

Minutes
Faculty Governance Meeting
April 4, 2012
3:00 PM Brewster B-104

1. The meeting was called to order at 3:10 PM.
2. The Faculty Chair seeks the return of the wood Faculty Senate office sign which was taken from outside the Senate office.
3. Dr. John Bradley, Chair of the Due Process committee and Professor, Department of Management Information Systems, College of Business, answered the committee's questions about revisions to the Appendix D due process procedures recommended by the Due Process committee.

Motion: change "Hearing Sub-Committee" to Due Process Panel."
Passed.

Motion: change "ten working days" to "fourteen calendar days." Passes.

From approximately 3:30 until 5:05 PM, the committee engaged in a discussion of the procedures governing the Due Process committee. There was considerable discussion of the role and purpose of the Due Process committee and of the liberty of members of the Due Process Panel" to ask questions of either side during a hearing. Reasons were given for and against changing the Due Process committee procedures to allow members of the Due Process Panel to ask any questions they wished. One Faculty Governance committee member wanted to prohibit Due Process Panel members from asking any questions. D currently allows Due Process Panel members to ask questions of clarification only, with the committee chair adjudicating whether or not a question is for clarification only. The university attorney and one member of the Faculty Governance committee argued for keeping this procedure. Two members of the Faculty Governance committee argued for no limitation on the questions that could be asked by members of the Due Process Panel. The argument for keeping the current procedure is that it is not the job of the Due Process Panel to do more than decide whether or not the university has made its case. The argument for open questioning is that this is necessary to decide if the university has made its case. The argument for no questioning is that this is how jury's work and the Due Process Panel is functioning like a jury. The differences in two sorts of actual cases were discussed at length (where the sanction was not dismissal and the defendant did not have an attorney vs. where the defendant did have an attorney). Much of the discussion can best be described as Professor Bradley, with the assistance of the university attorney, educating the members

of Faculty Governance about how the Due Process committee functioned in two actual situations and how this bears on the recommended changes being made by members of the Faculty Governance committee.

Professor Bradley indicated that at the beginning of a hearing a statement on procedure was read to all parties. The Faculty Governance committee recommended that some general procedural rules that are routinely followed and that do not constrain the committee unreasonably be derived from the statement being used and included in the Due Process committee's procedures stated in Appendix D.

The university attorney, Ms. Payne, recommended the following additional changes: Add a provision that parties will exchange lists of proposed witnesses (as the second sentence under "conduct of hearing"). "The parties will submit to each other a list of proposed witnesses no less than fourteen calendar days prior to the hearing."

After some discussion, Ms. Payne, agreed with Professor Bradley that it is acceptable to say that the committee needed to approve witnesses. The Faculty Chair noted that Appendix Y may contain this provision.

Ms. Payne, agreed with the suggestion that additional witnesses will not be allowed after then deadline unless approved by the Due Process Panel.

Ms. Payne, suggested that there be a requirement that about five days prior to a hearing parties be contacted to determine if there will be a request to allow additional witnesses. This should not be in Appendix D but should be in a training manual.

Ms. Payne, suggested the addition of examples at section #2, conduct of hearing, second sentence.

Ms. Payne, suggested that the chair determine seating arrangements so opposing parties not be seated next to one another.

Ms. Payne recommended that each party be allowed no more than five hours to present its case, excluding opening and closing statements. She noted that this is the standard for due process. One member of Faculty Governance maintained that this was inconsistent with section 603 or the UNC-GA code, which call for allowing several days. One member of Faculty Governance spoke against having any time limits.

Ms. Payne suggested that letters notifying defendants of the written specifications of the reasons for the hearing be as brief as possible since often defendants did not want a lot of detail in the notification letter.

The difference between the other committees and the Due Process committee was discussed at some length. It was again emphasized that the Due Process Committee decides if the university has made its case, not on the defendant's guilt or innocence regarding the specifications of the charges against the defendant. It was noted that the university has the burden of proof.

It was noted that a hearing can be held prior to the defendant's going to trial in civil court.

The Faculty Governance committee recommended to Professor Bradley that the Due Process committee revise their revised procedures document to address the concerns expressed by and the requests made by members of the Faculty Governance committee and the university attorney. Professor Bradley agreed to do this and bring a revised document back to the Faculty Governance committee in the fall of 2012.

The meeting was adjourned at 5:06 PM.