

EAST CAROLINA UNIVERSITY
2021-2022 Faculty Governance Committee

MINUTES OF MEETING DATE: Wednesday, April 13, 2022, 3-5 p.m.

ATTENDANCE

PRESIDING: David Wilson-Okamura

REGULAR MEMBERS (_X_ IN ATTENDANCE):

Stacey Altman _X_, Cynthia Deale _X_, Edwin Gomez _X_, Jay Newhard __, Anne Ticknor _X_, Mark Bowler__X_, Susie Harris _X_

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

Crystal Chambers___, Wendy Sergeant___, Mary Farwell___, Purificación Martínez_X_, Dave Thomson___, Lisa Hudson,__X_

Guests in attendance: Linda Ingalls, Rachel Baker

Call to Order, 3:00 pm

1. Approved UPDATED minutes of the Feb. 23, 2022, meeting

2. Report on fixed-term contract language negotiation with Academic Council (Martinez, Wilson-Okamura).

- David Wilson-Okamura (Wilson-Okamura) noted that Puri Martinez (Martinez) has done a lot, and nothing could be done without her energy and professionalism
- Martinez noted that the College of Education just voted in 5 5-year contracts, so that multiple year contract item has had immediate consequences.
- NOTE: Wilson-Okamura asked if we could move #7 to number 3 (Academic Computing PRR) and the committee agreed.
- Martinez noted that problem is that according to Cynthia Bellacera there are problems with interim PRRs when we go through reaccreditation. The academic policy is from 2018 and we could probably use it again if we are not ready to present academic advice at the April faculty senate meeting. We have two choices. Take a look at it seriously or quickly and she is okay with only putting it with the Distance Education and Learning Technology Committee (DELTC).
- Wilson-Okamura noted—There are three items that are smaller: academic, revisions to the grievance procedure, and then fixed term (what was originally #3).
- Linda Ingalls (Ingalls) noted that there are some things about the records retention policy. Then we could come back and work on the big package.

3. Academic Computing Interim PRR.

(See "DELTC Feedback re Academic Computer Use - 04042022")

(Please see the revisions on the document shared with the committee by Wilson-Okamura)

- Wilson-Okamura noted that Mark Bowler (bowler) marked it up yesterday and the DELTC gave it a serious look.
- Bowler said the policy is pretty standard. He had some additions that he thought were important. He would like IT to consolidate the rules all into one document. He said section 2.5 stood out to him. He said the term “must be accurate...” is a pretty high bar and he modified that term. He also noted that it does not make sense to be able to correctly identify the receiver of an email. He said that 4.1 was an issue, for as he noted, as citizens are we not allowed to go on the Internet? He also suggested editing 4.2 to make sense. Bowler noted the importance of the Oxford comma.
- Wilson-Okamura said one item that was objected to was the prohibition of games.
- Bowler agreed as he has publications about games and one of their largest grants is about video games and their use with children.
- Wilson-Okamura questioned about the use of software not approved by ITCS, such as software you learned about at a conference. He said that ITCS is worried about ransomware. He is worried about an overly broad prohibition getting in the policy and then not being able to get it out.
- Bowler noted that there are two models: 1) Everything is allowed, and except what ITCS restricts, 2) Nothing is allowed, except what they permit. He said that this (#1) is part of the openness of academia.
- Anne Ticknor said that they were wondering who leaked the article about all of the information about Hannah Nicole Jones. She is curious about the privacy part. For example, are there certain things that they look for all the time?
- Bowler does not know if we can expect to protect that level of privacy in NC.
- Ticknor—do they send notifications?
- Bowler said that they emailed him when they were looking for social security numbers (there were no Social Security numbers, they were data).
- Wilson-Okamura asked Martinez--How do we respond? Do we say we conditionally recommend the document with these changes?
- Martinez said we recommend changes, to provide formal faculty advice. She gave an example of when revisions were not accepted, and they worked further to make the revisions acceptable.
- Wilson-Okamura asked if there were any further changes.
- A motion was made, seconded, and carried to make the recommended changes.

