

MINUTES OF THE SENATE EXECUTIVE COMMITTEE
6 May 2002
Room 142, Gerberding Hall

Present: Senate Chair Holt and President McCormick; Vice Chair Silberstein; Group Representatives Stygall (I), Pace (II), Wilcock (III), Salas (IV), Allen (V), Janssen (VI), Killien (VIII); Faculty Legislative Representative Ludwig, Deputy Legislative Representative Sjøvik; Faculty Council Chairs Wadden (FCAS), Buck (FCEO), Haley (FCFA), Carline (FCIQ), Schaufelberger (FCUFS), Emerick (FCUR), UW Tacoma Representative Primomo; Provost Huntsman, Assistant to the President Niccolls, Secretary of the Faculty Vaughn, Government Relations Representative Taricani,

Absent: Group Representatives Maizels (VII)*, Souders (VII)*, UW Faculty Council Chairs: Heath (FCR), Nelson (FCSA), Diaz (FCET), Martin (FCRIB)*, Meszaros (FCTCP)*, Zick (FCUL), Special Committee Chair Krieger-Brockett (SCFW), Tom Colonnese (SPMFA), UW Bothell Representative Jacoby, GPSS Representative Nixon, ASUW Representative You;

Call to Order and Approval of the Agenda

Chair Bradley Holt called the meeting to order at 2:38 p.m. The agenda was amended to delete discussion of the Class C resolution on Library Funding and that agenda item 11: Faculty Senate Office Review be deleted since the report was not included (reviewing this report may require a short special meeting). Finally, he requested that an item be added as to whether there should be a discussion of a second request for inquiry to the Code Cops. Approved.

Holt summarized the outcome of the Faculty Senate meeting held on 2 May 2002 in which the senators expressed their sentiments about the Faculty Salary issues as follows:

1. "That the faculty strongly requests the Administration not to make budget decisions unilaterally, particularly relative to chapter 24 of the *Faculty Code*."
2. "The Faculty Senate endorses the April 22nd recommendation of the Senate Committee on Planning and Budgeting."

Approval of Minutes

Approved.

Announcements

Letters for senators are going out this week, and elections for group representative will be held at 2:30 before the formal meeting begins.

Because the Regents are meeting as a committee of the whole on 16 May, and at a time that overlaps with the Senate meeting, the Senate meeting will begin at 3:00 p.m.

Tina Emerick, Chair, Faculty Council on University Relations, announced that Madeleine Albright will be the commencement speaker and that she will be receiving an honorary degree.

Report from the President

None.

Report from Senate Committee on Planning and Budgeting (SCPB) – Sandra Silberstein, Chair

The Senate endorsed the SCPB recommendation of a 2% increase at its meeting on Thursday, 2 May 2002. Today, the SCPB discussed where the funding for this increase might come from. The most significant recommendation was that we take \$4 million from the reserves to fund the increase.

Report on Legislative Affairs – Richard Ludwig, Legislative Representative

Ludwig began by noting that this will be his last meeting since his term as legislative representative is ending. Since the last meeting, the Governor vetoed the funds for recruitment and retention. He also signed the faculty collective bargaining bill, vetoing, however, the two offensive provisions of the bill that would have interfered with shared governance.

This year featured budget discussions and he expects that those discussions will continue next year. Ludwig focused his remarks on his perspective about the impact a 2% increase might have in Olympia. First, there was a real shift in discussion of the budget this year. Great care was called for in discussing salary increases in a year of cuts. Most of the discussion focused on retention and recruitment, a shift from prior discussions. With respect to the legislative reception of this, reactions varied. Some were in favor of an increase; others were not. Thus, it is hard to say that there is one legislative response. The legislature did provide for a 3.6% salary increase for community and technical colleges because they are not authorized to use local funds for that purpose. Institutions of higher education, on the other hand, were authorized to provide for salary increases as long as it came from sources other than legislative appropriations. They envision that we will use tuition for this increase. Legislators also tried to provide a 1.5% increase at a time when they were not providing increases for other categories of employees; this stayed in until the last moment when funds for retention and recruitment were substituted. Ludwig believes that legislators will be puzzled next session if increases are not provided given the authorization for tuition increases.

