

EAST CAROLINA UNIVERSITY
2021-2022 Faculty Governance Committee

MINUTES OF MEETING DATE: November 10, 2021

ATTENDANCE

PRESIDING: David Wilson-Okamura

REGULAR MEMBERS (_X_ IN ATTENDANCE):

Stacey Altman _X_, Cynthia Deale _X_, Edwin Gomez _[absent]_,

Jay Newhard _X_, Anne Ticknor _X_, Mark Bowler _x_, Susie Harris _X_

EX-OFFICIO MEMBERS (_X_ IN ATTENDANCE) (with vote):

Crystal Chambers _X_, Wendy Sergeant _X_, Mary Farwell _X_, Purificación Martínez _X_,

Dave Thomson _X_, Lisa Hudson, __X__

I. Call to Order, 3:00 pm

- Puri Martinez (Puri M) introduced Susie Harris, or new member of the Faculty Governance Committee.

II. Minutes

- The minutes of the October 27, 2021, meeting were approved.

III. Business of the Day

A. Continuing Business

1. Formal advice to chancellor on fixed-term contract length recommendations in the Faculty Manual

- Puri Martínez (Puri M.) and David Wilson-Okamura (David W-O) reported on their Nov. 4 meeting with the Academic Council.
- David W-O provided background information on this item in the agenda. In October, this committee forwarded a draft of its advice to the chancellor for comment from the Academic Council. (See "Original FGC recommendation," attached to the email David W-O sent to the committee.) The Academic Council has proposed something a little different. (See the "Academic Council recommendation attached to David W-O's email.)
- The committee's original recommendation read as follows: "an appointment of three to five years should be considered" for each rank. The Academic Council's proposed the

following wording: "an appointment of up to five years should be considered" for each rank.

- As noted, Puri M and David W-O met with Mitchelson and Hayes and presented the document to them that proposed that 3-to-5 year contracts for fixed term “should” be considered (not “may” be considered. They told us that Academic Council agreed with “should” over the hesitations of legal counsel. Contracts up to three years are to be considered. Provost Hayes was up for considering contracts up to 5 years. Information circulated last week about what our text would look like, but it looked the interim provost can do it on its own. However, they are representing Faculty Governance (FG) and they need to know our thoughts on the proposal.
- Crystal Chambers (Crystal C) stated that this was good negotiation on your part—and thanked Puri M. and David W-O for bringing back to the committee.
- Crystal C. moved that we send our recommendation to chancellor
- Puri M. seconded the motion
- Jay Newhard (Jay N.)—noted that when he read proposal that he thought that “should” is better than “may.” However, he noted that he expects little change to happen and actually thinks that we can do more. He noted that sometimes we need to compromise, but on principled matter that is not what a compromise looks like. He observed that it is about the right balance so neither side has to forfeit anything. He stated that certain conditions are met, and three conditions are listed. In the 2017 Faculty Manual, 6-7 conditions are listed, and some had more to do with the candidate and once those roles of professional judgement are met then he thinks it strikes the right balance—if the conditions are met.
- Jay N. reviewed the three conditions
 - 1-availability of funding
 - 2 Ongoing dept/unit need
 - 3 professional achievement
- David W-O asked what people thought of those conditions.
- David Thomson (David T.) —asked, so if you meet all criteria, then the appointment must be given? Am I understanding correctly?
- Jay N. responded that the contract should be offered up to the candidate to accept and subject to the judgement of the personnel committee.

- Puri M. told the committee that she is working on part 9 and suggested that Jay's suggestions be incorporated in that.
- Mark Bowler (Mark B.) noted that this was confusing as he did not think that personnel committees approved contracts. He thought committees were given contracts.
- David W-O noted that —no contract is offered without approval of the personnel committee authorizing it, thus, making the personnel committee an essential part of process without being the contracting body.
- Lisa Hudson (Lisa H) noted that the personnel committee cannot be the contractual body
- David W-O observed that it could be written in a way that that personnel committees are part of the process and could say that multi-year contracts cannot be approved without approval of the personnel committee, as the chair/dean/provost cannot hire person without endorsement of personnel committee.
- Stacey Altman (Stacey A.) asked if that has that ever happened?
- Puri M noted that she knows of incidences where the decision on a multi-year contract has made by a chair without consulting the personnel committee.
- David W-O came back to Jay N.'s suggestions and asked if the committee wanted to put that forward immediately in our formal advice to the chancellor or incorporate the idea in revisions to part 9 that we will be working on in the spring? He clarified his question by noting that the Faculty Governance Committee made recommendations about fixed term faculty, The Faculty Senate approved them, the Chancellor approved them, then it was sent to Legal Counsel, and they were sent back to us with changes recommended by Legal Counsel.
- David W-O noted that if changes are required, we usually go back to originating committee. The next step is to give formal advice to the chancellor . It does not go back to faculty senate, and he noted that the suggestions from Jay go beyond what we have recommended. He suggested that perhaps we hold off until spring when we will send a larger packet of changes. If we propose additional changes now, it might be more difficult to negotiate with Academic Council in the future. The motion on floor is the items without Jay's recommendations.

