

Stephen F. Austin State University
Minutes of the Faculty Senate
Meeting No. 211
April 10, 1991

1. Chairperson K. Mace called the meeting to order at 2:30 p.m. in Regents Suite B of the University Center.
2. **Address by University Counsel:** Scott Chafin, SFASU General Counsel, addressed the Senate on The Role of the University Counsel and answered questions from Senators.
 - * **Overview:** Mr. Chafin is often asked to give guidance on how to avoid legal problems, and how to know when to call on legal counsel.

Faculty are encouraged to call Mr. Chafin's office if they even suspect there is a legal issue. It is better to seek advice before taking action rather than deal with a problem afterwards.

Mr. Chafin suggests that faculty ask questions such as the following:

- Evaluate how high the stakes are to the other person in a particular issue. The other person's vantage point is what is important: Can the action result in litigation?
- Is money involved? If money is involved, the risks of a legal issue are heightened considerably.
- Are you treating someone differently than you treat others? There may be a valid reason, but there is a potential legal problem any time people seemingly equal are treated differently.

Mr. Chafin views his role as that of a problem-solver, first and foremost.

- * **Questions and Responses:** Mr. Chafin reported on a variety of topics, in response to questions from Senators.

Technically, it is necessary to obtain the student's permission before faculty can post their grades, even by Social Security number. A few years ago, the Department of Education issued new regulations interpreting the Family Education Rights and Privacy Act of 1973 (known as the Buckley Amendment).

- It is theoretically illegal to disclose a student's education record to anyone without the student's permission. We cannot reveal information that might be personally identifiable, and the Department regulations specifically mention Social Security numbers in this regard. Social Security numbers are readily available types of information.
- Use of an anonymous number is a legal practice. This practice is used at the University of Houston Law Center, where each student is assigned a unique number for each class. The importance is to reduce the likelihood that someone else can find out about the number.
- The Privacy Act broadly identifies student education records as everything pertaining to a presently or formerly enrolled student. Everything relating to the student's education is protected -- grades, what a student earns on papers, the papers themselves, how questions are answered. There are some exceptions, but they are very specific and related to certain medical records, certain psychological records, and could relate to certain law-enforcement records.
- The Privacy Act has a dual purpose. The Act originally was intended to permit students to see what is in their files; the second purpose is to protect the student against disclosure of information.
- It is permissible to post grades if a student signs a waiver, as long it is the student's choice (without coercion). Grades can even be posted by name, as long as the student consents to it.

An article in the latest issue of the Chronicle of Higher Education reports on the verdict that was returned against Kinko's for photocopying and distributing copyrighted material (anthologies).

- The company was selling copies of copyrighted material, and was unable to show that it was using

the material for educational purposes.

- "Fair use" permits limited use, but without depriving the author of the pecuniary value of his product. It is an exception to the general rule in our society that the creator of a product should be able to reap all the rewards of that product. A "little bit of a defensive position" has been preserved if the material is not sold, but the holder of a copyright might still claim that distributing copyrighted material deprives him of the value of his product.
- Mr. Chafin offered to set up a special program on the whole issue of "fair use."
- Mr. Chafin is not aware of any specific cases where computer software companies have gone after universities for copyright infringement, but there may be some. He will check into the question.
- Mr. Chafin will also look into the question of video-taping information at home for classroom use. Major cases in the area have to do with showing video-taped movies to student groups; the infringement was in charging for admission.
- Vice President Reese reported that a University policy is on file at SFASU.

Sexual harassment is a pervasive, wide-spread problem. Beyond the obvious, Mr. Chafin recommends that faculty avoid circumstances that might raise even a hint of impropriety.

- Some institutions have adopted rules that strictly govern fraternization between faculty and students and even among faculty. Some institutions have even adopted rules such as "always keep the door open."
- Under Title IX, sexual harassment is considered to be sex discrimination. Sex discrimination is not necessarily sexual harassment. There are two basic forms of sexual harassment: (1) *Quid pro quo* - where a benefit is promised in exchange for sexual favors, and (2) A hostile environment - this form arises from the nature of the environment and includes remarks, attire, leering looks; things that could create a hostile environment that one would view as unwelcome, with sexual connotations; treating people differently.
- Sex discrimination is more like other forms of discrimination and goes back to the idea that there are certain numbers of protected classifications in our society -- race, age, religion, sex. One may not treat similarly situated people differently because of one of those classifications.
- Sex discrimination does not always imply sexual harassment; sexual harassment always implies sex discrimination.

