

Faculty Caucus Minutes
Wednesday, October 13, 2010
(Approved)

Call to Order

Senate Chairperson Dan Holland called the meeting to order.

Approval of Faculty Caucus Minutes of September 29, 2010

Motion: By Senator Hoelscher, seconded by Senator Stewart, to approve the Faculty Caucus Minutes of September 29, 2010. The motion was unanimously approved.

Action Items:

CTE Faculty Representative Confirmation and Election of Library Committee Faculty Representatives

Council for Teacher Education Faculty Representative Confirmation: Laurie Novy, C&I/ENG (NTT), 2010-11

Election of Library Committee Faculty Representatives: Diane Byers (CAS), 2010-11,

Marie Labonville, CFA, 2010-13

Motion: By Senator Cedeño, seconded by Senator Hoelscher, to accept the above nominees as a slate. The motion was unanimously approved.

Information Item:

09.07.10.01 ASPT System Proposed Changes (Chuck McGuire, Associate VP for Academic Administration, Rodger Singley, Chair of the University Review Committee) (Please bring copy distributed in 9/15/10 packets)

Senator Holland: I would like to do a straw poll of how we would like to handle this in the grand scheme of things. Do we want to send our comments to the URC? It might be easier than

The Caucus unanimously voted to send its recommendations to the URC for their consideration and rewrites.

Senator Holland: We had hoped to make it through Section VII on page 7 (Item #6) of your handouts, Faculty Assignments and Faculty Evaluation. We had made it through Section E and

Senator Briggs: Senator Stewart and I took this to the School of Art faculty meeting and I would like to backtrack and ask a question about Article V (Item 4) where it says anonymous co

Senator Stewart: The specific case was that the SFSC had ruled on a tenure decision and passed it on to the CFSC and the letters didn't go to the SFSC, they went to the dean and the CFS

Senator Briggs: This was where one faculty member solicited emails to speak against the faculty member who was up for tenure and then took it to the CFSC and the dean.

Professor Singley: Your college is not the only place where that has happened. I think going directly to the CFSC and bypassing the DFSC would be a violation of the process. Any faculty

Senator Briggs: Can that specifically be written in?

Dr. McGuire: If it comes out of the Senate back to the URC so that we can get some language together, I think the Senate needs to tell us to do that.

Senator Stewart: There is also the issue of specifically soliciting for negative feedback from students that bypasses the whole course evaluation issue where you don't see the negative, but

Senator Holland: My opinion is that would actually be a grievable offense for the faculty member. That is interfering with another faculty member's ability to teach their class.

Dr. McGuire: I can think of about four or five parts of the Ethics Code that that violates.

Professor Singley: This is a case where the chair and the dean, whoever is applicable, should be controlling that process.

Senator Van der Laan: I think that Rodger has already answered the question. It's a violation of procedure and policy, but I think what maybe Judith is getting at is that expressly expres

Professor Singley: I believe it should be. I was thinking more in line also of the orientation session coming up on October 21. That is something that we should convey to the deans and the

Senator Van der Laan: That's something that we will pass on to you at some point.

Professor Singley: I fielded that question twice in the past year and in both cases told the dean that they should not be looking at that.

Senator Van der Laan: That's not a one-time event where somebody has tried to pull a fast one and violate procedure.

Senator Holland: Basically, what you are asking for it to make a specific comment that unsolicited letters, if they are submitted at all, cannot be anonymous and they have to at least start t

Professor Singley: Right.

Senator Horst: Didn't it say somewhere that if new information came to light, you could submit something directly to the CFSC?

Professor Singley: That would be the appellant, which is what that language refers to. I can see how someone could try to sneak in using that language to do what's been done, but that is c

Senator Fazel: One of my faculty members is on the DFSC. He had a question about the DFSC's responsibility in the appointment of new faculty. We discussed this last time that we don't

Dr. McGuire: By rule in the ASPT document, it says ordinarily—but "ordinarily" is always followed in my experience—a majority of the DFSC and a majority of the tenure-track faculty

Senator Fazel: What happens if the rest of the faculty do, but the majority of the DFSC does not sign off?

Dr. McGuire: It has to be both.

Senator Solberg: I was reading through this information given directly to the CFSC. In Article XIII. Appeals Policies and Procedures, does this kind of comport with what we are talking t

Dr. McGuire: The intent is that would be material brought forward by the appellant.

