

Minutes of 31 October 2005
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**THE UNIVERSITY OF MICHIGAN
SENATE ASSEMBLY MEETING
31 OCTOBER 2005**

Present: Albers, Becker, Benamou, Brock, Brown, Cebulski, Combi, Dowling, Fraser, Garton, Giordani, Graham-Bermann, Green, Gull, Hollar, Hutchinson, Koopmann, Lange, Lehman, Li, Liu, Luera, Maddock, Meerkov, Mitani, Neuman, Powell, Prygoski, Sabel, Schultz, Seabury, Sellers, Smith, Smock, Stark, Stoolman, Streetman, Thouless, Volling, Watkins, Younker, Zorn

Alternates: Akingbehin (Dearborn - for Lachance), Cimprich (Nursing - for Abdo), Cowdery (Flint - for Farmer), Durfee (Engineering - for Hu), Gest (Medicine - for Chang), Mengozzi (Music - for Matjias), Peters (Dentistry - for Holland)

Requested Alternate, but none available: Burant, Pohl, Senkevitch

Absent: Agrawal, Aller, Annich, Ben-Shahar, Bhavnani, Carson, Fricke, Frost, Jackson, Kim, Lemos, Ludlow, Moran, Ohye, Potter, Pritchard, Quint, Sahiner, Younger, Ziff

MATERIALS DISTRIBUTED

1. Senate Assembly agenda
2. Draft minutes of the Senate Assembly meeting of 26 September 2005
3. Electronic mail message from J. Zorn to J. Lehman, dated 5 October 2005, regarding revision of the draft September minutes
4. Chair's remarks for the first Senate Assembly meeting of 2005, dated 26 September 2005
5. Item for Action, University of Michigan Senate Assembly, 31 October 2005: COI/COC Model Policy
6. Standard Practice Guide Number 201.65-1: Conflicts of Interest and Conflicts of Commitment
7. Item for Action, University of Michigan Senate Assembly, 31 October 2005: Tenure Policy Questions
8. Report of the Committee to Consider a More Flexible Tenure Probationary Period, dated 30 June 2005
9. Letter from J. Kurland of the national office of AAUP, dated 15 September 2005, regarding proposed changes to the tenure probationary period at the University of Michigan
10. 2005-2006 Senate Assembly meeting schedule

11. SACUA/Senate Assembly Planning Schedule, updated 31 October 2005
12. Electronic mail message to University Senate members, dated 13 October 2005, regarding flexible tenure clock feedback

The meeting was convened by the chair at 3:20 P.M. The proposed agenda was adopted.

CONSIDERATION OF THE MINUTES OF SEPTEMBER SENATE ASSEMBLY

The minutes of 26 September 2005 were approved.

ANNOUNCEMENTS

Chair Giordani announced:

1. Assembly members are asked to state their names and units when speaking from the floor.
2. Both the interim provost and the dean of LSA will be guests at the November meeting of the Assembly. Dean McDonald will speak about proposed changes to tenure policy.
3. Faculty should continue to send comments about proposed changes to tenure policy to the faculty senate office. The comments are being collated and will be provided to the central administration by the end of December.
4. Professor Robert O'Neil will speak about tenure policy at the 12 December meeting of Senate Assembly. The presentation is co-sponsored by the U-M Ann Arbor chapter of AAUP. Professor O'Neil is the founding director of the Institute for Freedom of Expression at the University of Virginia. He is also a past president of both the University of Virginia and the University of Wisconsin. The Assembly should anticipate Action Items requiring debate and vote and the same meeting.
5. Athletic Director Martin will be a guest at the 23 January meeting of the Assembly; Human Resources director Thomas will be a guest at the February meeting.