4. Grievance procedure, revisions requested by chancellor.

(See the "Faculty Senate Resolutions February 2022 Memo" and "FSR 22-14 - Faculty Grievance Procedures and Appeals of Non-Conferral of Early Tenure (MIK review)."

- Wilson-Okamura provided the following in the agenda-Background:
About five years ago, faculty chair John Stiller proposed a large-scale revision of the faculty grievance procedure. The revision consolidated several grievance panels into one

pool that would receive training and assigned as needed. One-page summary here: <https://www.ecu.edu/cs-acad/fsonline/customcf/committee/fg/2018/KeyRevisionsToFacultyAppellateStructure.pdf>. The revision was approved by the faculty senate in October 2019. Further revisions requested by OED were approved in Feb. 2022.

- Recent:

On Apr. 4, faculty chair Puri Martinez requested a meeting to discuss concerns raised by the Academic Council and Office of University Counsel (OUC). (See attachments.) General Counsel Paul Zigas replied on behalf of OUC, "We respectfully decline." When asked where we should direct questions, he answered, "The Academic Council."

- Wilson-Okamura had the committee look at the Word document to see what was suggested. He noted that the big question is, "What is grievable?" We noted that we also might need to define frivolous; plus, "commonly shared understanding might be too broad. He suggested additions, such as "Standards..." (see the revised document).
- Martinez did not have an issue with removing the word "frivolous." She noted that the appellate committee always decides if the issue has merit. Therefore, it is not necessary to have the wording.
- Bowler asked if frivolous is the opposite of meritorious? Frivolous could maybe be repetitious. He wants to make sure that frivolous and having merit are on the same spectrum.
- Martinez said that she does not personally understand the term "frivolous."
- Stacey Altman (Altman) agreed with Martinez.
- Martinez moved to remove "frivolous complaints."
- Wilson-Okamura asked if anyone think we need the word "frivolous" in the document. He asked Ingalls.
- Ingalls thinks that we have the ombudsperson and that provides an avenue to investigate if something is "frivolous." She noted that there is a legal definition of "frivolous."
- Gomez provided the following definition in the chat: A frivolous claim, often called a bad faith claim, refers to a lawsuit, motion or appeal that is intended to harass, delay or embarrass the opposition. A claim is frivolous when the claim lacks any arguable basis either in law or in fact.
- Martinez noted that Rachel Baker (Baker) could help with the document (she was not there until later in the meeting due to the Committee on Committees meeting).
- Wilson-Okamura noted that Baker would do an excellent job. He noted that there is still the academic council's question, at what step would grievance come to advisory committee/advisory body.
- Martinez said that she and Baker thought they needed to ask lawyer for clarification, but did not meet to talk about it. She noted that when something like this happens a meeting is organized to discuss the matter. The lawyers said to ask the academic council. She does not understand what is asked in that part on the document.

- Ingalls was not clear either. She asked Wilson-Okamura to change “he/she” to “they” and noted that Academic Council would never hear a grievance. She is not clear about what they wanted clarified.
- Wilson-Okamura will highlight the sections of the existing policy that give a timeline for what happens, when.
- A motion to approve the changes was made, seconded, and carried.

5. Records Retention policy, revisited.

- The following information was provided in the agenda:

From Linda Ingalls: "In reviewing the revised document that David shared, I noted a couple of typographical/grammatical errors. I included in red font suggested edits to resolve those errors. In addition, I highlighted in yellow references to Division offices. Since the Faculty Manual is primarily used by faculty and academic administrators for reference to relevant laws, policies, rules and regulations, after the reorganization being proposed and considered at this time, there will no longer be faculty employed in multiple Divisions of the University.

"I assume that the Chancellor will suggest editorial revisions to the Faculty Senate Resolution IF he (the Chancellor) believes that the references to Divisions are problematic. Or, the Faculty Senate Committees charged with review of the Faculty Manual after the reorganization will be able to correct any discrepancies that exist at that time. As written, the references to Division(s) and Division offices are sufficiently general and may not even be a problem since the University will likely continue to have multiple Divisions (such as Administration and Finance, Advancement, Student Affairs, etc.).

