Minutes of the Statutory Faculty Meeting Wednesday, May 19, 2010

CALL TO ORDER

President Richard Lariviere called the meeting of the Statutory Faculty to order at 4:05 p.m. in 150 Columbia.

APPROVAL OF THE MINUTES

Minutes of the May 6, 2009 Statutory Faculty meeting were approved as distributed.

INTRODUCTORY REMARKS FROM PRESIDENT LARIVIERE

The president reminded the faculty that the meeting had been called to address internal governance of the university. There is an opportunity when a new university president is appointed to re-examine the university’s internal governance structure. With the retirement of former president Dave Frohnmayer in June 2009, a faculty governance committee was appointed and has been working all year to review the current governance structure and offer suggested changes as deemed appropriate. The faculty governance document developed by the governance committee is the main item for discussion at this meeting. And with those comments, the president introduced the chair of the faculty governance committee, former senate president Paul van Donkelaar.

MOTION SF09/10-1 – TO APPROVE THE REVISED INTERNAL GOVERNANCE DOCUMENT

Mr. van Donkelaar, human physiology, began his introduction of the motion by first noting the other members of the Faculty Governance Committee: Dave Dusseau, Judith Eisen, Susan Gary, Gordon Nagayama Hall, Peter Keyes, Deb Olson, Scott Pratt, and Ann Tedards, with staffing of the committee provided by Dave Hubin and Marilyn Skalberg. He then provided several website displays of governance changes in the proposed governance document and highlighted the changes with an executive summary explaining the changes. The first change involves the definition of the Statutory Faculty (Section 2.2 [http://int-gov.uoregon.edu/node/33]); the next one regards reapportionment and distribution of membership (Section 4.3 [http://int-gov.uoregon.edu/node/35]); next is how the Statutory Faculty Assembly meetings should be called (Section 7.4 [http://int-gov.uoregon.edu/node/38]); another change is the creation of the Academic Council (Section 8.1.5 [http://int-gov.uoregon.edu/node/39]); and the last change regards the way a meeting is called, and if the president disagrees with votes, the procedure for a veto, (Section 9.3.5 [http://int-gov.uoregon.edu/node/40]).

The Executive Summary of the proposed changes is as follows:

The Internal Governance Committee was charged by President Lariviere and the Faculty Advisory Council with revising the current internal governance structure. The need for revisions arose as a result of a November 2008 Oregon Department of Justice opinion stating that the University’s system of government is not in compliance with state law. Under state law, “[t]he President and the professors constitute the faculty,” and the law delegates to that faculty “the immediate government and discipline” of the University (ORS 352.010). At the University of Oregon, however, the University Assembly and then the University Senate have been the governing authority within the University. Those bodies have been composed of officers of instruction, librarians, officers of administration, classified staff, and students – a group that the Department of Justice explained is broader than “the statutory faculty.” The Department of Justice concluded that “in the absence of a separate faculty body and a proper delegation from that body, the Assembly [and Senate] may not exercise the authority conveyed only on the faculty by ORS 352.010.” Based on this opinion, it was clear that the University needed to revise its internal governance so that the
“statutory faculty” have a mechanism to meet to be in compliance with state law. Thus, the responsibilities of the committee included defining the following:

- A proposed structure for the governing body of the statutory faculty
- Constitution of the membership
- Purview of the authorities of any proposed body to act and legislate as distinguished from making recommendations
- Authority and mechanisms to convene any proposed bodies
- Frequency of any regularly scheduled meetings
- Operating procedures including questions of quorum
- Presiding officer or officers
- Relationship of any proposed new bodies to existing structures

The committee has been meeting since September 2009 and has now produced a revised internal governance document that addresses all of these issues. Each is outlined below along with the relevant Section numbers from the document:

**A proposed structure for the governing body of the statutory faculty (Section 9)**
A Statutory Faculty Assembly mechanism is proposed which will provide the means by which the statutory faculty can exercise their obligation to provide oversight of faculty governance authority. Because the statutory faculty have delegated their authority to the University Senate, it is likely that Statutory Faculty Assembly meetings will be infrequent. However, should the need arise, the revised governance document outlines the circumstances and procedures under which such meetings may be convened.