ADMINISTRATION EVALUATION FORUM

Chair Giordani gave the floor to Professor Lehman, chair of the AEC committee, at 2:30 P.M. Professor Lehman reviewed the format for evaluations this year and pointed out a new section this year called "General Administration Policies." He then called attention to the list of questions submitted by the AEC for consideration by Assembly members:

1. What do you recommend be done to maximize participation by Senate members in the evaluation process this year?
2. What is the status of administration evaluation at Flint and Dearborn regional campuses?
3. Should the evaluation process be expanded in the future to permit participation by non-Senate members (e.g., clinical track faculty, lecturers, assistant librarians, and curators) such that results from these groups can be reported distinctly?

4. What recommendations do you suggest for improving the reporting format of the AEC results (please review the current format at <http://aec.umich.edu>)?

He invited discussion from the floor.

A representative from the School of Nursing remarked that some of her colleagues were troubled by the fact that evaluation results from 2004 had appeared in local newspapers. Professor Lehman replied that the information had been released by U-M Freedom of Information officers in response to requests under FOIA statutes. He reviewed current AEC practices that protect the anonymity of Senate members who submit evaluations. He added that the confidentiality of individual free format remarks and responses to supplementary questions submitted by the administrators themselves are likewise assured. The mechanism for doing so is that responses are automatically transmitted to the administrator at the end of the evaluation period, and the generating files are irreversibly destroyed. Hence, he explained, FOIA requests could not be fulfilled because the information would not exist. The only way the always anonymous comments could be made public is if the administrators do so themselves. As a result, FOIA requests apply only to the core questions about administrators, as well as to any topical questions that are constructed by faculty representatives. At its April 2005 meeting, the Senate Assembly voted to post the statistical summaries of core and topical questions openly on the AEC website, in recognition that they would be accessible under FOIA in any event.

Professor Giordani asked if summary responses to the general administration policy questions would likewise be posted openly. Professor Lehman replied that they were constructed as an alternative to individual topical questions, and therefore, yes, they will be posted just as topical questions were.

Assembly representatives from the regional campuses reported the status of evaluation activities. Faculty at U-M Flint have developed their own instrument for evaluation of administrators and will be conducting evaluations this year; the instrument is not an on-line electronic system. At U-M Dearborn, the deans, provost, and chancellor are evaluated at 5-year intervals, and there is some interest in increasing the frequency. Professor Lehman replied that the AEC system has been designed to accommodate the regional campuses and that it is available for their use, if the respective faculties so wish.

Several members expressed the opinion that lecturers, assistant librarians, and clinical faculty should be included in future evaluations if these groups are not made members of the University Senate. Professor Lehman and Chair Giordani acknowledged that these matters are before various Assembly committees, and the decisions are ultimately in the hands of the Assembly and Senate. Professor Lehman added that the evaluation system software is not regarded as proprietary and that the AEC is willing to share it freely in the spirit of improving faculty governance elsewhere. He noted that requests have already been received from a number of other universities, and that the AEC is working on a Users' Manual to facilitate implementation details.

Suggestions for improving participation rates included (1) sending personal e-mail messages from Assembly members to colleagues in their departments and units, (2) incorporating a raffle as part of the process (thus defeating anonymity for at least one participant), and (3) enhancing the section on general administration policy. Professor Brown expressed his view based on experience that faculty tend to participate at low levels until a crisis arises. He said it was important to keep the system alive and functioning in anticipation of those sporadic but inevitable crises.

The forum concluded at 2:53 P.M.

CONFLICT OF INTEREST/CONFLICT OF COMMITMENT

Chair Giordani announced that three guests from the central administration had been invited to share information and to respond to questions about a new Conflict of Interest and Conflict of Commitment policy unveiled by administration recently (distributed item 6). He invited Professor C. Whitman, Vice President and General Counsel M. Krislov, and Associate Provost J. Hilton to take the floor.

Professor Whitman explained that she has been enlisted to take over from Professor Hilton as the new policy becomes implemented. She said that the COI/COC policy is not designed to target actual conflicts but to manage potential conflicts. She said the central administration is asking units to identify potential conflicts and is setting up a management system. She said that each unit is expected to develop its own specific implementation policy, and that each dean must take the policy to their unit faculty for approval. She said the administration hopes that each unit will produce a policy this academic year.