Mr. Chafin will serve faculty in an advisory capacity as often as he can.

- His client is the institution as a legal entity. He is a strong believer in political legitimacy. The institution operates through a system of chains of command, starting with the people of the state who established the institution and gave direction to how it was to be governed. He must observe who his client is and who gives direction and legitimacy to the institution. Usually, this does not conflict with giving advice to faculty. He has routinely accepted calls from faculty and rendered advice to them.
- He wants people to feel they can call him. As often as he can, he will give advice on professional matters if the issue is sufficiently related to the workplace. Even when the faculty member will reap the benefits of the work -- such as book contracts -- Mr. Chafin feels the work is sufficiently related to the workplace and the nature of the institution that he will advise the faculty member.
- He cannot handle purely personal legal work, such as a divorce. Ethically, he cannot give advice in areas where he is not an expert.

3. Approval of Minutes

- * The minutes of Meeting No. 210 were approved, with the following corrections: Senator J. Frye was PRESENT; the proposal that students may be required to pass departmental examinations to obtain recognition for successful completion of a particular course taken at another institution was REJECTED by a vote of 7 - 9 (Minutes #210, page 5).

4. Report on the University Task-Force

- * Senator R. Darville reported on the recommendations of the 1990-1991 University Task-Force on Planning, Evaluation and Assessment. A formal report of the work of the task-force was submitted to President Bowen and Vice President Reese on March 29. A copy of the report is on file in the Faculty Senate office.
 - The task-force was composed of twelve individuals from across campus, appointed by the University President and consisting of a broad spectrum of University representation. The scope of the task-force was to recommend to the administration a university-wide assessment model and plan which would provide guidance for both academic and administrative units of the University.
 - The task-force adopted a schematic integrated quality assurance model, which is a modification of one that was developed and used by LSU-Shreveport.
 - Recommendations for evaluation reports include student performance assessments, curricula and programs assessments, and personnel review assessments. The task-force recommended several student performance measures, including admissions/placement goals and assessments, general education goals and assessments, graduation goals and assessments, curricula and programs goals and assessments, and personnel review goals and assessments. The recommendation also addresses implementation, and the task-force recommended that a university-wide standing committee on assessment be established to oversee planning and evaluation, with the Director of Institutional Research as Chair.
- * Dr. Reese reported that both he and Dr. Bowen have read and discussed the report. Dr. Reese has been instructed to prepare a response, with recommendations of people to serve on the committee.
- * Senator L. Clark suggested that peer evaluation should also be included, for balance.

5. Chairperson's Report

- * The Senate had sent letters to Governor Ann Richards concerning appointments to the Board of Regents and to Senator Bill Haley and Representative Jerry Johnson concerning funds for the library and tax restructuring. Chairperson Mace reported that the Senate has received written replies from Governor Richards and Senator Haley, as well as a verbal reply from Representative Johnson.
- * Chairperson Mace reported on his meeting with President Bowen and Chair-Elect F. Smith.

Proposals passed by the Senate at Meeting No. 210 were submitted to Dr. Bowen for his signature. The recommendation that classes for the summer sessions should begin at 8:00 a.m. instead of 7:30 a.m. did not pass in time to affect scheduling for Summer 1991.

Dr. Mace reviewed the status of topics discussed in previous meetings with Dr. Bowen.

- The proposal to include faculty participation in the budget-making process is under consideration.
- The proposal to place the Faculty Senate Chairperson as an ex-officio member of the Board of Regents is being checked for legal questions
- Dr. Bowen looks favorably on the proposal for the Faculty Senate and the Schools of the University (on a rotating basis) to co-host a reception and tour of the host School at a fall and a spring meeting of the Board of Regents.
- Dr. Reese is checking on the proposal to include the Regent's Rules in the Faculty Handbook, but he has reservations about adding more length to the Handbook. He has no questions about making the information readily available.
- Dr. Mace requested information about financing that would be needed to construct high-rise parking facilities. Dr. Bowen has appointed a committee on parking. The committee is looking into this question. A public hearing on parking has been scheduled for April 17.

