high standard for how the investigative hearings are handled, and there is an effort to make them as professional as possible.

Professor Harbison, Chemistry, suggested a friendly amendment to change the word "oath." He pointed out that this cannot be legally insisted, and there are some people, who for religious reasons, would object to declaring an oath. President Hanrahan stated that he will bring this back to the Ad Hoc Committee. He stated that the word affirmation could be easily substituted for the word oath. He noted that amendments to the resolution can be changed, but the proposed changes to the Bylaws does not need Senate approval. Professor Lindquist, Agronomy & Horticulture, pointed out that changes can be made for all of the ARRC procedure revisions.

President-Elect Buan stated that at this time there could be further discussion. She stated that she would entertain a motion to restrain comments to two minutes. Professor Peterson, Agricultural Economics, so moved. Motion seconded by Professor Vakilzadian, Electrical and Computer Engineering. The motion was approved. Hearing no further discussion, President-Elect Buan called for a vote on the resolution. The resolution was approved, with two abstentions.

Professor Falci noted that the changes to the Regents Bylaws will require some changes to the UNL Bylaws and the Academic Rights & Responsibilities Procedures. President Hanrahan asked if there were questions about the proposed UNL Bylaw changes. Hearing none he asked for a vote on the proposed changes. The motion to revise the UNL Bylaws was approved, with one abstention.

President Hanrahan stated that the proposed changes to the ARRC procedures now need to be discussed and voted on. He noted that the red text indicates the changes that the Senate approved last year, but the documents were not put forward to the Board of Regents because of the impending additional changes proposed by the Ad Hoc Committee. All of the proposed changes to the ARRC procedures are listed at <https://www.unl.edu/facultysenate/proposed-changes-arrc-procedures-and-unl-bylaws>. He reported that some of the proposed changes include recommendations from Professor Shea, School of Natural Resources, but most of the revisions are consistent with the proposed changes to the UNL Bylaws and Regents Bylaws. He stated that some of the significant changes are: including language pertaining to the handling of suspensions, adding information on academic advisors, including language regarding a conflict of interest if the Chancellor is a witness at a hearing and then has to make a decision on the recommendations of the special hearing committee, and the steps that need to be followed if the recommendations of the special hearing committee are not followed.

Professor Eklund, School of Music, stated that he appreciates all of the work that Professor Peterson and Professor Falci have done in revising the documents.

Professor Stentz, School of Architectural Engineering & Construction, asked about the academic advisor. Professor Peterson stated that there is no requirement that there be an academic advisor on special hearing cases, but the procedures did not clearly define the role of the academic advisor or academic observer, and the proposed revisions seek to define these roles.

President Hanrahan called the question on the ARRC procedures. The procedures were approved, with one abstention.

President Hanrahan stated that the Senate now needs to discuss and vote on the procedures for Academic Freedom and Tenure A, Academic Freedom and Tenure B, and Grievance cases. Professor Falci noted that the changes in these three documents are identical, but applied to each special hearing committee procedures. She noted that the conflict of interest language when the Chancellor is a witness or part of the complaint has been included in the documents. Professor Schubert, Electrical and Computer Engineering, questioned the use of the language “uncontroverted facts.” Professor Falci noted that in the investigation this applies when there is a disagreement of the events of a complaint. Professor Schubert asked how someone can disagree with a fact. Professor Peterson pointed out that typically both sides in a complaint agree on factual things like the names of those involved in the case and the name of a department. He stated that the parties involved have to resolve what they cannot agree on. Professor Harbison pointed out that the use of uncontroverted facts is very standard in civil court. President Hanrahan asked if there was unanimous consent to approve the proposed changes to these three documents. There were no objections, and the motion was approved.

Professor Falci stated that the Ad Hoc Committee realized that the procedures for the Professional Conduct Committee do not identify the steps stated in the Regents Bylaws regarding how a faculty member can be terminated, so they are suggesting the proposed revisions to the PCA procedures to correct this oversight. She noted that the suggested changes will bring the procedures up to a higher standard and will bring them in line with AAUP standards.

Professor Falci noted that the default for the special hearing committees is that the professional conduct hearings will be closed meetings. However, the proposed revisions now state that if the administration files a complaint against a faculty member, the faculty member can request an open meeting. She pointed out that another change includes the requirement that verbatim transcripts of the investigative hearings be kept if an administrator is filing a complaint against a faculty member. She noted that the verbatim transcript, along with all other documentation pertinent to the case, will be archived. She stated that language has been added that mimics what has been included in the Academic Freedom and Tenure A and B procedures, and each party will be allowed to cross-examine. She noted that the procedures are not bound by strict legal rules of evidence, and any kind of evidence that has value can be brought forward.

Professor Weissling asked where the verbatim documents will be archived and who would have access to them. Coordinator Griffin responded that a copy of the transcripts will be kept in the Senate Office, and another copy will be archived in the University Libraries. She stated that the Associate to the Chancellor and the Coordinator of the Faculty Senate have access to the archived files.

Professor Harbison asked how a witness can be cross-examined if they provide a written statement. Professor Falci stated that the cross-examination can be handled through written transactions.

Professor Harbison noted that in section 5.1 it states that “no witnesses or documents not so provided shall be heard or received at the Investigative Hearing, except in cases of surprise, or for the purpose of rebutting oral testimony, or for other justifiable cause found to exist by the Special

PC Committee.” Professor Falci stated that there is a requirement that all witnesses and documents are to be presented before the investigative hearing, but if new evidence or witnesses are added, the other party has the right to a rebuttal. Professor Harbison asked if either party could introduce new evidence. Professor Falci stated that this is correct. Professor Harbison noted that this almost invalidates the requirement that a list of witnesses and documents have to be provided in advance. Professor Falci stated that the chair of the special hearing committee has the right to admit the evidence. Professor Harbison made a motion to change the language to read “or other justifiable cause found to exist by the Special PC Committee as specified in section 6.3.4 of these procedures.” Motion seconded by Professor Peterson. The question was called on the amendment to the Professional Conduct procedures. The motion was approved.

President Hanrahan asked the Senate to vote on the procedures. The proposed revisions to the procedures were approved by the Senate.

6.0 New Business

President Hanrahan asked if there was any new business. Hearing none he noted that the meeting was adjourned.

The meeting was adjourned at 3:57 p.m. The next meeting of the Faculty Senate will be held on Tuesday, November 5, 2019, at 2:30 p.m. in the Gaughan Multi Cultural Center, Unity Room #212. The minutes are respectfully submitted by Karen Griffin, Coordinator, and Joan Latta Konecky, Secretary.