Senator Holland: Are we back to where we ended last time, which is Article VII. Faculty Assignments and Faculty Evaluations. We had just made it through Section E and we are on Sect

Senator Briggs: One of our faculty members did a little bit of wordsmithing on E. Instead of departments/schools must develop guidelines for what constitutes overall unsatisfactory, he su

Senator Stewart: I think it might be better to make a list of examples of what might be constituted satisfactory rather than trying to make a laundry list of what's unsatisfactory.

Senator Holland: I think you are probably stuck going in either direction...

Professor Singley: We can't be all inclusive.

Senator Holland: In either direction, you are going to have to state examples of what satisfactory would be. I don't know if your department would say you are unsatisfactory in one and sa

Dr. McGuire: The question that we were really wrestling with was if you have three elements, teaching, research and service, is it two out of three that gives you satisfactory? Any two out

Senator Holland: I would think with our university motto that teaching should be one you have to be satisfactory in.

Senator Crowley: In the spirit of wordsmithing, we might be consistent with "process shall include". There are many shalls and then a must. Why not say shall provide and take away thos

Item 6.

Senator Holland: That's something that can be considered. In Section F, it says Departments/Schools shall provide a detailed letter including intended recommendations and overall assess

Senator Ellerton: My comment was about the previous point. If you start debating the shall and the must, that is crucial to what departments actually do provide. The must was debated tw

Senator Holland: You are referring to the part where it says departments or schools may choose to provide separate assessments and they must provide an overall? I am not sure if in the la

Dr. McGuire: Yes.

Senator Van der Laan: I do think this is an important question about shall and should and must or have to because I was noticing under D., for example, we have should. If you have shou

Dr. McGuire: Shall and must are the same.

Senator Van der Laan: I would quibble with that. It is supposed to; it still leaves an option there.

Dr. McGuire: Shall means must.

Senator Kalter: Not grammatically. In connotation, I would say that shall is more polite and must is an imperative.

Senator Van der Laan: Shall has moral connotations. Must is an imperative.

Dr. McGuire: The legal definition of shall is you must, you have to. Should means you ought to.

Senator Kalter: Most people on the DFSCs are not lawyers and may not know those connotations. The people on the DFSCs, general speaking, will know that must is imperative and shal

Senator Van der Laan: If we want it to happen, let's just say must.

Dr. McGuire: The judges will have a problem with it at some point.

Senator Van der Laan: We sure don't want to say should if we want it to happen.

Senator Horst: I have a question about part F. Could you explain the difference between the formal meeting and the appeal? Is the appeal the hearing that you talk about in part XIII?

Professor Singley: Yes, an appeal would be moving beyond the DFSC/SFSC level.

Senator Horst: So that's the hearing you refer to. You might call it the hearing here as well. I personally got confused about the formal meeting and the hearing. I didn't know if they were

Professor Singley: We refer to it...I think it's the appeal to the CFSC and that's kind of the language that is common throughout much of this blue book. Our viewpoint has always been th

Dr. McGuire: Another way to look at the formal hearing is that it is a request for reconsideration by the same body.

Senator Horst: The formal meeting?

Dr. McGuire: Right, the formal meeting is a request for reconsideration by the same body that issued a ruling, whereas, the hearing gives you an appeal at a later point with another body.

Senator Holland: I do have a comment that was sent to me by email where it was brought up that on occasion it has happened that a DFSC has issued an intended recommendation, but the

Dr. McGuire: So they changed their minds after...

Dr. Holland: After their intention. So how serious is this intended recommendation? They were recommending tenure or promotion and right at the end of the ten-day period, they reversec

Professor Singley: Are you saying that the DFSC reversed itself?

Dr. Holland: That's what I hear.

Professor Singley: I have never heard of that. That should be the ultimate grievable matter. It's clearly against the intent of the rules.

Dr. McGuire: Are there unintended consequences if we were to put something in that the intended recommendation will become of the recommendation in the absence of...

Senator Rich: It strikes me that there is such clear bad faith in that action that in the absence of anything, you are in great shape for an appeal. My concern about unintended consequences

Senator Holland: Whenever we are doing this, you always want to keep in mind that these are written for a worst case scenario.

Senator Rich: I am concerned about worse case scenarios in both directions.

Professor Singley: We can't anticipate every bizarre case.

Senator Woith: If the DFSC should change their recommendation, shouldn't the person have another ten days?

Senator Holland: That would be perfectly rational, but there are also other clocks that are ticking as to when these things have to be at the next level.

Professor Singley: Which is basically why the DFSC should not be changing their recommendation.

Senator Holland: You basically have about ten days to get this done and get it forwarded to the CFSC.

