

EAST CAROLINA UNIVERSITY
2020-2021 Faculty Governance Committee

The February 24 was cancelled. The next meeting of the 2020-2021 Faculty Governance Committee will be held on **March 24**, at 3:00pm via video conference.

MINUTES OF MEETING DATE: Mar. 10, 2021

PRESIDING: Jeff Popke

REGULAR MEMBERS (X IN ATTENDANCE):

Stacey Altman X, Cynthia Deale X, Michael Duffy X, Edwin Gomez X, Jay Newhard X, Jeff Popke X, Anne Ticknor X, David Wilson-Okamura X

EX-OFFICIO MEMBERS (X IN ATTENDANCE):

Crystal Chambers, Rep. of Chancellor X; Grant Hayes, Acting Provost / VCAA X; Purificación Martínez, Chair of the Faculty X; Aundrea Oliver, Rep of Faculty Senate X; Mark Stacy, VCHS ; Mike Van Scott, Interim VCREDE X

OTHERS IN ATTENDANCE: Rachel Baker; Linda Ingalls for Office of the Provost; Lisa Hudson, Associate VCHS and Human Resources Administration Director; Wendy Sergeant, Assistant Vice Chancellor for Personnel and Resource Administration; Paul Zigas, Interim University Counsel and VC for Legal Affairs

I. Call to Order, 3:00 pm

II. Minutes

The minutes of Feb. 10, 2021 were approved.

III. New Business

Recent changes to the language of fixed-term (FT) contracts that allow for early termination without due process.

Background: in January, interim chancellor Ron Mitchelson announced to the faculty senate that the duration of newly-issued FT contracts would be contingent on program needs and financial conditions. If needs or conditions change, ECU will be able to abridge the term of the contracts without due process.

Zigas defended the new contingency language and outlined its history.

A new directive from the UNC Board of Governors broadens the conditions under which FT contracts may be abridged to include “continued availability of funding from any source, ...enrollment levels, or any other contingency established by the institution, in which case the appointment letter must state such contingency.”

ECU's implementation of this directive enables the institution to manage its financial risk by limiting its FT obligations to only what is needed.

The new contracts are not, as some have claimed, tantamount to "at-will employment," because the contingencies for abridgement are defined in the contract.

UNC Greensboro already had similar contingencies in its FT contracts. ECU's new contract language aligns closely with that recently adopted by UNC Charlotte.

Hudson provided the committee with sample contract language from Health Sciences. The committee asked to be provided with samples from Academic Affairs.

Chambers asked: where does this move fit into the university's financial strategy, as determined by the fiscal sustainability committee?

Hayes responded: terminations aren't imminent, but the language is there now if we need it.

Newhard asked: is reassignment instead of termination a policy, or merely an informal custom?

Hayes and Zigas: the contingency of financial exigency was always understood; what's new is that we have to spell the contingencies out in the contract.

Popke asked: Why is this happening now? The state's financial condition is not as dire as it seemed six months ago.

Zigas responded: the pandemic isn't over yet. More generally: these changes allow ECU to manage uncertainty over the long term.

Martínez: Brody School of Medicine (BSOM) says this new language will make it hard to recruit.

Zigas was skeptical. BSOM employees who prefer to work for Vidant can do so if they wish.

Hudson: the deans in Health Sciences are, in fact, extremely concerned about recruitment.

Zigas: most of our contracts with Vidant have a 30-day termination clause. Without this new contract language, ECU is still on the hook for the remainder of the contract's term. The university has to make good business judgments, which includes controlling your employment costs.

Wilson-Okamura: But these new contracts also apply to FT instructors in Academic Affairs. Some of these instructors, our colleagues, were already living paycheck-to-paycheck. During the pandemic, ECU called on its faculty to give, give, and give some more. Is this really how ECU is going to reward that giving, by offering contracts that can be abridged in the middle of an academic year?

Hayes: we've made it clear that we would never terminate someone in the middle of an academic year.

Gomez: that is not explicit in the contract, though.

IV. Continuing Business

Proposed rewriting of the grade appeal policy..

Altman spoke on behalf of the grade appeal subcommittee, which also includes Oliver and associate dean Derek Maher: the purpose of this overhaul is to speed up the whole process. The burden of proof would still be on the student, but instructors who aren't paid during the summer could now hand over their part in the process to the department chair or the chair's designee.