Questions

1. Craig Allen (Group V) asked how the legislature views the veto of the recruitment and retention funds. Ludwig replied that he thinks that the legislature would have no problem with that since the Governor said that we could use existing resources to fund this need.

Issues Currently under Consideration by Faculty Councils and Committees

See agenda attachment.

Nominations

Sandra Silberstein (Vice Chair) made two sets of nominations from the floor in addition to the Council nominations included as an attachment to the agenda. Regarding the Council on Tri-Campus Policy, Silberstein nominated Janet Primomo (Tacoma) for a term ending 15 September 2004 and Jack Meszaros (Bothell) for a term to end 15 September 2003. She also nominated Gail Stygall (Deputy Legislative Representative), Douglas Wadden (Vice Chair Elect) and Jan Sjøvik (Legislative Representative) as the Senate's representatives to the Council of Faculty Representatives.

Clark Pace (Group II) moved approval of the nominations and Allen (Group V) seconded. All nominations were unanimously **APPROVED**.

Silberstein then moved that Jan Sjøvik be appointed Faculty Senate Legislative Representative and that Gail Stygall be appointed Faculty Senate Deputy Legislative Representative. The term for both offices would be one year, with the term ending 15 September 2003. **APPROVED**.

Finally, the meeting calendar for the 2002-2003 academic year was **APPROVED**.

Request for Interpretation of the Faculty Code – Brad Holt, Chair, Faculty Senate

Holt explained that this agenda item was requested by the President. Under § 22-60, the Senate Executive Committee (SEC) has the power to interpret provisions of the Faculty Code. The specific Code question is as follows:

Does the *Faculty Code* preclude the allocation (and distribution) of institutional salary resources for faculty retention or market gap salary adjustments (Volume Two, Part 11, Chapter 24, Section 24-70.B.5 or 6 and Section 24-71.B.2 or 3) in a year in which no funds are allocated (or distributed) for continuing merit salary increases (Volume Two, Part 11, Chapter 23, Section 24-70.B.1 and Section 24071.A.1)?

Holt introduced John Junker, Chair, Advisory Committee on Faculty Code and Regulations (Code Committee), who explained that the Code Committee said that the answer is that the answer is that the suggested conduct cannot be undertaken. McCormick asked if this precludes or involves certain dollar amounts. Holt overruled this question and said that it will be answered as the next agenda item. Moved, that the SEC adopt the report of the Advisory Committee on Faculty Code and Regulations. (The letter is included as an attachment to the archived copy of the minutes.)

Holt and Junker explained that there will be a footnote in the *Faculty Code* that would say that if there is a priority list, then it must be followed. McCormick said there needs to be specific language about this, or there will be ambiguity. Chip Haley (Chair, Faculty Council on Faculty Affairs) quoted the next to the last paragraph of the advisory letter and said that this seems to be the core of the letter:

The Committee concludes that the text of the Code Sections we have been asked to construe unambiguously expresses the policy that funds available for salary increases must first be allocated to the categories described in Sections 24-70.B.1-3 and 24-71.A.1-3. Any remaining available funds "may" be allocated for other purposes described in those sections.

Junker said that the SEC is asked to give its own opinion, and the document is meant to be helpful; the SEC is not meant to adopt the report but to express its own view. Junker pointed out that the most succinct statement is the paragraph after the question: "For the reasons set forth below, the Advisory Committee concludes that salary funds may not be allocated or distributed for purposes of faculty retention or market gap adjustments in a year in which funds have not been allocated for merit increases and promotion and minimum salary awards." [Second Paragraph]

Allen then asked about the status of an Executive Order. Junker stated that the committee viewed it as evidence. Steve Olswang, Vice Provost, said, in answer to Allen's question, that it the President can change the Executive Order at any time. Holt repeated a new motion in which the second paragraph (above) would be adopted as the expression of the SEC's view. Allen stated that if that is the motion, then the Executive Order is irrelevant and should not be considered, especially since it could be revoked tomorrow. He was troubled by the interplay of the *Faculty Code* and Executive Order given that the statement would stand only for the *Faculty Code*.