Professor Singley: I would think of the case, for example, if a journal article is falsified and the DFSC became aware of that, that's an ethics and grievance issue. It could trigger a lot of ot

Senator Holland: However, if someone is going up for promotion or tenure and they are falsifying documents and getting it, it would be a whole lot easier to reverse a decision than to giv

Senator Dawson: Are there any requirements of informing candidates, particularly in bad situations, of their rights, in particular, to file a grievance? Is there any process where that's autor

Senator Holland: I don't know if that is required and probably should be.

Dr. McGuire: It's assumed that folks understand and know where the policies are...

Senator Holland: That's a real bad assumption.

Dr. McGuire: But we have to make it.

Senator Dawson: Is it a well known fact of some of these committees' responsibilities and how does a relatively new faculty member find out? Is there anything within the whole process,

Senator Holland: There is a faculty orientation. There is a faculty handbook. There are policy web pages. I haven't been to a faculty orientation in years.

Dr. McGuire: I do an ASPT orientation for new faculty later in the semester. This started last year for the very same reason we are doing it with chairs and deans and DFSCs. New faculty

Senator Holland: It might be a good idea to write in that they need to be informed of their rights.

Professor Singley: The question becomes, who informs them. We really get back to the University Ombudsman again. I have fielded a lot of these. I have sent quite a few people to AFEG

Senator Holland: I would imagine that part of the ASPT training is...it might be a good idea to put something in there, maybe not in this document, but if you do give somebody a negativ

Senator Kalter: I wanted to echo what Senator Dawson and Rodger just said. The ombudsperson would be a good person. Sometimes people have no friends in these situations in their ow

Dr. McGuire: Basically, the schedule right now is that the DFSC recommendations on evaluations are due February 1—the intended recommendation. The final recommendation has to be

Senator Kalter: I was going to suggest that if the URC could think about do we have enough play to take care of at least that kind of situation and put in if there is a reversal, the person ge

Senator Cedeño: The point that was brought up about the ten working days. That can be solved pretty easily where it says a letter is to be provided. A letter could note that there is a ten w

Professor Singley: I guess something that I am concerned about, as a URC member, is that I don't want to put any language in here that would encourage this behavior. This should be an i

Senator Holland: The only thing I could envision is if it were a very close split decision and there was somebody sitting on the fence who changed their mind.

Professor Singley: It's difficult to envision the candidate getting a positive recommendation from the DFSC, and then suddenly saying one of the members changed their mind. We are rev

Senator Cedeño: In those cases where there is negative assessment, that's the only case someone is going to try to bring an appeal or a formal meeting. So I think in those cases the person

Professor Singley: You mean in the case of negative?

Senator Holland: You just want it written in the letter with this negative decision that they have ten days?

Senator Cedeño: Correct.

Dr. McGuire: The short answer to that is if at least they are following the templates that we have been providing to them, there already is. That's voluntary, but right now that's a part of th

Professor Singley: When we began advising faculty of their rights, put that requirement in there. There is never a single path and I have been involved in advising a number of faculty who

Senator Holland: If you do any language at all, I would make it extremely vague like it is recommended you contact the ombudsperson to be informed fully of your rights.

Professor Singley: That's assuming we have an ombudsman.

Senator Briggs: Is notification of ten days to appeal just written in the tenure letter or can it be written in the performance evaluation.

Dr. McGuire: It's in all of them.

Senator Briggs: Is it required or is it up to the school?

Dr. McGuire: It's up to the school. We have template letters that we provide with some language to that effect and it's up to the school how they apply them or not.

Senator Briggs: Why is up to the school rather than being required.

Dr. McGuire: Because you folks haven't put it in here yet.

Senator Briggs: A faculty member I know needed to appeal an end of year evaluation, but was not made aware of it within the letter.

Dr. McGuire: There is also some responsibility on the part of the faculty member. Everybody gets a copy of the book. Everybody is told this is part and parcel of the rules. They are suppo

Senator Van der Laan: I don't think we need a Miranda note here and I do think it's a question of personal responsibility...that we don't have to spell it out for everyone.

Senator Cedeño: Actually, reading statement F carefully, departments/school shall or must provide a letter and later it says provide opportunity for the candidates to meet informally. So it

Item 7.