"Others much wiser than I have probably already given these issues consideration and know whether or not there is a need to made any editorial changes in this document at this time."

(See "Ingalls suggestions for Revised records retention policy recommended by FGC in Part VIII.I.VIII March 2022.")

- Martinez talked to Wendy Sergeant (Sergeant), and she said that “ Academic Affairs Division Office “ would be perfect, and this needs to now go to the faculty senate.
- Bowler suggested additional revisions in wording (typos, etc.)
- Wilson-Okamura called for a motion to make the changes. It was seconded, and the motion was carried.

6. Elimination of obsolete VC titles from Faculty Manual and Bylaws.

(See "Obsolete VCs to be deleted from Faculty Manual.")

- Wilson-Okamura said that we had a short item to eliminate obsolete titles, all references to the REDE vice-chancellor and the health sciences vice chancellor, titles, health sciences, etc., including the REDE, etc.
- Martinez thinks it would be okay to wait to send these changes to the faculty senate during the next academic year, with a larger package of changes.
- Wilson-Okamura asked if anyone saw a reason not to send changes now.
- Ingalls had one point to think about, and that is all the changes the chancellor has the authority to make except those in part IX and part XII; anything to do with tenure the chancellor does not have the final authority and part VIII the trustees have the final authority, so should we wait at least on part IX , with the fixed-term proposed changes?
- Wilson-Okamura liked that idea.
- Martinez said it is something that needs to be done, but not by July 1.
- Wilson-Okamura asked if anyone disagreed. No one disagreed.

7. Proposed revisions to Faculty Manual, Part IX from the fixed-term subcommittee (Chambers, Farwell, Martinez, Wilson-Okamura)

(See "Part IX, Section 1 proposal from FT subcommittee.")

(Note—this was moved to the end of the agenda)

- Mary Farwell (Farwell) and Martinez commented on revisions.
- Wilson-Okamura suggested coming back to the preamble later as necessary. All agreed.
- Ingalls noted that tenure, promotion, etc. are at the school level on the health sciences campus, and they are allowed to do that.
- Wilson-Okamura asked about confidential means of communication about candidates, etc.
- Bowler noted that his unit uses Teams, and they have Teams folders, and the Promotion & Tenure Committee uses Teams.
- Martinez noted that Interfolio can be used as well.
- Wilson-Okamura noted that if we take out the prohibition on using email to discuss candidates, people will think they can use it.
- Farwell thinks we need to keep it in there to not revert back to problematic issues.
- Altman thought we could make it more concise. "Email shall only be used for organizational arrangements."
- Ingalls noted that section 607 of the UNC Code addresses special faculty appointments as being paid or unpaid. They use adjunct for unpaid and fixed-term for all paid faculty.
- Bowler noted that we need to remove the footnote about the VC of Research.
- Martinez was not sure if only eliminating "provost" was correct on page 5. She thinks the provost should take a look at it before the senate.
- Martinez observed that most of the proposed changes are actually rearrangements, grouping like with like, and making analogous procedures

uniform. As a courtesy the revised document can be shared with the Academic Council.

