

UNIVERSITY OF MICHIGAN

SENATE ASSEMBLY

Minutes of Regular Meeting of 19 December 1983

ATTENDANCE Present: Eschman, Easley, Dahl, Cooper, Caffesse, Burdi, Boyd, Brown, Briggs, Beutler, Bailey, Farley, R. Green, Loup, Hopwood, Howe, Kalisch, Kaplan, Kelsey, Keren, Kusnerz, Lehmann, W. G. Lockwood, Humesky, Bassett, McClamroch, Moerman, Mosher, Nagy, Payne, Powell, Radine, Rae, Ringler, Rucknagel, Stebbins, Smith, Taylor, Whitehouse, Zweifler, Hildebrandt, Blass, Bulkley, Janecke, Scholler

 Absent: Lindner, Barald, Brooks, Burt, Caldwell, Carter, Catford, Courant, Danielson, Eaton, Evans, Fellin, Kahn, Grosse, Herbert, Hilbert, Knudsvig, Lawrence, Dunlop, Ludema, Mermier, Meyer, Morash, More, Scheele, Sears, Solomon, Warschausky, Wieland, Young.

CALL TO ORDER AND MINUTES

The meeting was called to order at 3:20 p.m. by Professor Hildebrandt, and the minutes of the meeting of 21 November 1983 were approved.

REMARKS BY CHAIR

1. Professor Hildebrandt reported that SACUA had received a letter from Professor Thomas Dunn about procedures for inviting non-members to address the Assembly and about the possibility of having recorded roll call votes in the Assembly. He reminded the Assembly that, in conformity with Robert's Rules of Order, a majority vote of the Assembly itself can decide these matters.

2. Professor Hildebrandt reported that (versions of) the new grievance procedures had been approved by the Law School, the Business School, and (in principle) LSA; he encouraged other schools to proceed. Professors Taylor and Kelsey reported that the Schools of Music and Dentistry had also approved the new procedures.

3. Questions about the minutes of SACUA meetings are welcome.

LIBRARY SURVEY

Professor Ronald Powell, of the School of Library Science, informed the Assembly that he will be conducting a survey of library use. The survey, involving interviews with 4000 persons at eighteen library exits and 500 questionnaires to faculty and research staff, is intended to document the University's belief that the proportion of library use due to research is more

than the 3% figure currently allowed by the federal government in indirect cost calculations. The survey results will also be used to evaluate library services. Approximately one seventh of the faculty will receive questionnaires and be asked to keep track of their library use for one week. The responses will be kept confidential, and survey results will be reported only in aggregates.

Assistant Vice President Alan Price asked whether the recent study of library use in the Medical School would be used in the new project. Professor Powell replied that it might, but the design of the study had to be approved by the Department of Health and Human Services.

ELECTION OF NOMINATING COMMITTEE

Ballots were distributed for the election of the Nominating Committee, to consist of two SACUA members and four other Assembly members whose terms expire this year. The Committee is to nominate candidates for election to SACUA. Later in the meeting, it was announced that Professors Brown, Hildebrandt, Cooper, Evans, Smith, and Young had been elected to the Nominating Committee.

REPORT ON PLANS FOR A CONFERENCE ON ACADEMIC FREEDOM AND RESEARCH

Professor Hildebrandt reported that the proposal, made by Professor Bassett at the Assembly's November meeting, that the University sponsor a conference on issues related to academic freedom and research, had been discussed twice by the executive officers (with Professor Hildebrandt present to provide faculty input) and three times by SACUA. SACUA decided to ask the Collegiate Institute for Values and Science (CIVS) to assess faculty opinion on the questions: Should there be such a conference? If so, what questions should it address? Who should be invited? Should it be local, national, or international? CIVS met on 14 December, with Professor Hildebrandt present. Opinions were generally in favor of proceeding, but cautiously. CIVS is willing to set up a small exploratory group to determine whether there is a groundswell of support for such a conference and what objectives would be suitable; SACUA encouraged CIVS to proceed with this plan. No decision for or against the conference itself has been made. In reply to a question from Professor Zweifler, Professor Hildebrandt said that CIVS President Professor Nicholas Steneck had suggested that the exploratory group report at the end of January, 1984.