**Constitution of the membership (Section 2.2)**
The constitution of the membership embodies the struggles associated with defining the “statutory faculty”. After much discussion, the committee settled on a definition that focused on the instructional responsibilities of the faculty. To this end, tenure-related officers of instruction, career non-tenure track instructional faculty, and tenured senior instructors met the inclusion criteria. It is important to note that UO community members who are not included in this definition nevertheless have explicit representation in the University Senate which will continue to be responsible for daily internal governance.

**Purview of the authorities of any proposed body to act and legislate as distinguished from making recommendations (Sections 1.3 & 7.2)**
The current enabling legislation contains a general statement (taken from ORS 352.010) which gives the president and the professors the responsibility for “the immediate government and discipline of” the institution. The committee felt that more explicit statements were required which clarified the legislative authority of the internal governance structures relative to the decisions/policies implemented by the President in directing the “practical affairs of the institution” (ORS 352.004). Towards this end, statements were included in the Sections noted which more clearly delineate that legislative authority shall be limited to issues related to the academic mission of the University, whereas resolutions are unlimited in their scope. In addition, we outline different mechanisms by which the President may respond to legislation as opposed to resolutions should s/he determine that they are not in the best interests of the University.

**Authority and mechanisms to convene any proposed bodies (Sections 7.4, 9.1 & 9.4)**
The revised internal governance document provides details of the 3 mechanisms by which Statutory Faculty Assembly meetings may be convened: at the request of the University President, by an affirmative vote of the University Senate, or by petition by a subset of Statutory Faculty members. The 1st mechanism would be triggered if the University President felt that University Senate legislation was not in the best interests of the University.

**Frequency of any regularly scheduled meetings**
As noted above, it is likely that Statutory Faculty Assembly meetings will be infrequent in nature.

**Operating procedures including questions of quorum (Section 9.3)**
The committee has set the quorum requirements for the Statutory Faculty Assembly meetings at 50% (i.e., ~350 statutory faculty) to ensure that meetings only occur when substantive issues are being addressed, and thus, likely to draw a large proportion of the group.

**Presiding officer or officers (Section 9.1.1)**
The University President will be the presiding officer at Statutory Faculty Assembly meetings. Together with the Senate President, Vice-President, and the Secretary of the Faculty, the University President shall compose the agenda.

**The relationship of any proposed new bodies to existing structures (Sections 1.4, 7.4, 8.1.5)**
In addition to the Statutory Faculty Assembly, the committee proposes the creation of an Academic Council composed of the chairs (or delegates) of the University committees with responsibilities covering academic issues. The charge of the Academic Council will be to provide institutional-level oversight and exchange of information related to academic issues and bring such issues before the Senate when appropriate. An additional change to the current structure is a reapportionment of the University Senate to better reflect the relative FTE totals across the Colleges and Schools, and two new Senate seats – one for a career non-tenure track research faculty representative, and another for academic units with FTE which don’t fall within the current listing of Colleges and Schools.

With this introduction, Mr. van Donkelaar put Motion SF09/10-1, with its Preamble, on the floor on behalf of the Faculty Governance Committee:

**Preamble:** The Internal Governance Committee was charged by President Lariviere and the Faculty Advisory Council with revising the current internal governance structure. The need for revisions arose as a result of a November 2008 Oregon Department of Justice opinion stating that the University’s system of government is not in compliance with state law. Under state law, “[t]he President and the professors constitute the faculty,” and the law delegates to that faculty “the immediate government and discipline” of the University (ORS 352.010). At the University of Oregon, however, the University Assembly and then the University Senate have been the governing authority within the University. Those bodies have been composed of officers of instruction, librarians, officers of administration, classified staff, and students – a group that the Department of Justice explained is broader than “the statutory faculty.” The Department of Justice concluded that “in the absence of a separate faculty body and a proper delegation from that body, the Assembly [and Senate] may not exercise the authority conveyed only on the faculty by ORS 352.010.” Based on this opinion, it was clear that the University needed to revise its internal governance so that the “statutory faculty” have a mechanism to meet to be in compliance with state law.