Professor Koopmann expressed the view that all committees that make decisions about COI/COC issues should be nominated by faculty, elected by faculty, and composed of faculty. Professor Seabury inquired why the policy uses the phrase "appearance of conflict" rather than actual conflict. Professor Whitman replied that appearances are important, and if faculty talk with administration about appearances, plans could perhaps be developed to minimize them. Vice President Krislov added that self-reporting also protects you. He said that if a discussion occurs and later a complaint arises, you can say you already disclosed it. Professor Hilton said that the administration wants the faculty to be involved in all matter of activities, but to disclose them all.

Chair Giordani pointed out that under the existing policy, if a Conflict of Interest committee decides an activity is OK, a chair or dean could still overrule that judgment and the faculty member's only recourse would be to a grievance process that is in disrepute. Professor Lehman added that SACUA members had raised a host of substantive objections to the provisions in the proposed SPG while it was in draft form, but that the most significant objections had been ignored, although relatively cosmetic changes were made. Vice President Krislov replied that development of the policy has had a history dating back to 2003 when it was initiated by a committee appointed by the administration. He said there are many models for COI/COC around the country, many of which are more restrictive than this. Professor Giordani said that SACUA received the

draft policy a few months before it was signed, and that some changes had been made in response to the objections from elected faculty governance.

Professor Hilton said that the call for responses in individual units is a way to engage faculty. Professor Whitman said that units will have different opinions about what is right for them. She said the Medical School has a procedure with forms that requires reporting on an annual basis, but perhaps some units don't need forms.

The representative from Nursing pointed to the text of distributed item 6. She said the explanation of Conflict of Commitment was unintelligible; she asked if it was written that way on purpose. Professor Hilton said that the administration spent a lot of time wrestling with language to explain Conflict of Commitment (COC). He offered three examples:

1. Hilton has taught introductory psychology in the past. Much of the class could be delivered on-line with minimal loss of impact. What if he worked over the summer to develop an on-line version of the course and offered it to other universities? Is that a conflict of commitment?
2. Buyers of rare book collections at the Clements Library are often collectors themselves. Does that constitute a conflict?
3. After the devastation of Hurricane Katrina, people in the School of Public Health with useful skills could have rushed to the site. What about their commitment to the university?

He asserted that nobody has ever told him what the normative expectations are for commitment in his department.

Professor Sabel asked what the administration's argument was for rejecting the idea that a central faculty body should adjudicate disputes that could not be resolved within units. Professor Hilton replied that expectations are different across units. He said that consulting is an expected part of faculty activity in the School of Business but not necessarily in the Psychology Department. He said that the administration decided any disputes should be resolved by existing grievance structures. Professor Whitman added that the COI/COC policy is a big enough thing to take on without taking on the grievance procedures.

Professor Lehman remarked that SACUA raised its objections because the policy as originally proposed and as implemented invests all practical authority with the administration without fair recourse. He expressed agreement with Professor X that the COC policy was the bigger problem. He likewise pointed to language that SACUA had sought to clarify, such as admonitions that faculty should do nothing "at the expense of the university" and that faculty owed the institution "commensurate commitment of intellectual energy."

Professor Meerkov said that he did not see anything in the policy (distributed item 6) that is inherently unit specific. He said that SACUA suggested there be a

determinative faculty committee to act on disputes about the policy, and he asked why the administration had rejected that suggestion. Professor Hilton said that the administration did not want a separate grievance process. Professor Meerkov replied that he did not see the reason to reject a faculty committee. He said it would give credibility to the process. Professor Giordani added that disputes about COI/COC issues are very different from normal grievances, and the existing grievance procedures can last months to years.