APPORTIONMENT

To initiate the discussion of the triennial reapportionment of Assembly representation, Professor Bailey moved that:

After the Board of Regents approves the increase in Senate Assembly membership from 65 to 72, Assembly representation shall be apportioned, for the years 1984 to 1987, according to the first column of numbers on page 2 of the Rules Committee memorandum of December 6, 1983.

The motion was seconded. Professor Blass, SACUA liaison to the Rules Committee, explained the procedure used in calculating the proposed apportionment. First, the number of Senate members in each unit was divided

by the total number of Senate members and multiplied by 72 (the size of the Assembly) to determine the unit's ideal representation. Each unit was tentatively assigned a number of representatives equal to the whole number part of this ideal representation; the fractional part was considered as the unit's claim for an additional representative. Next, each unit with fewer than two representatives had its tentative allocation increased to two, as required by last month's Assembly vote. Finally, since the number of representatives needed at the second step (bringing minimum representation to two) exceeded the number saved at the first step (rounding down ideal allocations to whole numbers) by two, the units with the smallest fractional claims (and more than two representatives) had their tentative allocations reduced by one. (Had there been an excess of representatives saved at step one over those needed at step two, the excess would have been allocated to the units with the highest fractional claims).

Professor Radine asked why, in Appendix A of the Rules Committee memorandum (concerning apportionment if the Regents reject the increase in Assembly membership), Flint's tentative allocation, rather than Dearborn's, had been increased in the final allocation. Professor Blass replied that the reason was Flint's larger fractional claim (.691 vs. .6725). Professor Cooper asked whether the numbers of Senate members used for the calculation were based on headcounts or on full-time equivalents. Professor Blass replied that the Rules of the University Senate, Senate Assembly, and SACUA require that headcounts be used; he added that the headcounts were last year's because this year's were not yet available. In reply to a question from Professor Nagy, Professor Blass said that primary researchers and librarians had been included in the headcounts. Professor Bulkley pointed out that the loss of one representative at the final step of the calculation makes a much larger proportionate difference to small schools, like Public Health, than it would to a large school like Medicine. Professor Blass replied that, although every system has flaws, the Medical School, with its ideal representation of nearly 14, would be justified in complaining loudly if its tentative allocation of 13 were cut to 12, unless the cut were absolutely necessary for giving small schools their minimum representation.

Professor Bailey's motion was put to a vote and carried unanimously.

STUDENT CODE OF NON-ACADEMIC CONDUCT AND UNIVERSITY JUDICIAL SYSTEM

Professor William Colburn presented the University Council's proposed Student Code of Non-Academic Conduct and University Judicial System. He reported that the Council, consisting of 3 faculty, 3 administrators, and 3 students, had been working, with the help of Dan Sharporn and Virginia Nordby, on these proposals since June, 1982. He said that, although the current Rules of the University Community have served us well, many dramatic changes on campus since their adoption in 1973 require them to be updated; he recommended that a code similar to the proposed one be adopted. He added that the University is behind peer institutions in providing a code of conduct for incoming students and that it should get out of the reactive mode -- regulations should precede the need to apply them. Adoption of the code would let everyone know that there are standards we believe in, agreed to by faculty, students, and administrators. Although he did not wish to argue for the specifics of the proposal, he did report that it has the unanimous support of those who worked on it.