Chambers: assigning a grade is part of academic freedom. Should instructors have to do unpaid work during the summer in order to exercise that freedom?

Altman: but the student also has a right to receive an accurate grade in a timely manner. Many of these appeals can be handled quickly. Is a few hours too much to ask?

Oliver: this new policy gives us another option, so that instructors aren't on the hook during the summer.

Gomez: we ought to say that faculty members can start the process and then hand it off to the chair if it isn't resolved quickly. As a chair, I think faculty members should resolve these things themselves. A few hours is normal, but one recent appeal took more than a month and a half to resolve.

Wilson-Okamura worried that students would drag out the appeal process so that instructors would give up and turn over responsibility to someone who was less invested in the course.

Sergeant noted: there *are* some chairs on 9-month contracts.

Altman: our subcommittee will need to revise accordingly.

Duffy asked: if the chair takes over the process and makes a decision, does the new policy require the chair to communicate that decision to the faculty member?

Altman and Gomez: no. The chair is the one doing the work at this point.

Altman added: sometimes instructors fail to respond altogether.

Chambers: on the other hand, I had a student who requested a recalculation more than a year out, after the Blackboard grade book became unavailable.

Altman and Oliver: this new policy requires students to appeal much sooner.

Wilson-Okamura: the proposed policy assumes the use of an electronic gradebook. That requirement won't be onerous for some, but it's an issue that should be discussed separately.

Popke: this policy won't create that requirement on its own; instead of "electronic gradebook," we could just say "gradebook." Wilson-Okamura seconded that suggestion.

Altman noted: even if we don't require an electronic gradebook, requiring students to submit their appeal through an electronic form would ensure that we get all of the necessary information.

Chambers observed: as written, the new policy seems to put the burden on the instructor to defend the grade; instead, the burden should be on the student to prove there was an error.

Chambers asked: with many faculty members being on 9-month contracts, would appeals committees formed over the summer end up being mainly administrators?

Oliver: we left the language open so that colleges can tailor the committees to their staff.

Wilson-Okamura: even so, the new policy would push faculty members either to surrender their academic freedom or to work when they aren't paid.

Martínez: we are trying to balance faculty rights and the right of students for a timely resolution.

Altman: is this worse than what we're currently doing? This policy doesn't seem to impose anything new. We could advise colleges that committees should not be administrator-heavy.

Martínez suggested reverting to the existing language: "This committee shall include three faculty members from the college: one selected by the student, one selected by the instructor of record, and one appointed by the college dean. A majority shall prevail in the committee."

Popke: should we specify that this be a committee made up of faculty?

Altman: but that will require something we're trying to avoid, which is more faculty members doing unpaid work during the summer.

Oliver asked: what if students nominate a faculty member who is not available during the summer?

Gomez: about half of my faculty are willing to do summer work; and I usually have enough faculty members who *are* paid in the summer to form an appeals committee. At some level, we just need to tell faculty members "This is how it is."

Chambers parried: most instructors haven't gotten a substantial raise in ten years.

Chambers returned to the issue of timeliness: academia has very few genuine emergencies.

Altman: but sometimes there is an issue of course sequencing, interrupted internships, delayed graduations.

Altman and Oliver added: a policy needs to cover emergencies and messy situations.

Wilson-Okamura: how many urgent cases do we have annually? Are there enough to warrant a new policy?

Chambers: in Education, appeals are rare.

Altman: we understand from Maher that it's a major issue in Arts and Sciences.

Chambers: in that case, maybe the solution is for the dean to address the problem directly with instructors.

Oliver: the new policy also clarifies what's required of students and liberates faculty members who don't want to deal with a protracted process.

Altman clarified: the chair decides an appeal only when the instructor abdicates, either by choice or inaction.

Altman: at one point, the subcommittee wondered if we should just skip the chair and go straight to a college committee. But as Duffy pointed out, sometimes these things can be resolved with just some communication.

A straw poll showed that most members of the committee were in favor of the proposal because it speeds up the timeline (which is fair to students) and specifies the criteria for appeal (which is fair to instructors).

Popke: at our next meeting we'll discuss a revised text of this proposal, together with a proposal to revise the faculty by-laws.

V. Adjourned at 5 pm.

Respectfully submitted, David Wilson-Okamura