- Discussion of funding contingency for faculty members tenured before July 1, 1975: Ingalls doubts that anyone fits the language from the UNC system. She said that we have rarely had anyone who had contingency funding in their tenure. Years ago, that fit the athletic director who had an academic appointment.
- Lisa Hudson (Hudson) noted that they have some contingency funding that is part of a faculty member's salary, but not tenure.
- Ingalls will double check the UNC policy manual about this wording about contingency funding.
- Martinez asked if fixed-term faculty can have a special employment arrangement.
- Ingalls confirmed it was part of early exploratory work with the hospital and the university.
- Bowler noted the following source in the chat:
<https://www.northcarolina.edu/apps/policy/doc.php?type=pdf&id=58>
- Several recommendations were made to include the wording about contingency and the use of the Oxford comma for clarity.
- Ingalls noted that the language about these processes does not mean that they can withhold a last check, etc. if the faculty member did not give adequate notice according to the faculty manual.
- Hudson said that at the health sciences campus they have denied people vacation time if they did not provide adequate notice.
- Ingalls asked what happens if a fixed term faculty member misses the deadline to apply for a subsequent contract? It is a rhetorical question, but the chancellor can make an exception for a legitimate reason such as a death in the family, and illness, other compelling circumstances. She asked if leaving deadlines in the document serves any purpose?
- Bowler suggested flipping it around such that if a unit administrator does not intend to reappoint a faculty member, then they should be notified.
- Ingalls does not think we could get this approved because there is explicit language in UNC contracts: ;we have already told them there is not another appointment. She said that we have to be careful and that is why they have to ask or apply in some fashion. She said that we can suggest to chairs that it is time to suggest reappointments; we got into an issue years ago.
- Gomez does not know if we need to have chairs remind people.
- Ingalls noted that the provost's office sends out a schedule, but noted that people may need a reminder, especially if they have a 5-year contract. Ingalls noted that we might want to put something in part X about what goes into the portfolio.
- Martinez has been working on this one part at a time. In her department, when faculty go for subsequent appointments, they usually present documents and

she asked where is that documentation kept? She felt we needed some guidance about this documentation.

- Ingalls said that documentation stays in the unit for fixed-term faculty.
- Gomez noted that one of his faculty members could not find information in the Faculty Manual about a research leave.
- Ingalls noted that the formal term “sabbatical” is not an option in the UNC system. It is release time in the UNC system.
- Bowler shared the following in the chat: <https://www.ecu.edu/prr/02/07/06> and <https://www.ecu.edu/prr/06/60/01>
- There was a discussion about the timing of progress toward tenure letters for 12-month faculty.
- Ingalls and Martinez noted that progress toward tenure letters are not in part X.
- In the discussion, folks noted that we could have a sentence with two deadlines; such that there is one deadline for 9-month and then prior to the end of the contract year (see the document for exact wording).
- Martinez mentioned the need for joint appointments for fixed-term faculty.
- Wilson-Okamura made a note that we need a policy about joint appointment.
- Martinez does not think it will be difficult. She can reach out to Sergeant and Hudson. She noted, that as we know, her work for the fixed-term faculty is her passion. She then discussed a section she added about due process, etc., as the logical place to put everything (prior to the section on unit committees).
- Then there was discussion about fixed term members on unit personnel committees.
- Martinez said that units/disciplines should probably have the say in how they form their committees.
- Bowler agreed that we should leave it to the units.
- Wilson-Okamura asked if anyone thinks that fixed-term faculty should *not* be on personnel committees. No one seemed to hold this opinion.
- Ingalls noted that this change is going to mandate that they be allowed to vote; this will be a substantive change.
- Martinez noted that since we have already mandated that fixed-term faculty, under certain provisions, can vote on the code then it makes sense that they can vote on the personnel committee.
- Wilson-Okamura asked what others think.
- Bowler noted that these two issues are separate: we think fixed-term faculty members should be able to vote on the membership of personnel committees, but leaving it to units whether they want to include fixed-term faculty members on those personnel committees.
- Ticknor asked if all codes will then have to be rewritten to allow fixed-term faculty to serve on the personnel committee?
- Ingalls said, not immediately. When Part IX was revised, to allow fixed-term faculty members to vote on unit codes we sent out a memorandum jointly from Academic Affairs and the Faculty Chair announcing the change. She suggests

that once part IX is approved that sending out another memo to units is a good idea.

- Wilson-Okamura thinks this is a good place to pause. He said he will be in touch with Martinez and Rachel about records retention, grievance, etc.
- He suggested we end the meeting.

8. Other business

(none was discussed at the 4-23-2022 meeting)

9. Adjournment

The meeting adjourned at 5:00 pm

The meeting minutes are respectfully submitted by Cynthia S. Deale