Senator Holland: We move on to Section VIII.D. where we come to the written evaluations of external evaluations shall be available to the DFSC/SFSC, CFSC, FRC, Provost and Preside

Dr. McGuire: It's state law. It's 820 IL Compiled Statutes 40/2. I will read just a couple of sentences from it. Open Records: Every employer shall upon an employee's request, which the e

Senator Van der Laan: My question when we first weighed in on this was what about the Federal Freedom of Information Act and if you have found out whether there are any discrepanc

Dr. McGuire: We would approach the Freedom of Information Act on a case by case basis. The Freedom of Information Officer is Jay Groves and personnel records are generally exempte

Senator Fazel: Last time when we had this conversation, my suggestion was that if we cannot let the faculty have access to the document, just not use it. So the DFSC, CFSC, nobody wou

Dr. McGuire: I quite honestly forgot to look at it. I would hate to take the option away from departments. It seems to me this is one of those things where a department probably needs to n

Senator Bailey: When we are talking about external letters, if someone has gone up for an award in one of the colleges and they seek an external letter for that particular award, that goes i

Dr. McGuire: It doesn't exclude them from the exception, so I think you are forbidden from seeing those as well. Any letter of recommendation, for that matter.

Senator Holland: Are you thinking of the case where the person would send the letter to you and you would be put it in your folder or that they send it directly to the DFSC.

Senator Bailey: I'm just thinking, for example, if a chair puts somebody up for an award and then that chair solicits external letters that the person nominated doesn't see for the award, ser

Senator Holland: So it's not solicited by the person?

Senator Bailey: It's not solicited by the person.

Professor Singley: I can't see an exception to that.

Senator Cox: The boilerplate letter that our department uses to solicit an external review does contain language that does indicate that the candidate may have access or may see that letter.

Dr. McGuire: I am not aware of that particular one. As long as the person who has given the review has signed a waiver or understanding, I am not troubled by it at all.

Senator Cox: But by responding to that letter, we don't have an acknowledgement?

Dr. McGuire: It's probably going to be ok. I would rather see a waiver signed by the individual just because it's a clearer case. The waiver is on the Provost's website.

Senator Kalter: I just wanted to clarify what Senator Bailey asked because I believe that while the law may say something, it's not specifically relevant to 8D and 9D, which are basically

Dr. McGuire: Right. The two sections are on promotion and tenure and we have restricted the language here to that only. There is a broader section dealing with access to personnel record

Senator Van der Laan: I am so puzzled because in the 1980s when I had letters of recommendations written for me and that were in I'll call it the letter of recommendation clearing house

Dr. McGuire: Was that pre-85?

Senator Van der Laan: I thought it was late 80s, but it could be between 85 and 89.

Dr. McGuire: Or the U of I ignored it like we did.

Senator Van der Laan: At any rate, this was a statement to my face and there was reference to the Freedom of Information Act.

Dr. McGuire: I worry about the Freedom of Information Act when it comes to personnel files. We would have a hard time applying it.

Professor Singley: In a way, we don't want to. It sort of protects our personal records.

Senator Fazel: Would you please check into whether we could legally as an institution decide not to consider an external review if it is not open to the faculty who is affected by that.

Dr. McGuire: I'll check.

Senator Holland: In some ways it's sort of their peer evaluation; as part of a department's promotion and review process, this fact must be stated. I suppose you could make some sort of a

Senator Fazel: But can you do it as an institution?

Dr. McGuire: My guess is we probably can't. I don't see why we couldn't put a ban on external reviews, period. The question is do we want to do that across the board in every departmen

Senator Crowley: You might want to check into the relationship of this to the Buckley amendment.

Senator Van der Laan: Personal access to personal files is something different from making it public, so that is a distinction, too, that maybe was a part of ...

Senator Holland: I think it's a desire to make somebody writing a letter completely candid about their assessment. They may have some positives and negatives and they might not want to

Senator Woith: This is the first time I have seen the letters FRC in the book (revisions) to date and I wonder if it could be spelled out at this point instead of later.

Senator Kalter: In this book (ASPT Policies), it's spelled out in the beginning.

Senator Rich: I'm kind of two minds on this one. I want to point out in the legal and it has been mentioned that confidential peer review has a pretty honored place in academic research

Dr. McGuire: As I said, I think so. I'm pretty sure that's ok. Again, I agree with you. I'm not sure it's an advisable thing. It may be a department-by-department situation.

Senator Van der Laan: Senator Rich has really expressed what my concern is, which is if I don't have access to my own personnel file, when such decisions such as promotion or tenure a

Dr. McGuire: In the old material, the peer evaluation process must be accepted by the department, itself, and the process must be stated in the DFSC guidelines. How you do the peer eval

Senator Van der Laan: That's not the issue. The issue is how that's represented by the chair who is writing the letter of recommendation or not.

Senator Crowley: Also, chairs use the university-wide ASPT document to guide them. That supersedes the department's.