- Jay N. noted that he did not mean to bypass faculty senate and that if it is wiser to wait that he is okay with that.
- Puri M observed that she thought we could just do that in part 9 and we add to the language that they propose. She said that she will add “a multi-year contract of up to 5 years,” making it clear that it is a multi-year contract.
- David W-O worried that Academic Council would not go for it and wanted to do something rather than nothing
- Puri M stated that she understood his concern about wanting to do something rather than nothing, as it is nudging the university in the right direction, and it is much better than what we had.
- Linda Ingalls (Linda I) asked: In going back to adding multi-year in wording are you thinking only of the higher-level titles? And she wondered if this could be a problem for some units, noting that teaching instructor and master teaching instructor needs to have the flexibility to be less than 3 and certainly less than 5 years. She observed that some units want to bring in some new people, but do not want to recommend a 3- or 5-year contract initially, but if they see a person is meeting expectations, then they might make the change. She recommended that, if at all possible, we should leave some flexibility in the lower-level titles as flexibility would be useful.
- Puri M that stated that she was withdrawing the additional wording for “multi-year” contracts.
- David W-O noted that he thought that what we had accomplished was that the multi-year contract “should be considered” rather than “may be considered.” Now, there will be some consideration of a multi-year contract and that was not a requirement before. So now they cannot just ignore it and not consider it.
- Jay N asked —how would that be enforced?
- David W-O—stated that he thought that realistically it is enforced by a legal threat. He noted that lawyers did not want the word “should.” There is now an expectation that did not exist before.
- David T observed that in part 9 in the 2017 Faculty Manual that it says something like—whenever possible multi-year contracts will be offered....”

- David W-O —noted that David T was right, but it has not been considered.
- David T stated that he did not know how it can be enforced.
- Puri M stated to David T that he was correct, but we have tied the multi-year contract with advancement in title and you could have a situation where a person with a lower title received a multi-year contract and a higher title did not, so we are saying the two things should be tied/connected.
- David T noted that in some ways more specific language is needed than what we currently have. For example, as soon as you offer advancement in title, it is an expectation or that you will be considered for a multi-year contract.
- David-WO noted that we have created some trigger points to consider the multi-year contract.
- Puri M noted that we have not had discussion about this last semester, but last year the administration was extraordinarily supportive.
- Jay N noted that this change is more effective for units and if giving 5-year contracts alleviates paperwork, then it is more efficient.
- David W-O called for a vote.
- All were in favor
- The motion carried
- David W-O stated that he will work with Rachel Baker to send the committee's formal advice to the chancellor.

2. Report on Nov. 4 meeting with George Bailey and Provost Hayes about voting interpretation (Martínez and Wilson-Okamura).

- Puri M. told the committee about their meeting with George Bailey and Grant Hayes. George Bailey reiterated his arguments that are in line with those that Jay N shared with us. George Bailey wanted to express his thought process to us in terms of the implications of the interpretation. She noted that interpretation might not be the right word, but it is the only way that it can happen quickly. If approved by the Faculty Senate,

this interpretation will stand until the Faculty Manual is revised. She told us that it was a cordial meeting where opinions were exchanged, and it was a good conversation. She told us that Wendy Sergeant (Wendy S) was also there.

- Wendy S said that Puri M summarized it well, but cautioned all to just be aware of the interpretation language.
- David W-O said that he took away from the meeting that what we think is clear in the immediate context, does not convey the intention and said that we need to try and be conscious of that so that we can clarify intentions as well as rules.
- Wendy S... noted that a comprehensive edit is needed, and we need to make sure an edit follows through from one section to another.

3. Report from Records Retention subcommittee (Altman, Hudson, Sergeant)

- Stacey A. shared the records retention policy and the proposed changes to it on the screen.
- She noted that the current version mixes reference to the PAD and grievance even in the context of the definition of the personnel file and she wants to make sure that it just refers to the personnel file.
- She noted that the title of section VIII is “personnel files” and proposed taking off the “s”
- Stacey A went line by line through the document, noting that the subcommittee kept the first paragraph and moved a section up. She discussed the timing. As in the time of storage and transfer.
- David W-O noted that there may be several personnel files, not necessarily in one place and noted that we do not have a comprehensive list of every item, but do have a fairly exhaustive list of locations of items. Therefore, he suggested leaving the “s” on “personnel files.”
- Wendy S stated that she thinks it is up to us.
- Linda I observed that every employee has one personnel file. It may have documents in different locations, but if court asks to see the personnel file, we will have to produce every item to fit that definition; it is technically one file. We have had to gather records from all sources, including having ITS run emails. She agreed that we can take the “s” off

of the word “files” in the title. She noted that then in part A in the first paragraph the changes are pretty benign (referring to the part mentioning, “Timing...”). She thought it was fine as it is now. However, Part B has some changes to make it accurate.