VOTE: Yes: 4 No: 1 Abstain: 5 Motion fails to carry.

William Wilcock (Group III) asked about the effect of an SEC interpretation of the *Code*. Holt stated that there is an extant proposal that the University provide funds only for recruitment and retention but not for increases. This interpretation would say that that is not a priority that is permitted by the *Code*.

McCormick stated that he does not believe that there is any place in the *Code* that forbids this. He voted no because in a difficult budget situation, he believes that all campus leadership needs to be flexible and consider each proposal on its own merits. In a year in which there is no money for salaries (budget cut, no money allocated for salary, and recapture pool is practically bare), then these three reasons make it imprudent for the University not to have a modest retention pool available. A two percent salary increase will not be enough for the continuing problem of salary lag, which is a tragedy. We do not have the resources to undo the tragedy, and he feels the *Code* is ambiguous (he does not want to violate the *Code* which would not serve us). We should retain flexibility and acknowledge reluctantly that we cannot do a general salary increase and set aside \$1 or \$2 million for adjustments. Wilcock asked McCormick why he thought the language was ambiguous because it seems clear to him. McCormick said that he does not see that it precludes the retention funding; this seems to him a common sense and prudent reading of the *Code* in hard budget times.

Holt said, on the other hand, that this is the heart of joint governance. He was part of the Ch. 24 governance drafting group and felt that this understanding (salaries before retention and recruitment) was part of the agreement at that time. On this topic, he feels it is not ambiguous. We meant what we said and if there is a problem, then we need to change the *Code* rather than misinterpret it. Wilcock asked whether this would be a binding interpretation. McCormick said that the power of the SEC is recognized as the interpreter of the *Code* by the Administration. Allen said he finds it ambiguous when he reads Ch. 24-70. Holt countered that if you can do the "mays" [recruitment and retention], then you have to do the "shalls" [salary increases]; Allen disagreed. Holt said that this interpretation misses the history of the legislation. The Chapter 24 drafting group saw itself as having a radical new salary policy in which a 2% merit increase and floors would be the highest priority as a way of acknowledging long time members of the faculty. Given these priorities, perhaps other things could not be done in lean budget years. Allen sees the Executive Order (Order)

as stronger support for the position taken here than the actual *Code* language. Janet Primomo (Tacoma) was perplexed by the language about funding cautions in the Order. How does it affect interpretation of the *Code* she asked? Holt replied that the Order was the "practice" while the *Code* embodies the principles.

Stygall asked the President about the budget situation, and the need for the retention funds. She asked also about the use of the funds. He replied that it would be used for a recruitment or retention problem that needed funding. It would also be used for professional staff and librarians, and possibly for classified staff. It would not be big enough to do much, but rather a series of small strategic moves to retain and recruit faculty. Provost Lee Huntsman pointed out that we abandoned preemptive offers and were only dealing with actual competitive offers. That would be his perception of the use of this.

Ludwig asked what it would take to change the Order, suggesting that we are boxed in by the Order because it sets the 2% salary increase. Could there be some kind of compromise? McCormick said that he could change it today but the culture here dictates consultation with faculty as part of shared governance. Holt noted that the second issue the President wanted to present was, in the event it is decided that salary must be funded before retention, could salary be funded at 1% AND still satisfy the *Code*. Holt said the focus at this point in the discussion is whether one can allocate for retention before salary.

Stygall said she is looking at a decision in which there is not an explicit procedure: "If we do not affirm this policy, aren't we saying we don't want any say or control over these types of decision?" She noted that she is in a department that does not have a consistent approach to recruitment and retention so this worries her. McCormick stated that he would like to see the University address the situation of departments that are more than 20% behind peer salaries. Holt commented that he believes that this is a more straightforward question.

Wilcock asked about the difference between "shall be" and "may be" in Chapter 24-70. Haley noted that he was a member of the Senate when this came up. His sense was that we voted that salary increases would be the first priority; other things come after that, and that is why salary is the first thing on the list. The Order merely follows the list. The "shalls" and "mays" were debated in the Senate. His inclination is to follow the letter of the *Code* because that is what the Senate thought they were passing.