Virginia Nordby reported that the University Council's recommendations had been sent for review to the Academic Affairs Advisory Council (which was uniformly pleased, although there were questions from some of the professional schools that must certify their students as being of good moral character), the executive officers, the Civil Liberties Board (which approved the proposal with some recommended changes last year and is reviewing it again this year), the Student Relations Committee, the Office of the General Counsel, the Ombudsman's office, the Director of Safety, the Director of Housing, and the Michigan Student Assembly (which last year reacted negatively, referred the proposal to committee, and went out of office before the committee reported, and which is considering the proposal again this year). Since Regents' Bylaw 7.02 delegates to the University Council the authority to establish rules of conduct, the Council's proposal is the one being reviewed, but revisions are possible. Among the revisions under consideration are proposals to (1) clarify the responsibilities of the professional schools and University Housing (which currently uses lease revocation to deal with misconduct), (2) eliminate the claim of authority over organizations (as distinct from the individual members), (3) reduce off-campus jurisdiction, (4) in the list of prohibited acts, specifically mention arson, (5) prohibit cruelty to animals, (6) clarify, by quoting the freedom of speech guidelines, that there is no intent to deny free speech (as MSA suspects), (7) review the issue of victimless crime, perhaps excluding personal use (not sale) of drugs from the prohibited list, and (8) tighten the limits on administrative discretion, for example by limiting certain sanctions (like expulsion) to certain offenses. Mrs. Nordby added that it is important that the code be perceived as fair by the whole community; it is not enough just to comply with due process. She expressed the hope that the recommendation would go to the Regents before students leave for the summer.

DISCUSSION

Professor Kaplan mentioned that the old code and judicial system were never used. Mrs. Nordby said that this was partly because they were too complex and partly because they were intended to deal with large scale demonstrations, not interpersonal violence. She cited cases of harassment of a faculty member by a graduate student and of 18 fires set by a student as examples of situations with which neither the old rules nor the criminal justice system could deal adequately. In reply to further questions from Professor Kaplan, Mrs. Nordby said that Regental Bylaws require new rules of conduct to be approved by the Assembly and MSA within 75 days of each other; she added that the cover document for the proposed code and judicial system recommends that this bylaw be changed to allow amendments to the rules to be made more easily. Professor Hildebrandt said that the Assembly would vote on this next year.

Professor Cooper asked about differences between the new and old codes. Mrs. Nordby read a section of the old code and pointed out that it is in quite general language and is directed toward group activity. One could claim that everything in the new code is implicitly in the old, but the new code is more specific and thus not as easily challenged for vagueness. Professor Cooper said that specific language is likely to omit some things that should be prohibited. Mrs. Nordby agreed that this is a risk but said it can be reduced by simplifying the amendment process. She added that we must tell the students clearly what is prohibited.

Professor Taylor asked several questions about item 3(g). Mrs. Nordby explained that "dangerous weapons" means objects fashioned for that purpose (not, e.g., baseball bats) and that the word "unauthorized" would prevent application of this rule to prohibit rifles in ROTC. Professor Taylor said he would like to see firearms specifically mentioned in the rule.

Professor Bulkley asked about § 9 of the Judicial System proposal, specifically whether the attempt in §9(i) to ensure truthfulness has parallels in procedures for faculty and administrators. Professor Nordby replied that § 9(i) is intended to emphasize that lying can be penalized (under § 3(n) of the code) and that the Regental code already requires faculty and administrators to be truthful. In this connection, Professor Kaplan noted that the old rules applied to faculty as well as students. Professor Nordby agreed, adding that the rules covered deans and executive officers also. However, Bylaw 5.09 specifies other criteria for faculty, so there is a potential conflict.