- David W-O asked- if the “data” from student opinion surveys(SOIS) is quantitative data or comments?
- Crystal C. stated that SOIS data are confidential, but not anonymous and recommended revised wording to indicate the confidentiality. She noted that in a PAD the individual keeps comments in then sorting has to take place.
- Some work went into changing the wording in the document (see the updated document) and it was noted that a faculty member can submit qualitative comments.
- Mark B noted that he has heard of chairs keeping secret comment files. He suggested not keeping files secret from the faculty member.
- Next, there was lots of discussion about items that could become part of the personnel file.
- Puri M noted that we do not want to remove information about not having secret files.
- Linda I agreed that “thou shall not keep secret records, “ except for the reference letters obtained prior to employment.
- David W-O suggested using the wording: “except for materials excluded by statute” (noting that it is currently GS 126, but may be others, too).
- Linda I—noted that the employee has a “statutory right” to see their personnel file.
- Next there was lots of discussion about “secret “ files.
- Jay N. asked a question about content and whether an item would be considered part of it.
- Puri M noted that the faculty member has not been advised that an item is in her personnel file than they cannot respond, and it is secret.

- Linda I said that she thinks that we will have an issue with the Office of Equity and Diversity (OED) when they are investigating issues, so we want to be sure not to violate any OED issues or federal laws.
- David W-O—asked the subcommittee to check with OED and get their recommendation for wording.
- David T. noted that what constitutes a secret file is going to be a question. For example, if a chair investigates—at what point do they have to disclose the information?
- Mark B. stated that there is a very strict timeline.
- A. Stacey said the subcommittee will check with OED.
- Linda I stated that she did not think there would be an issue with removing the part about the PAD. She noted that we do not want fossils or little stubs in documents when we revise things and then have little mentions in other places.
- Stacey A removed the wording about the PAD. She noted that the part about special content will be checked with the OED & UAC to see if it can be removed.
- Stacey A continued to go through the document and for Part C they put location and access into part C.
- David W-O stated that he would be inclined to link it to a document not in the Faculty Manual, which is laborious to revise.
- There was a lot of discussion about the list of items.
- Linda I noted that the list was not meant to be exhaustive, it provided possibilities about where items were likely to be maintained.
- David T suggested that we put “examples of offices where files are located...”
- Mark B asked ,”Is the list by academic affairs not all-inclusive?”
- Linda I noted that she could not speak to that specifically.
- Wendy S stated that the list was posted on academic affairs website, but did not know if it is their responsibility.
- Mark B noted that he likes the use of “examples.”

- Stacey A observed that she thought that the notion of the personnel file term seems antiquated.
- Lisa H stated that she thinks that the majority of what people are interested in (related to employment) are located in Wendy S's office and Lisa H's offices. For example, vaccination cards.
- Wendy S noted that employees could come to the division office or unit code office or department to produce what faculty need or are interested in obtaining.
- Stacey A noted that the subcommittee could go back and work on part C a bit.
- Susie Harris said that she thinks one place would be good for the list.
- David W-O asked, "where should the list be?"
- Discussion continued about where the information should be located.
- Puri M stated that she likes the faculty manual to be a repository for all of the information. It makes it cumbersome, but comprehensive.
- Stacey A said that the subcommittee will wordsmith it. Then she continued to share the document and the Faculty Governance Committee continued to work on the document below the list of examples.
- Linda I reminded the committee that she takes out letter of references for faculty that were obtained prior to their appointment when they ask to see their file.
- Wendy observed that we are not going to release our personnel files as we will not allow the files to leave the division office.
- David W-O suggested the use of the word "accessing" files.
- The committee continued to go through parts C, D, and E to clarify the wording and improve the consistency.
- David W-O and Puri M. thanked the sub-committee

4. The committee did not get to the report from the Personnel Policies subcommittee (Chambers, Newhard). (Faculty Manual, part XII).

B. The Committee did not get to New Business during the meeting.

IV. Adjournment

- The meeting adjourned at 5:00 p.m.

- The minutes are respectfully submitted by Cynthia S. Deale