Holt read the Faculty Council on Faculty Affairs minutes from that time at a point where the minutes cite Provost Huntsman saying that the new policy would give consideration to faculty: salary in career progression is prioritized over recruitment.

Emerick agreed with Haley and Wilcock based on what the language says in the *Code*. McCormick said that he does not see language that would preclude funds for recruitment and retention.

Silberstein asked Secretary of the Faculty Vaughn for her legislative interpretation, pointing out that she really believes what is at stake here is the *Code*. She agrees that it would be nice to have money to do unit based adjustments but lots of things we hoped for have not happened. We are not required to put any money into salary, but what this interpretation requires is that we do provide continuing merit increases before we do anything else. We are being asked to make a decision based on what is prudent, but prudence is not the basis for interpreting the *Code*. Also, it is not clear to her that there is no money for the *Code*-mandated increases, and thus feels that we should focus on the *Code*. Holt stated that he

believes we need to come to a decision here; finding out in an adjudication is not satisfactory. McCormick again stated that he does think that this is ambiguous. Vaughn then asked Junker if the Code Committee had looked at the minutes of the Senate meeting at which the salary policy was approved. He said no; they looked at the language of the *Code* only and were controlled by the order of "shalls" and "mays." In their view, the Executive Order backed this ordering of priorities. They based their decision on the language in light of the question.

Vice Provost Olswang noted that he was also active in drafting this legislation. With due respect, he said the question was whether it does set forth priorities. In his opinion, yes, it does. But is there anywhere in Ch. 24.70 and 71 that says you must do this; is there anything that precludes it? It did leave flexibility; there is not mutual exclusivity. He does not think that it is the *Code* that is at stake, but rather shared governance in which we come to the right answer by trying to come to the right answer and trying to be flexible in the given circumstances. Viewed thusly, the Executive Order sets out priorities but it also sets out the clear caveat that if there is no money, then this is all up for grabs.

Silberstein agreed saying that yes, shared governance is at issue and we need to roll up our sleeves and work within the meaning of the *Code*. Why this matters is that more than once a member of the Administration has asked whether we would settle for 1% with some money for recruitment. Thus, the case is not that there is no money but that there is some give and take. For her, the only thing we have is the *Code* and then acting within that.

McCormick responded that the reality is the following: The Regents are strongly of the view that there is no money for a general salary increase. They are interested, more than the Administration, in having a University capable of doing some recruitment and retention. So there were talks about splitting the difference. He felt that he had been told that this compromise was not possible.

Wilcock reintroduced the motion:

The Senate Executive Committee concludes that salary funds may not be allocated or distributed for purposes of faculty retention or market gap adjustments in a year in which funds have not been allocated for merit increases and promotion and minimum salary awards. [Seconded]

Allen said that he is in sympathy with Stygall's point about the use of recruitment funds. There is no priority among the "shalls." He understands Sandy's language but in order to be unambiguous, there would need to be something after the first three items that that is the cutoff point. But there is not, so it is ambiguous. He noted that he does not believe legislative history is relevant here. Vaughn contested this, pointing out that the minutes of the Senate provide the legislative history, assuming that Allen's point of ambiguity is accepted.

VOTE: Yes: 8 No: 2 Abstain: 1

Discussion then turned to the second question: Suppose that 1% for salary is proposed and then some funding for recruitment and retention. Holt conceded that this is a new issue and that the Code Committee has not ruled on that. "Does the Code preclude that?" he asked. "Does the President, who has the authority (promotion funds having been secured) to rescind the Executive Order, reserve the right where there are funding problems" to set the level of allocation? Junker agreed with this characterization. If the President wants to

change the Order, he can except in so far as he wants to include faculty in the conversation. Questions were also raised about the meaning of the "reevaluation" language. Does that mean that this issue could be accommodated or that the Order must be rescinded?