Professor Moerman asked whether the code is really needed; how frequent are incidents that the code would prohibit? Professor Colburn said that the University Council had talked with people from housing security and with Director of Safety Stevens; it learned about a long list of things that happen but that one ordinarily doesn't hear about. He cited cases of arson and of sexual and other harassment. Vice President Johnson mentioned assaults and malicious destruction of property, and Professor Brown mentioned that some students built and used a fireplace in a dormitory room and that a student had been killed a few years ago while riding on top of an elevator. Mrs. Nordby said that President Shapiro's office gets calls from irate parents about student misconduct and that many students, for example the ones on the University Council, favor the code. Professor Colburn said that the Council wanted to be not punitive but helpful. He expressed the hope that the document reflects the attitude that we, as a community, accept certain ways to do things. He added that some of the students caught in illegal behavior are upset to learn that their cases will go to the criminal justice system rather than being handled within the University. Vice President Johnson added that we should, like other universities, tell students on entry what is acceptable in this community; it is different from the general community.

Professor Ringler said that the prohibition of controlled substances (§3(q)) is too general, as these substances have legitimate research uses. Mrs. Nordby suggested adding the word "unauthorized."

Professor Cooper asked why the present rules cannot be used against crimes like arson. Mrs. Nordby replied that the rules do not permit the University to act if the criminal justice system is involved (e.g. if the suspect is arrested and released) and that they often require a warning or a fine for a first offense.

Professor Cooper emphasized that the new rules apply only to students. Mrs. Nordby said that non-instructional staff are subject to the rules in the Standard Practice Guide and unit rules while faculty are subject to the rules in Bylaw 5.09 (generally) and the freedom of speech rules (soon to be joined by rules on honesty in research). She will propose that these be pulled together and also that there be a handbook for students, beginning with

student rights.

Professor Bulkley cited an incident where a member of the football team allegedly kicked in a store window and was bailed out by the Athletic Department. He asked whether this service is provided for all students. Vice President Johnson replied that it was not; he added that it has been the practice for discipline of athletes to be handled by the coaches and that this practice has the tacit approval of the Ann Arbor Police Department. Professor Brown emphasized that athletes should be included under the new code. Professor Bulkley asked whether University money was used for bail. No-one knew, but an effort will be made to find out.

Professor Kaplan said that it is politically crucial that the code have student support. Mrs. Nordby said that it was supported by the student members of the University Council (who attended regularly and were more law-and-order than the faculty and administrators) and of the Student Relations Committee; she added that she and others have been working with MSA.

MSA Vice President Steven Austin, in the audience, presented MSA's concerns that (1) §3(d) is very broad, (2) no right of counsel is guaranteed, and (3) the code lists prohibited acts without considering their causes, the root of the problem. Since the code will affect students' rights for a long time, he urged that it safeguard those rights.

Student Relations Committee chair Professor Harvey Bertcher reported that his committee had voted 5-2 in favor of the proposal.

Professor Colburn said that much work had been done on the proposal since its approval by the University Council last June and that he hoped for a full discussion leading to further improvement.

In reply to a question from Professor Cooper, it was explained that the faculty, student, and administration members of the University Council are chosen by SACUA, MSA, and the President, respectively.

Professor Hildebrandt suggested that any additional comments or recommendations be sent to Mrs. Nordby.

Professor Cooper asked about the possibility of a change in the Regental Bylaw governing University Council proposals. Mrs. Nordby replied that, in case of difficulty with the rest of the proposal, the Bylaw revision, allowing the Regents to change rules with the advice (rather than the approval) of the Assembly and MSA, may go forward alone. Professor Cooper considered this possibility to be of greater concern than the code itself. Professor Hildebrandt said that SACUA would discuss the matter with Mrs. Nordby.

NEW BUSINESS

Professor Kaplan announced that one issue of "News from the Lansing Scene" had been sent with the agenda for today's meeting and another had been distributed at the meeting. He requested an opportunity to speak to the Assembly, at a future meeting, about the Association of Michigan Collegiate Faculties, which provides the newsletter.

Professor Hildebrandt announced that, unless urgent business arose, the Assembly would not meet in January. The February meeting will be on the 13th, rather than the 20th, because of the winter recess.

ADJOURNMENT

The meeting was adjourned at 4:55 p.m.

Respectfully submitted,

Andreas Blass

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Senate Secretary