- The Deans' Search Committees have been temporarily postponed, but the committee did include elected faculty representatives.
 - Dr. Mace requested a schedule of meetings for the Long-Range Planning Committee. However, no meetings are scheduled at this time.
 - Dr. Mace asked Dr. Bowen if he still planned on making recommendations to the Board of Regents concerning problems that he had identified from his talks with the faculty and staff. The President prefers to see what kind of financing we will have available before making any concrete recommendations.
- * The Faculty Senate Executive Committee will meet with President Bowen and L. Kelly Jones, incoming Chairman of the Board of Regents, for a breakfast conference on April 23 at 6:30 a.m.
 - * Copies of the Stephen F. Austin State University Fact Book 1990, The Texas Higher Education Coordinating Board 1990 Statistical Report, Procedure for Implementation of Policies Governing Gifts, Loans, and Bequests, and the Stephen F. Austin State University Foundation, Inc. Bylaws are on file in the Senate office.
 - * Dr. Mace commended the Inaugural Committee for the work done on the Inauguration.

6. Treasurer's Report

- * Treasurer D. Shows reported the following disbursements as of April 1, 1991.

Balance brought Forward	\$ 1,501.71
Expenditures	
Telephone	6.00
Payroll	96.90
Postage	10.08
Photocopies	1.65
Supplies	88.99
Steno Bureau	130.45
Balance on 4-1-91	\$ 1,167.64

7. Committee Reports

- * Election Committee (S. Weems, Chair)
 - Senator S. Weems reported that forms were sent to faculty to identify individuals willing to serve on the Faculty Senate, if elected. Those forms have been returned and the ballots have been mailed to the respective Schools that have representatives to be replaced on the Senate. Forms have also been distributed to faculty to get an indication of willingness to serve on University and Presidential committees.
 - The Election Committee contacted each of the individuals proposed by the Executive Committee for the slate of nominees for Senate officers for 1991-1992. The following persons have agreed to have their names considered for Faculty Senate offices:

Chairperson-Elect:	Barbara Carr (English) Tom McGrath (Forestry)
Secretary:	Libbyrose Clark (Administrative Services)
Treasurer:	Ray Darville (Sociology) David Shows (Kinesiology & Health Science)

There were no additional nominations from the floor. The new Senate will elect officers at the May meeting.

* Finance and Administration Committee (J. Howard, Chair)

- Senator J. Howard submitted the committee report on University Advancement. The Finance and Administration Committee was asked to examine the operations of the Office of University Advancement concerning its goals and financial operations. The committee report enclosed a copy of the audit for the years 1976 to 1988, together with information concerning by-laws, policies, and procedures for the Office of University Advancement. The 13-year audit on University Advancement has been placed on file in the Senate office. A short form of the report was distributed to each member of the Senate, along with an overall summary of the audit.
- Senator Howard reported that he has had immediate and positive response to his requests for information from the Office of University Advancement. He was on the Senate several years ago, and could never get any information at that time. This year, help has always been forthcoming.
- The University is negotiating to refinance building bonds. The University hopes to save approximately \$400,000 per year if refinancing is approved. The money for these bonds is from dedicated auxiliary funds; it is not from discretionary funds.
- Senator Howard checked the comparative figures from the Coordinating Board Statistical Report for salaries and student-faculty ratios at SFA and at Sam Houston State University. We had been told in the past that salaries are lower at SFA because we have a smaller student-faculty load. The Coordinating Board report shows that salaries at Sam Houston are approximately 16% higher than salaries at SFA, while the student-faculty ratio at Sam Houston is only 3.9% higher than at SFA. A brief summary of the report has been sent to the Chairman of the Board of Regents.

* Professional Welfare Committee (J. Seaton, Chair)

- Eight proposals concerning the merit raise system were submitted for Senate:

Senator J. Seaton moved that: Each school and department should formulate through their Academic Councils exact criteria for awarding merit, and the criteria should be followed in making the awards. The criteria should be published and the procedures should be written as well.

Seconded by Senator J. Howard
Motion passed

Senator J. Seaton moved that: Names of recipients of merit raises should be made known by appropriate administrators, with descriptions of recipients' meritorious achievements.