Vaughn spoke about the institutional effect of rescinding the order, expressing concern that this would have on the vitality of shared governance and predictability of campus rules. Olswang agreed. Wilcock expressed confusion about why we need to re-evaluate priorities: why does the budget situation affect the priorities? Holt said that the question here is really the numbers available. Silberstein said priorities are set, but the issue is whether you can meet the *Code* by giving less than the 2% in the Executive Order. It seems that the *Code* is silent on this question. Ludwig followed on Silberstein's remarks about the 1/1% discussions. If the Administration and Regents are prepared to negotiate that, why would it take longer to do a new Executive Order; wouldn't that take the same amount of time as the 1/1% negotiations? Holt reviewed Sec. 12-21 on executive orders for review. That section describes the process that the President must follow to issue an Executive Order.

Doug Wadden, Chair, FCAS, said that his goal was to find proportionality. He suggested one line of questions involves the ideal recruitment and retention amount, and secondly, establishing the ideal relationship between salary and recruitment and retention. Huntsman said that \$2.9 million recruitment and retention fund would be pretty large historically. The next question is how many bases we are trying to cover with this pool. Traditionally, we have thought of faculty but this covers other pools of employees. For example, we have used this for professional staff and there is some pressure to give market adjustments for classified staff (which is legal in the special pay program). So we need a pool for recruitment and retention for several groups of employees. Rounding this out, he thinks of \$2 million as a reasonable number to cover those bases. Vaughn asked about how the recruitment and retention process would be used to reassure faculty about this. Silberstein sees this also as a *Code* question with two competing concerns. One is the slippery slope argument in which granting 1% says that we can revisit these numbers in tough times. If we revisit numbers, then is it possible to give faculty 1% increase and put the rest in recruitment. On the other side, the only way to do something is to rescind the Order and we get a weaker one in which the original 2% is lost. McCormick said he did not want to be seen as holding the Order over the heads of Faculty. Huntsman said that they are trying to prepare a proposal for the Regents and that is what we are really talking about here. It is the Regents who have the final authority in this matter.

Holt said that he has been hardnosed about this, and feels bound by the Senate vote on Thursday. He was involved in the original debate and it was clear to him that what we were doing was setting up priorities. We did not say that recruitment and retention was bad but set up procedures for these things. But for compression reasons, morale reasons, we wanted to be sure that continuing meritorious faculty would get an increase every year. This was in response to years when recruitment would take up all of the monies for increases in a unit so that someone would get a retention or recruitment offer and the other colleagues would suffer as a result. We are revisiting this discussion today, but he feels that there are good reasons for following those priorities. To revisit that seems to go against the whole spirit of those *Code* provisions. There are other ways to do recruitment and retention that will not violate these provisions, he concluded.

Emerick pointed out that the recruitment issue gets much more difficult if the faculty are unhappy; this is communicated to new faculty. McCormick, responding to Holt, said that a new pool could be committed for recruitment but another pool for retention would have to

be developed at the college level. Each college council and its dean would have to discuss retention. We are down to the wire in discussions with the Regents. If there is funding for recruitment, but if not 2%, then retention fund from colleges. Units would have discretion to do this; it would not be mandatory. Holt agreed that this proposal would be consistent with the *Code*. Wadden agreed and said that not giving salary increases. Shouldn't we just do this?

Holt clarified his remarks. We are bound by Senate, and they would prefer a 2% salary increase. If you are saying to deans that we are asking deans to consult with college councils, and that if the Council agrees to take additional cuts to create an internal retention fund, then that would not violate the *Faculty Code*.

Don Janssen (Group VI) stated that he reads recruitment and retention on the same line. Olswang said nothing in *Code* that requires or precludes any allocation for recruitment. Junker said that he agreed with Holt's characterization of the negotiations, and that the Executive Order is up to the President to decide what it means.

Haley said there's a whole paragraph discussion of retention in the Executive Order but nothing on recruitment. There are two magic numbers: 0 and 2 percent. Zero means nothing in all categories. The other is 2% for merit and 7.5% for promotion. He is afraid that if you tinker with the 2% then the inclusion of that figure means nothing. There is a psychological commitment to the numbers that are included.

