

***Faculty Caucus Minutes
September 28, 2005
(Approved)***

Call to Order

Senator Crothers called the Faculty Caucus to order immediately following the Senate meeting.

Approval of Faculty Caucus Minutes of September 14, 2005

Motion: By Senator Cutbirth, seconded by Senator Fowles, to approve the Faculty Caucus Minutes 9/14/05.

The minutes were
unanimously approved.

***09.13.05.04 Election of Assessment Advisory Committee Senate Faculty
Representative (1 Representative, Term: 2005-07)***

Senator Crothers: Are there any volunteers to serve on the Assessment Advisory Committee?

Senator Borg: What do they do and how often do they meet?

Provost Presley: They meet probably about once a semester and they literally give advice to the Assessment Office. This year, they may be a bit busier than that. They also look over the assessment plans coming from the departments and they have a number of them to look over this year.

Senator Crothers: I will contact Jan Shane and perhaps she can identify some people who would agree to represent the Senate without necessarily being on the Senate.

***09.15.05.01 Election of Parking and Transportation Committee Faculty
Representatives (2 Representatives, Terms: 2005-07 and 2005-08)***

Senator Crothers: Are there any volunteers to serve on the Parking and Transportation Committee?

Senator Borg: Again, when and how often do they meet? It would be helpful in all of these cases to have that information in advance and then we can make a reasonable judgment about participation on the committees.

Senator Crothers: That's true; we can come back to this and try again.

***09.16.05.01 Recommended Revisions to ASPT Document from URC Regarding
Matters of Confidentiality and Minority Reports***

Senator Crothers: We have received recommendations for revisions to the ASPT document regarding matters of confidentiality from the University Review Committee.

Provost Presley: As an ex-officio member of the URC, I will present this to you. This is the result of an ethics grievance that was brought about a year and a half ago. It was a rather difficult process. Mainly that had to do with the definition of a minority report. The grievance was based on the fact that several members of the departmental DFSC felt that a minority report had violated their confidentiality as participants in the DFSC deliberations. In discussing that and the remedies for that with the BOT Counsel, she suggested that we be extremely explicit about the expectation of confidentiality and that we be explicit as possible about those times when confidentiality must be breached or can be breached.

The first paragraph that is underlined (revisions underlined) deals some issues about the role of faculty that she pointed out. It's almost irrelevant to the issue of confidentiality, but she suggested that this go in because

the issue of the professional expertise of committee members being applied to any evidence is important should anything ever come to a court of law that has its origins in our ASPT processes. The second underlined paragraph says why we think confidentiality is important. It is not only a tradition, but it is a necessity if we expect people to be candid in this process and if we expect for there to be broad participation. Confidentiality must, in the absence of any such legal inquiry, be respected and observed by all participants, committee members and applicants alike. That is what she insisted would be central.

We went on to say that all deliberations will be confidential subject to Illinois and federal laws and that the files of committees and officials should be managed in keeping with the University policy regarding personnel files. We asked that chairs and directors remind DFSCs/SFSCs and that deans remind CFSCs of the extreme importance of confidentiality. That is the point at which the language defines the two moments where any participant in the process should feel empowered to breach confidentiality.

The first is a minority report, but then we go on to limit what a minority report can do. We do not limit what the person can say about their case that they are making in the minority report at whatever level, DFSC or CFSC, but we do ask that they not breach the confidentiality of the other participants by quoting them, by saying what went on inside the committee deliberations or by reporting the views of other people—what they said. It is understood that if you are filing a minority report, you are arguing that the majority conclusion was flawed in some way. It is really not necessary for you to rehearse their entire argument to make your case. In fact, doing so is considered a violation of the confidentiality of the process.

Frankly, none of us are so idealistic as to think that having said this, put the language in here, that it will never happen again. But to protect our internal processes, we were advised to make these statements, to make them explicit and to put them into the document.

The other area in which anyone can feel empowered to breach confidentiality is if they believe that a committee member or official, I guess even an applicant, involved in the faculty status system process has violated the civil rights of an applicant, then that member with that belief should immediately go to ODAA (Office of Diversity and Affirmative Action). From that point forward, it will be held as confidential as possible. But ODAA, upon hearing such a concern, is obligated to do an inquiry, not necessarily an investigation, but they must take it seriously. So, that would breach confidentiality, but we must include that possibility.

Senator Crothers: To clarify, that would be the circumstance under which the content of a deliberation would be revealed to the ODAA person, because if you are alleging a civil rights violation, you are alleging someone in the meeting said something.

Provost Presley: Yes, it would have to be revealed for ODAA to pursue its functions, but ODAA works under extreme constraints in terms of confidentiality, legal authority and the legal right to communicate.

Senator Crothers: And then the remainder is just a restatement of the nature of a minority report. Are there any questions or concerns about this?

Senator Borg: Can we make it retroactive to the current document?

Provost Presley: Yes, it becomes effective the date that the President signs it.

Senator Borg: How do we expect to let people know that this will be part of the document because I am seeing increasingly, in my new responsibility, how things can be misread so horribly and misunderstood so completely.

Provost Presley: If you had a chance to look at some mass e-mail that I sent out earlier in the week, this is the pending document that I referred to in that e-mail. We have sent e-mails to all tenured and tenure-track

faculty, chairs and deans, and told them that the other statements were on the website. We would do the same with this, should it be approved and signed by the President. I would put it on the Provost's Office's website and send out a mass e-mail, but we have enough revisions at this point that we will go ahead and reissue the ASPT book, including this and the other revisions that were approved.

Senator Crothers: Are there any other questions regarding this language? It is within the purview of the Faculty Caucus to change the language of the ASPT document and so, if there are no questions, we will move it to an action item.

Senator op de Beeck: On page 1, under I.D., I just wondered about the first sentence in the first underlined paragraph, "Confidentiality regarding academic personnel processes is not only an academic tradition, but is also a necessity for broad and candid participation in the personnel process if it is to remain a shared governance process". That "if it is to remain a shared governance process" was the phrase that struck me just in terms of 'the necessity for broad and candid participation in the personnel process'. I don't know; is there any threat here to the shared governance process by changing the language there?

Provost Presley: The reason that that wording is there is that I believe, as do the members of the URC, who are privy to a number of issues of violations of this policy and their ramifications, that in one department, there was a serious concern that, for example, if a minority report could rehearse and communicate to a broader audience what went on inside the ASPT committee room, then they did not want to do it anymore. There is that real sense that if everything that I say is going to be communicated to all the applicants and to every office on campus with a blanket mailing, then I am placing myself at risk. Some of these issues that went through the grievance process last year got so complicated in the AFEGC that actions for slander and libel could have proceeded. There was enough evidence floating around for this and there were people angry enough that it is sort of miraculous that someone didn't do that. So that is what they were reacting to, the fear and the sense of threat that people communicate during this grievance process. The more breeches of confidentiality we have, this is what the counsel said, the more times things get communicated outside, the more feeble our process looks to any legal entity who is going to challenge it on behalf of anyone. It looks feeble and it is easier to assail, so that is the reason for the language.

Senator Crothers: Are there any more questions? We do need to have it formally moved as an action item.

Motion: By Senator Maroules, seconded by Senator Winter, to move the item to action and to approve the revisions to the ASPT document concerning matters of confidentiality and minority reports.

Senator Crothers: Is there any debate on the changes before us.

Senator Borg: Are we voting to move it to action?

Senator Crothers: We are voting on it as an action item.

There were no further questions or debate and the document was approved by the Faculty Caucus. All members of the Faculty Caucus present voted in favor of the document, with the exception of Senator Holland, who abstained.

Adjournment