Seconded by Senator J. Frye

Discussion:

- There was general agreement that it would be adequate if a person's nomination or application packet were made available at all three levels.
- In response to a question from Senator Frye, Dr. Reese said that he would oppose publishing the information in the Faculty Bulletin. Dr. Reese believes that an individual's evaluations and awards should not necessarily be public knowledge.
- The Senate engaged in an extended discussion concerning the general area of merit systems and questions of publishing information about awards.

Vote was by show of hands:

14 - Favor
3 - Oppose

Motion passed

Senator J. Seaton moved that: Notice of failure to attain merit should be given to the unsuccessful candidate with reasons for rejection.

Seconded by Senator J. Frye

Discussion:

- Several senators indicated that the reasons for rejection are implicit in the resolution that was just passed.
- There was some discussion of the quota system of awarding merit by department. Does the quota system by department mean that faculty may do less in one department than in some other departments and still receive merit?
- Senator K. Price spoke out against the proposal because it does not seem to have a sharply defined purpose. He thinks that people who do not receive merit will receive information by talking to the Department Chair, and he pointed out that anything a Chair puts in writing could be construed as an implicit guarantee that merit would be forthcoming next year if changes are made by the faculty member. This proposal could create administrative difficulties.

Vote was by show of hands:

- 1 - Favor
- 16 - Oppose

Motion failed

Senator J. Seaton moved that: Those who make the decisions regarding merit should be clearly identified.

Seconded by Senator J. Frye

Motion passed

Senator J. Seaton moved that: Nominations for merit should normally be done by the departmental chairman or peers, although it should always be possible for a person to apply for merit.

[The proposal was accompanied by this additional explanation, provided by the Professional Welfare Committee: It is understood that these options are already available, but it appears that in most cases merit is only obtained by an individual making his own nomination.]

Seconded by Senator M. Turnage

Discussion:

- Senator Seaton: Many faculty object to having to nominate themselves.
- Senator W. Arscott: If a person is really outstanding, the Chair should nominate that person. It is degrading to have to nominate ourselves.
- Senator J. Gotti: Doesn't this give the Chair more power? The Chair makes the departmental recommendation; this proposal would add his influence at the School and University levels.
- Senator J. Adams suggested that we should all read the current Policy and Procedures Manual, which contains the guidelines for this procedure. It provides that the Chair is to call for nominations for merit. If there are any, then the Chair is to notify the faculty member in time for that person to get together the necessary supporting materials. If the Chair plans to nominate anyone, he should also do so at that time. Faculty can already apply, nominate, or be nominated at all three levels.

Vote was by show of hands:

10 - Favor

8 - Oppose

Motion passed

Senator J. Seaton moved that: Committees might be used to assist the deans or the department chairpersons, but the use of anonymous panels should be avoided.

[The proposal was accompanied by this additional explanation, provided by the Professional Welfare Committee: Generally, these panels do not communicate with other or meet together to map out their procedures and criteria.]

Seconded by Senator J. Frye

Amendment proposed by Senator K. Price: The Faculty Senate recommends that if committees are used to assist deans, department chairs, and vice presidents, that they not be anonymous panels.

Motion passed, as amended

Senator J. Seaton moved that: Merit raises should not be awarded until cost-of-living increases have been made.

Seconded by Senator J. FryeDiscussion:

- Senate deliberation centered around a general discussion of the philosophy of merit vs. across-the-board raises.
- Senator J. Howard pointed out that "cost-of-living" implies that no merit raises would be made until general raises reached the level of the consumer price index. He suggested that the proposal should be clarified.
- Senator Howard noted that if only general raises are given, a meritorious person who comes in at a lower salary will never catch up and will actually fall farther behind because increments are based on a percentage of current salaries.
- In response to a question, Dr. Reese noted that the University does make some adjustments, reflecting changes in the market and relative factors.
- Senator B. Johnson indicated that the State Legislature is not aware of how low our salaries are. Legislators are surprised to hear that we are not getting the percentage increase that they intended.

Vote was by show of hands:

8 - Favor

8 - Opposed

Tie broken by the Chair: Opposed

Motion failed

Senator J. Seaton moved that: Evaluations for merit should not be made at a level above the department chairman's level except in the case where an appeal is made.