Dr. McGuire: They should be using both.

Senator Cedeño: I would like to bring this back in terms of the language there. Right now it reads, however, those written evaluations may not be made available to the candidate. Should t

Senator Van der Laan: May is necessary because of the qualification "unless".

Senator Kalter: This question came up last time. We might want to switch it to cannot be or shall not be or must not be.

Item 8.

Senator Holland: You will notice Tenure Polices (Section IX) has the identical statement. I don't think we want to do it again.

Item 9.

Senator Holland: Section XII. Performance Evaluation Policies and Salary Incrementation Procedures. The first change is Section 2a. Faculty members with overall unsatisfactory perform

Dr. McGuire: We were trying to get away from the problem between insufficients and unsatisfactories because they were used interchangeably.

Item 10.

Senator Holland: Section XIII.A. Appeals Policies and Procedures. Illinois State University encourages the fair and equitable resolution of appeals. Informal resolution of issues is encour

Senator Kalter: I am going to make an overall comment on this whole section, not just A. I sent an email to Rodger noting that it appeared in the entire Section XIII.10. that parts of the d

Professor Singley: In the overall section, it's general appeals and policies and procedures. I would be happy to go through this with fine-toothed comb...I had trouble identifying exception

Senator Kalter: This is four pages. The confusion begins once we get to page three where it starts to say, F is the Initiation of a Promotion or Tenure Appeal. Then G is the Initiation of a F

Professor Singley: Ok.

Senator Horst: I just wanted to repeat my request that non-reappointments also be considered for appeals. I was wondering if your committee is going to try to tackle that in this revision.

Professor Singley: We would like to tackle that in the spring once we wrap up the worst of this. We have got so much to send forward to the departments and schools for them to develop n

Senator Holland: At any point, it actually doesn't have to be tied to this, we can ask the URC to look into that issue. It has come up as being very important to a lot of people.

Senator Van der Laan: This is a request for clarification of B to know that I understand it correctly. Does it state that there are no appeals to the DFSC? The appeals only go to the CFSC l

Dr. McGuire: The formal meeting is a request for reconsideration by the same body that made the decision. It can be the DFSC. It can be the CFSC depending on the kind of decision that'

Senator Van der Laan: Since this is, in many instances, really quite legal in its repercussions, if I, as a faculty member, am unsatisfied with my DFSC's decision and I write a letter saying

Dr. McGuire: We are not going to hold that against you. It will be taken up by the CFSC no matter what. Then there is the question of the appeal to the FRC. That's another issue about wh

Senator Kalter: This is for the entire Item 10 again. Beginning on page three, at the very bottom, G.2., before filing a written intent to appeal a performance evaluation with the appropriat

I sent a note to Rodger that I thought the timing was unclear. He referred me back to Section XIII.B.2., but I still couldn't find any timing in those so I am wondering where that is. So B.2.

Senator Holland: That's not actually what they are referring to. Reasonable time is in the meeting itself.

Senator Kalter: My question is then even more to the point. Where is the notice to the faculty member on February 1 when you get your annual letter and you don't like something in it an

Dr. McGuire: It is misplaced. It's in Appendix 1.

Senator Kalter: Could the URC consider moving that or duplicating that somewhere else in the book?

Dr. McGuire: Appendix 1 is the whole ASPT calendar and it has everything from calendar for reappointment, calendar for promotion and tenure, calendar for performance evaluation app

Senator Kalter: Could you just somewhere in this section refer to the appendix? That would be a really great way to solve that problem with one fell swoop.

Senator Cedeño: Especially if there are calendars for different things.

Dr. McGuire: Actually that should be published on the University Calendar as well, because that calendar will change a little bit every year depending on if those dates happen to fall on a

Senator Kalter: There may be a department out there where people get their annual performance evaluation and they don't have any idea how long they have to appeal them, so I thought j

Professor Singley: Literally, this document has gotten so long that a pdf search is the best way. I am pretty sure we refer to Appendix I early in the process somewhere, but it certainly coul

Senator Kalter: It's only three words. "See Appendix A" or something.

Professor Singley: Right.

Item 10, Section B.

Senator Holland: Where are we? We are in The Nature of Formal Meetings.

Senator Briggs: It's 9:30 or close to it.

Senator Holland: Is this a good place to call it quits?

Senator Briggs: I think so, because the question I have is a wordsmithing question that one of my faculty members wants me to bring up.

Adjournment

Motion: By Senator Hoelscher, seconded by Senator Stewart, to adjourn. The motion was unanimously approved.