The discussion concluded with no vote being taken on the second issue.

Class A Legislation: Regular Faculty Conferences. Volume Two, Part II, Chapter 24, Section 24-57.C&D. Second Consideration – Charles Haley, Chair, Faculty Council on Faculty Affairs

It was moved that the legislation be submitted to Senate. Neither the President nor the Code Committee suggested by President or Code Committee.

VOTE: Yes: 8 No: 0 Abstain: 1

Class A Legislation: Lecturer Titles and Duration of Appointments. Volume Two, Part II, Chapter 24, Sections 24-34 and 24-41. Second Consideration – Charles Haley, Chair, FCFA

It was moved that the legislation be submitted to Senate. Neither the President nor the Code Committee suggested by President or Code Committee.

VOTE: Yes: 9 No: 0

Class C Resolution on Use of Student Evaluations in Merit and Promotion Decisions. Jan Carline, Chair, Faculty Council on Instructional Quality

Silberstein moved that it be sent to Senate for approval and that the chair be directed to send copies of the final approved resolution to the Provost, Deans, Chairs and the Office of Educational Assessment. Carline explained the motion. The Council has been studying this for the last several months, and it has been under discussion in some form since 1992. Much of the discussion has focused on what information will be included as evidence of the

quality of teaching. Also, another question is whether the technical quality of student evaluations support the ways in which they are used. A third issue has been how public the information should be; this legislation does not deal with that issue although it is under consideration. The proposal attempts to outline best practices and describe how these materials should be used by decision makers.

Allen expressed concerns about the legislation, especially paragraph 3 regarding global assessments of teaching. He wanted to know the reasoning for the focus on global ratings. Carline explained that it came out of research in education where it is believed that these make sense to use in evaluative contexts while other information is more appropriate for personal diagnosis and improvement rather than evaluation.

Primomo asked about paragraph 7 of the Resolution that provides for an instructor to provide a response to the evaluations, raising questions that it is not sufficiently specific. How should it be done? In what form? In what materials should it be included? Also, she wondered whether something should be included about mentoring to call attention to other ways in which feedback is provided. Carline said that this draft was directed to numerical data. Haley asked whether senators will understand the necessity for this level of detail in a Class C resolution. This is very detailed and may not be appropriate in that form. Olswang explained that the Administration has several concerns along these lines. These are wonderful suggestions but it does not seem to be in the form of a Class C legislation. It seems directed to administrators, even though it is faculty who in the first instance make these decisions. Also, each provision raises some questions. They may not be internally consistent and there may be a conflict with *Code* language. Finally, multiple evaluations have cost implications. His concern is that these types of suggestions ordinarily are done as a memo to the appropriate administrators. Thus, there are concerns about its format and content.

Allen asked whether other units do direct solicitation of student comments as does the law school. Ordinarily the faculty do not have the opportunity to respond. This document would create a right to respond. Holt noted that this came from the speaker two years ago on the administrative workshop. The speaker said that faculty should not be pinned to one evaluation source. The substance, said Olswang, is solid but he continued to worry about the format as a Class C Resolution. Carline said that he thought the Council would be willing to make these recommendations for chairs and deans and available to faculty rather than being legislation. Olswang said that there are several ways this could be done. The Provost could send it out; also, it could be posted on website. Steve Buck, Chair, Faculty Council on Educational Outreach, had question about point 8 (validity of survey based on inclusion of 1/3 of enrolled students). Carline said this requirement came from literature. Buck raised questions about bias in the sample and suggested that the number be set higher than 1/3. Primomo said the references underlying each recommendation would be helpful.

ACTION: A consensus emerged that there is another way to make these recommendations known. Motion withdrawn.

Information

Haley said that voting rights for Part Time Lecturers is not going to go away; his group is still working on it.

Senate Agenda

Time for the election of group representatives was added as well as a change time.

Adjournment

The meeting was adjourned at 4:42 p.m.

SUBMITTED BY: Lea B. Vaughn, Secretary of the Faculty
TO BE APPROVED BY: Bradley Holt, Chair, Faculty Senate