Vice President Krislov said that faculty should not approve a policy if they disagree with it. He stated that distributed item 6 is an empowering document. Professor Koopmann suggested that faculty could erect specific implementation that goes to a central committee established by the Assembly. Professor Smith pointed out that the key issue involves situations that cannot be resolved within the unit. He said that SACUA wants a central faculty committee to hear the case, but the administration wants the provost to make the judgment. Professor Hilton replied that such was the provost's decision as the policy was being finalized.

The guests left the meeting at 4:38 P.M.

ACTION OF SENATE ASSEMBLY 103105-1

Chair Giordani called attention to Distributed Item 5, an Active Motion introduced at the September meeting. He explained that the item is a resolution endorsed unanimously by SACUA that describes a Model COI/COC policy. If adopted at the unit level, it could remedy some of the deficiencies in the central policy.

Discussion of the Active Motion-

Professor Smith pointed out that other universities have determinative committees composed of faculty, and it would be proper for the U-M to follow that model.

Vote on the Active Motion-

Approving - all but 2

Disapproving - 0

Abstaining - 2

QUESTIONS REGARDING TENURE POLICY CHANGES

Chair Giordani called attention to Distributed Item 8. He said that a committee appointed by the provost has proposed substantial changes to tenure policy, including extending the maximum probationary period and instituting part time tenure. In response to inquiries about expected next steps, he pointed to statements in the document that indicate comments from faculty governance are supposed to go back to this selected committee for final recommendation to the provost.

Professor Lange said that the Department of Geology met and discussed the proposals. She said the prevailing faculty opinion was that the document produced by the

provost's committee was not particularly balanced. Chair Giordani replied that the faculty were very perceptive. He pointed out that the concept of part time tenure arises de novo in the report. Professor Koopmann declared that there is a clear pattern to a recent spate of administration actions, including COI/COC policy, a rush to change tenure policy, and moves to end determinative faculty decision-making about the eligibility of student athletes based on academic performance. He said the administration is pushing these changes, they are not in the interest of either faculty or the institution, that there is no objective reason for the haste, and that elected faculty governance must exercise its authority.

ACTION OF SENATE ASSEMBLY 103105-2

Chair Giordani introduced distributed item 7 as an Active Motion brought forward by unanimous vote of SACUA. He explained that the Motion asks the Assembly representatives from all units to authorize the Assembly to distribute through its secretary a list of questions to unit executive committees about the proposed changes to tenure policy. Professor Lehman reminded Assembly members that Regents' Bylaws grant the Senate Assembly the right to give its advice to the Regents directly. By engaging in fact finding the Assembly would be in a position to deliberate and adopt resolutions about the proposals.

Vote on the Active Motion-

Number approving - all but one

Number opposing - 0

Number abstaining - 1

A member of the Assembly from Women's Studies remarked that the tenure proposals inescapably raise issues that are linked to gender. Professor Lange expressed her agreement. She said that she is concerned that the report will be interpreted as indicating that there is an expectation that women take longer to achieve tenure than do men. The first speaker said that the policy potentially affects tenure criteria by raising the natural question of what are reasonable accomplishments in a certain time frame. She noted that women are tapped for service roles more than men, and she wondered if the proposals would encourage even more of that practice. Chair Giordani expressed reservations about the idea of delegating individual tenure practices and probationary periods to the units. He suggested that there is good reason to have uniform practices for tenure across unit lines.

The meeting adjourned at 5:00 P.M.

Respectfully submitted,

John T. Lehman

Senate Secretary

University of Michigan Bylaws of the Board of Regents, Sec. 5.02:

Governing Bodies in Schools and Colleges

In each school, college, or degree granting division of the University, including those at the University of Michigan-Dearborn and at the University of Michigan-Flint, the governing faculty shall be in charge of the affairs of the school, college, or division, except as delegated to the executive committee, if any, and except that in the School of Graduate Studies the governing board shall be the executive board, and in the Medical School shall be the executive faculty.