**Whereas,** the revised internal governance document addresses the problems identified in the Department of Justice opinion,

**Be it moved that,**

**The revised internal governance document be approved effective September 16, 2010.**

President Lariviere then opened the motion for discussion. Mr. John Bonine, law, began the debate by referring to section 9.3.1. of the Rules and Procedures section, and moved (seconded by Caroline Forell, law) to “leave blank” the section about requirements for a quorum:

**9.3.1 Blank**

Mr. Bonine explained that there were only about 60 or so faculty members in attendance at the meeting. He believed it would be very difficult to meet a 50% quorum requirement (i.e., approximately 350 faculty members). He was not certain what a reasonable quorum might be, thus it was momentarily left blank. Examples of quorum requirements at other institutions are 20% at Stanford University and 0% at the University of Washington, which
Dusseau proposed amendment 1 to include a separate University President section regarding meeting quorum requirements. "Blank" votes in favor of the amendment and 11 votes in opposition. With the debate winding down, President Lariviere put the motion to amend section 9.3.1 to a vote; there were 49 voting.

Bonine explained that he supported a mandatory open meeting. Pederson, linguistics, would require a 2/3 vote of this body (i.e., Statutory faculty in attendance at a statutory faculty meeting). Mr. Eric Pederson, linguistics, then questioned the notion of voting by mail without any required debate preceding it. Mr. Bonine explained that he supported a mandatory open meeting for such a debate prior to any mail or electronic voting.

With the debate winding down, President Lariviere put the motion to amend section 9.3.1 to a vote; there were 49 votes in favor of the amendment and 11 votes in opposition. The motion to amend section 9.3.1 by leaving the section regarding meeting quorum requirements “blank” passed. That section simply reads:

**9.3.1 Blank (future quorum requirements)**

President Lariviere then recognized Mr. Robert Kyr, music and dance, to present another motion to amend SF09/10-1 to include a separate University Senate seat for an Honors College representative. Mr. Kyr read the text of the proposed amendment, sponsored by himself and Daniel Rosenberg, Honors College, as follows (seconded by David Dusseau, business):

Preamble: The university recognizes the Clark Honors College as one of its academic colleges. The CHC has its own dean who reports directly to the provost; it is responsible for its budget, and it has 15 full-time tenure-related faculty whose appointments are solely in the College and 700 students who graduate with degrees from the College. The Academic Plan affirms the centrality of the Clark Honors College to the mission of the University of Oregon.

The tenure-related faculty in the Clark Honors College seeks to represent the interests of the College’s students and faculty in the senate. It is inappropriate to group the College with “other academic units” such as the Department of Physical Education and Recreation and the Teaching and Learning Center whose missions are fundamentally different from those of the university’s colleges. The CHC faculty shares the research, teaching, and service responsibilities of the faculties of the other colleges and schools with academic programs, and like them, it has distinct curricular and structural concerns that require representation in the senate. The fact that the CHC is a small college is among the principal reasons why it needs its own voice in the senate.

To govern effectively and fairly the new senate must balance the need to represent the concerns of individual faculty members and those of the university’s several colleges and schools. This is well recognized in the current plan through the distribution of seats among the other colleges (rather than through an at-large process). However, in relation to the Clark Honors College, the current distribution of seats serves only the former and not the latter aim. In so doing, it leaves the CHC with no effective senate voice.
The current proposal overlooks the structural need for representation of the Clark Honors College in the university senate. Providing the CHC with a single seat in an assembly of more than 50 would provide such representation while maintaining the principles of representation embodied in the rest of the proposal.