[The proposal was accompanied by this additional explanation, provided by the Professional Welfare Committee: The dean should be able to evaluate university merit better than a committee or vice-president.]

Discussion:

- Senator W. Arscott: Almost all merit raises should be given at the department level, and only in the most exceptional circumstances should it be awarded at the School or University level. The most important activity at this University is teaching, and teaching is done at the department level.
- Senator K. Price: Some service is unique to one level.
- Senator J. Howard: University merit should be something of particular and distinguishable service to the University as distinct from the department, such as serving as Chairman of the Self-Study.
- Senator Seaton: Several people who responded to the survey said that they had served on School or University merit panels, and they said that they didn't have the slightest idea who was better qualified than anyone else.
- In response to a question from the Senate, Dr. Reese indicated the numbers of merit raises have been approximately 40% - 20% - 10% for merit awards at the three levels for the last five years. No more than five or six people have received merit at the University level during each of the last five years.

Motion failed* Ethics Committee (C. Brown, Chair)

- Senator C. Brown reported that the Ethics Committee is in the process of collecting codes of ethics from various organizations.

8. New Business

- * Senator K. Price reported that the Executive Committee thinks it would be a good idea to determine what the SFASU faculty actually thinks about our participation in intercollegiate athletics. There has been a lot of discussion about this, and a good survey might help us determine if there is a consensus, and what that consensus is. If we develop a well-designed instrument, SGA might also want to send it to students.

Senator Price moved that a survey be designed to poll the faculty to determine faculty views on participation in intercollegiate athletics, and the Faculty Senate suggests to SGA that they consider a similar proposal.

Seconded by Senator J. Howard

Motion passed

The following senators were appointed to the committee to design a questionnaire: K. Price (Chair), B. Carr, L. Clark, R. Darville. The Faculty Senate Chairperson will notify SGA and request their cooperation.

- * Senator L. Clark requested information concerning the cost and the extent of the proposed addition to the President's home. Dr. Reese reported that his only knowledge is that the Board of Regents will consider renovation. The proposal for renovation is on the agenda for the next meeting.
- * Chairperson K. Mace requested information concerning the source and amount of funds for the proposed renovation of the Coliseum dressing room. The Board of Regents has advertised for bids on the work. Once again, it appears that money is to be expended on athletics instead of academics.
 - Dr. Reese indicated that he does not know the cost of the renovation. The source of funds could be either auxiliary surplus or the savings on bonds.

Senator W. Arscott moved that: The Faculty Senate objects to the renovation, especially at a time of financial exigency.

Seconded by Senator J. Howard

Senator K. Price moved that the resolution be amended to allow the Executive Committee to bring up the subject with L. Kelly Jones (incoming Chairman of the Board of Regents), determine reasons, and report to the Senate.

Seconded by Senator J. Adams

Discussion: It was reported that the University made a decision to bid for the Regional Women's Basketball Tournament. We have secured the tournament for 1993, but part of the bid required that the University upgrade the dressing room.

Vote on the amendment was by show of hands:

5 - Favor

8 - Oppose

Amendment failed

Original motion passed (Voice vote)

Senator J. Howard requested that the Senate Chairperson immediately communicate this decision to the President.

9. Comments from Ex Officio Members

- * Vice President J. Reese reported that the Deans are now considering the first step toward gradually raising admissions standards. A suggested high school curriculum will be listed in next year's catalog; this will become a recommended high school curriculum the following year, and in two years it will become a mandatory high school curriculum. The proposal for a suggested high school curriculum will be brought to the Faculty Senate Academic Affairs Committee at the end of this academic year or early next year.
- * The Parents' Club has donated \$7,000 to the University. \$5,000 is for an unrestricted discretionary account, and \$2,000 is for the areas of communication and science. The Parents' Club raised \$25,000 this year, and they have pledged to double that amount next year. They are very interested in support of academics.

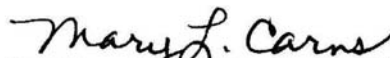
10. The meeting was adjourned at 5:10 p.m.

ABSENCES:

- J. Corbin
- J. Goodall
- W. Holliday
- T. McGrath (excused)

VISITORS:

- J. Reese, Ex Officio (VPAA)
- S. Chafin (General Counsel)
- H. Reeves (Forestry)


Mary L. Carns, Secretary 1990-91