

Faculty Governance Committee Meeting

Minutes of August 31, 2011

Rawl Annex 142

Members Present: George Bailey, Christine Zoller, Mark Taggart, Catherine Rigsby, Edson Justiniano.

Ex-officio members present: Marilyn Sheerer, Lisa Clough, Marianna Walker, Mark Sprague.

Also present: Linda Ingalls, Provost's Office, Lori Lee, Faculty Senate Secretary.

The meeting was called to order by Dr. Walker at 3:00 PM.

Dr. Walker briefly reviewed the committee's activities during the previous year, business remaining from last year and business to be completed during 2011-2012.

Dr. Walker called for nominations for committee chair. Dr. Justiniano was nominated by Dr. Rigsby. Dr. Bailey was nominated by Dr. Sprague. Dr. Bailey was elected chair.

Dr. Bailey called for nominations for vice-chair. Dr. Zoller was nominated for and elected vice chair. The election of a secretary was postponed.

Ms. Payne, university attorney, brought to the floor a revised research integrity policy (Section VI of Part VII of the Faculty Manual). Ms. Payne noted that the existing Faculty Manual policy was revised to bring it into conformance with the University of North Carolina Policy On Research Conduct (UNC Policy Manual 500.7, adopted 08/11/2006).

The policy under consideration is titled "Policy and Procedures on Ethics in Research and Creative Activities." Throughout the text of the revised policy, the expression "Academic Misconduct" is replaced by "Research Misconduct."

Dr. Justiniano asked where creative activity is addressed in the text of the revised policy (in as much as "Academic Misconduct" includes creative activities whereas it is not obvious that "Research Misconduct" does this.) There was extensive discussion of this point and of whether to add "Creative Activity" in relevant places in the text. Dr. Payne stated that while the current update increased the policy's conformance to UNC policy, additional changes will be needed in the future. The committee consented to revisit this issue at a later date.

Ms. Payne noted that the standard of evidence in the revised document is stated in conformance with the UNC policy as "a preponderance of evidence," which is defined in the revised policy as "proof by information that, compared with that opposing it, leads to the conclusion that the fact at issue is more probably true than not." Ms. Payne pointed out that this allows the possibility that a judgment of institutional misconduct occur yet there be no imposition of sanctions. This is because the imposition of serious sanctions can occur only after the respondent is given the opportunity to appeal through a Due Process Committee hearing, and the standard of evidence used by the Due Process Committee is higher than that of the research integrity policy, namely, that the evidence has to meet the standard of being clear and convincing. In the case of sanctions that are

not serious enough to warrant an appeal to the Due Process Committee, an appeal can be made to the Faculty Grievance Committee.

Dr. Sprague expressed opposition to the use of "preponderance of evidence" rather than "clear and convincing" in the revised policy.

Dr. Justiniano asked if the National Science Foundation uses "preponderance of evidence."

Dr. Clough, representing vice chancellor Mageean, answered yes.

Dr. Justiniano asked about the confidentiality of the information.

Mw. Payne said that someone's name is cleared if they are found not responsible.

A discussion ensued regarding the sequestering of research material during an investigation. Dr. Justiniano said this goes against the principle of presuming people innocent. Ms. Payne disagreed, saying that it was like an audit.

Ms. Payne noted the importance of having someone impartial making judgments, not someone over you in the chain of command.

It was noted that 500.7 of the UNC Policy Manual contains the language being added to ECU policy. It was suggested that the language used in the UNC policy comes from Federal policy documents, most likely a publication of the Office of Research Integrity. Mr. Chinn is looking at the Federal regulations to find out if the UNC language comes from these regulations, including National Science Foundation regulations.

Dr. Mariana observed that the revised document already was written up as an ECU Policy Manual PRR, that the policy in the Faculty manual needs to link to the Federal regulations, that we agree that we need this policy in the Faculty Manual and that we do need to link our policy to Federal policies.

Dr. Rigsby moved that the committee approve the changes recommended by the university attorney and send the document to the Faculty Senate for consideration at its September 6th, 2011 meeting. The motion passed.

The committee discussed the need to delete the entirety of Subsection VI Guidelines for Organizing into Code Units, from Part II, University Organization, of the Faculty Manual. It was decided to hold off on acting on this until approval of the proposed new section to the Faculty manual relating to Unit Codes of Operation. The current draft contains some unintended omissions, such as omitting sending new or revised unit codes to the Unit Code Screening Committee. Dr. Justiniano will prepare a revised draft to address problems in the current draft. It was agreed that this will be on the agenda for the next committee meeting in two weeks.

The committee agreed to postpone discussion of the document entitled "Faculty Involvement In Selection And Evaluation Of Administrators" until its next meeting.

It was noted that item "e" in the Faculty Governance Committee Charge, "the committee considers matters relating to unit re-evaluations" was unclear to the current members of the committee. Discussion resulted in agreement that this probably referred to unit self-studies that no longer take place, being replaced by program review, administrative review and program self-studies.

Dr. Sprague moved that the committee recommend to the Committee on Committees the removal of "e" from the Faculty Governance committee's charge. The motion passed.

Dr. Bailey noted that committee assignments to the tasks facing the committee will be updated via email.

Dr. Walker noted that additional faculty members will be asked to assist the committee members in their work to review and revise Faculty Manual policies.

Dr. Rigsby noted that the committee needed to address issues involving the notion of providing the administration with "formal advice." Dr. Walker agreed to keep this on the list of committee tasks.

Ms. Ingalls underscored the importance of dealing with Part II., University Organization, on the list of business carried over from 2010-2011.

Dr. Rigsby emphasized the urgency of dealing with consideration of a professional conduct policy and its implications. It is urgent that a draft policy be created by October 2011. A distinction was drawn between having this policy and making other changes in the Faculty Manual that refer to a professional conduct policy. It was noted that some campuses have a policy but do not make reference to it in their annual evaluation policies or in their tenure or promotion policies. Dr. Rigsby noted that an important consideration was whether to change other Faculty Manual policies should ECU adopt a professional conduct policy. Dr. Rigsby observed that a professional conduct policy could be treated as we currently treat the research integrity policy – we have the policy but it is not mentioned in our annual evaluation, promotion or tenure policies.

Provost Sheerer commented that some unit administrators currently address faculty conduct under the "other" section of the annual evaluation form.

It was noted that the lack of a professional conduct policy may contribute to matters of conduct being dealt with differently in different units.

Dr. Justiniano, by way of raising a concern about the potential for administrative abuse of a professional conduct policy, observed that unit administrators are not God.

The meeting was adjourned at 4:45 PM.

Respectfully Submitted,

George Bailey