Whereas, membership in the University Senate is distributed among constituent groups including all of the academic colleges and schools of the University of Oregon that have faculties of their own, and

Whereas, representation of the needs and concerns of the Clark Honors College is essential both to the successful functioning of the College and that of the University,

Be it moved that, Sections 4.1, 4.2, 4.3, and 8.1.4 of the revised internal governance document be amended to the following:

4.1 The Senate shall consist of 51-54 Members distributed amongst the constituent groups as follows:

- 37 Statutory Faculty
- 2 Librarians
- 3 Officers of Administration
- 5 Students
- 3 Classified Staff
- 1 Career Non-Tenure Track Research Faculty

4.2 The Senate shall elect its President and Vice President from among the Statutory Faculty according to the Senate’s By Laws. The chair of the Academic Council (SECTION 8.1.5) shall also have a seat in the Senate. If these officers are not from among the 37 Statutory Faculty members of the Senate, the Statutory Faculty membership of the Senate may rise to 40, raising total membership as high as 54.

4.3 The thirty-seven Statutory Faculty senators shall represent each college/school as follows:

- College of Arts and Sciences (22):
  - 8 Humanities
  - 9 Natural Sciences
  - 5 Social Sciences

- Professional Schools and Colleges (13):
  - 4 Architecture and Allied Arts
  - 2 Business
  - 3 Education
  - 1 Journalism and Communication
  - 1 Law
  - 2 Music and Dance

- Clark Honors College (1)

- Other academic units (1) (e.g., Bend Program, Labor Education & Research Center, Museum of Natural and Cultural History, Physical Education & Recreation, Teaching & Learning Center)

8.1.4 No motions shall be debated or voted on in the absence of a majority of the Senate membership. The quorum requirement remains half plus one of the prescribed membership (51-54, see SECTION 4.1) even if some Senate positions are unfilled.

With the proposed amendment on the floor for debate, there was a question regarding faculty who have split appointments. It was clarified that the faculty member’s tenure home is considered the voting home as well. In the current system, the secretary explained, faculty with a 50-50 split appointment could choose, in writing, where the
voting home would be. Senior Vice Provost Russ Tomlin, academic affairs, confirmed that faculty do have appointments in the Honors College even though there may be academic affiliations in other locations. Mr. van Donkelaar added that it was never the governance committee’s intention to exclude the Honors College from representation; the question was whether that representative should be distinct from other academic units. Mr. Engelking asked what would happen if there were not enough Honors College faculty members interested in standing for election, or, if an Honors College senator resigned, would there be a replacement available. The secretary replied that currently, if there is a vacancy and there is not another eligible candidate waiting to fill the vacancy, a random selection is made; if the randomly selected faculty (up to 5 selections) do not agree to serve, then the seat remains vacant until the next faculty election cycle. Ms. Deborah Olson, education, asked where the Honors College faculty members currently vote. The secretary answered that they vote with the CAS division with which their academic discipline is most closely affiliated. Lastly, Mr. Robert Melnick, landscape architecture, asked why not every academic unit was listed under the Other Academic Units area. Mr. van Donkelaar replied that giving only examples of which units were include would provide greater flexibility in the future if new units needed to be added (or removed) without having to call a statutory meeting to “update” the constitution.

As the debate wound down, President Lariviere called for a vote on the motion to amend SF09/10-1 to revise the governance document sections 4.1, 4.2, 4.3, and 8.1.4 to reflect the addition of a separate seat in the University Senate for an Honors College representative. The motion to amend SF09/10-1 passed by voice vote.

Once again, the main motion SF09/10-1, as amended, was on the floor for debate. Mr. Bonine asked for clarification that in section 4.6 and 4.7 the intention was for the University Senate to be able to undertake reapportionment in the event of major changes in the distribution of the Statutory Faculty. Mr. van Donkelaar replied that indeed, that was the intent.

President Lariviere sensed the members were ready to vote on the main motion, as amended, and put the main motion to a vote. The SF09/10-1, as amended, passed unanimously by voice vote.

ADJOURNMENT

The president asked if there was any other business, and hearing none, he thanked those in attendance and Mr. van Donkelaar and the governance committee for their work, and adjourned the meeting at 4:53 p.m.

Gwen Steigelman
Secretary of the Faculty