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12-1-2014

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Faculty Senate, East Tennessee State University

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Faculty Senate Agenda

December 1, 2014

Culp Center, Forum (Room 311)

- I. Old Business
 - a. Approval of Minutes November 3 and November 17
- II. Information
 - a. Update from Senior Staff
 - b. Academic Integrity
- III. Items for Discussion
 - a. Faculty Termination for Cause
- IV. Announcements/Other Business
Next meeting of Faculty Senate will be January 26, 2015
- V. Adjournment

2014-2015 Faculty Senate

MINUTES—December 1, 2014

Faculty Senate—East Tennessee State University

UPCOMING MEETING:	FOLLOWING MEETING:
January 26, 2015, 2:45 pm Forum, Culp Center	February 9, 2015, 2:45 p.m. Forum, Culp Center

Present: Fred Alsop, Beth Baily, Patrick Brown, Randy Byington, Kathy Campbell, Dorothy Drinkard-Hawkshawe, Joyce Duncan, Susan Epps, Lon Felker, Virginia Foley, Tammy Hayes, Jill Hayter Bill Hemphill, Helene Holbrook, Tod Jablonski, Karin Keith, Ken Kellogg, Dhirendra Kumar, Guangya Li, Fred Mackara, Anthony Masino, Tim McDowell, Jerome Mwinyelle, Bea Owens, Timir Paul, Peter Panus, Jonathon Peterson, Kerry Proctor-Williams, Judy Rice, Deborah Ricker, Thomas Schacht, Eric Sellers, Melissa Shafer, Kathryn Sharp, Taylor Stevenson, April Stidham, Bill Stone, Kim Summey, Paul Trogen, Ahmad Watted, Robert White.

Excused: Lee Glenn, Jim Thigpen, Jennifer Vanover-Hall, Jennifer Vanover-Hall,

Absent: Leila Al-Imad, Robert Beeler, Doug Burgess, Sharon Campbell, Daryl Carter, Bill Flora, Nick Hagemeyer, Koyamangalath Krishnan, Mary Ann Littleton, Darshan Shah, Craig Turner, Liang Wang,

CALL TO ORDER: President Foley called the meeting to order at 2:52pm

President Foley requested approval of the minutes from November 3, 2014. Senator Brown moved to accept the minutes. Senator Alsop seconded. The minutes were approved without dissent.

President Foley began with updates from the morning's Senior Staff meeting.

- President Noland announced at the meeting that the executive director of THEC for the past 17 years, Rich Rhoda, was retiring from the position. The Governor will appoint a replacement.
- The fine arts project is 5th on the list submitted to the Governor.
- The governor will be the graduation speaker for the second ceremony on December 13th.
- The administration is in conversations with SGA on trying to set up a fee for renovating the Culp.
- Dr. Bach reported that they are interviewing the final three candidates for the Veterans Affairs and they are strong candidates.

- ETSU has contracted with Royale, a direct marketing company specializing in enrollment management.
- Dr. Sherlin announced that the candidates for Assistant Dean of Student Affairs will be doing presentations today at 1:30, tomorrow at 1:30, and Thursday and Friday at 1:30 in the East Tennessee room. The presentations are open if anybody wants to attend.
- The emphasis on campus this spring will be on educating students about sexual misconduct. A new committee is being formed that will work on training, assessing the climate. They're going to form a comprehensive effort to be proactive in this area. Jackson Katz, a nationally known speaker, will visit campus in the spring and will lead workshops on bystander intervention.
- Bridget Baird reported that ETSU day on the Hill is February 9th.

President Foley said that was it from senior staff. She said that the faculty senate executive committee discussed the academic integrity plan and report that had been presented to academic council several years ago. The executive committee has a meeting with Dr. Bach this Friday. We will ask him to reconvene the committee that developed the plan and report to assess the current status.

President Foley moved to items for discussion on the agenda. The first item is faculty termination for adequate cause. She said that there was a document distributed that was prepared by the working group and asked Senator Masino to walk the senate through it.

Senator Masino explained that he took ETSU's termination policies and procedures manual and TBR's policies and procedures manual and compared them line by line. When bouncing between the two, the big items were 1), TBR policy says that when a tenured faculty member goes before a hearing committee, they're allowed to bring in legal counsel. ETSU policy says you're allowed to bring in legal counsel, but legal counsel is not allowed to speak or act on your behalf and 2) TBR Policy indicates that a pre-hearing meeting is supposed to take place, and he is not sure ETSU is following that. In addition, the language concerning notice is vague. Is it from the time of the hearing, or once the pre-hearing committee is over? That needs to be resolved.

He continued that another aspect is that TBR policy indicates that if he is undergoing termination proceedings he is supposed to be given sufficient notice if an accuser will not be at the hearing so that he can read his or her statement beforehand and write written interrogatories or questions. One needs time to be able to write questions and a certain amount of time to get a response to those questions back before the hearing. The ETSU policy doesn't allow for that.

Senator Masino said that those were the big items. In the recommendation it states that ETSU must comply with TBR policy.

President Foley thanked Senator Masino and asked if there were any questions. She stated that this is an item for discussion; we will not act upon this yet.

Senator Masino said that there were two other items. One was the TBR policy says that if the hearing committee says, "we're not going to fire them, we don't think its justified," the president can still do

whatever he pleases. In an appeal, the ETSU policy the case goes to the chancellor and the ETSU policy says it goes to the board. It isn't exactly clear how the process would work.

The second one is a concern he has as a potential termination committee member. Because there is no fluid policy from one termination to the next, there is a loophole that can be exploited by a terminated tenured faculty member who can turn around and say "I'm just going to sue the committee members individually." Committee members need to be provided with D&O insurance as a separate umbrella policy.

Senator Holbrook asked why these documents might not be converged. What would be the historical reason why our document might not be the same? Senator Masino answered that he does not have any information on the history of it. Senator Byington said that sometimes TBR can change policies and we don't know it. He added that he thinks the recent tenure revocation was the first in 20+ years.

Senator Holbrook asked do we need to now change our policy to match TBR or can we have our own? Senator Byington answered that has to be in concert with the TBR's, and that is probably going to be the recommendation for action as we go forward.

Senator McDowell commented that these inconsistencies work to the disadvantage of the faculty member. These are really crucial issues for the faculty member whose job is suddenly on the line. He said that we should take advantage of having had a close reading done by recommending that ETSU policy be changed to correct these discrepancies. Senator Masino said that it would be cheaper for all parties involved, including ETSU, if the policies and procedures were clearly spelled out so that if someone did get due process, gets terminated, and files a lawsuit, ETSU can walk into a courtroom and say "Here's our policies and procedures, here's our list of all these items that were done and signed off on.

Senator Sellers asked which policy supersedes. Senator Masino replied that at the bottom of TBR policy, it says when in conflict, TBR trumps. Senator Sellers asked then what the point of a local policy is if TBR policy will trump a decision made at this level regardless. Senator Byington said that he could in a roundabout way answer that question. ETSU has a Faculty Handbook. In a number of sections in the Handbook, it says refer to TBR policy X and here's the link. There are other policies where there is a lot more local flexibility. There are policies we have in our faculty handbook for which there are no TBR policies. There are areas where we can differentiate ourselves. There is a section in the back of the Handbook with links to TBR policy. There have been issues about these links. One issue was the TBR policies were never getting updated.

Senator Stidham asked if it would it be worthwhile to have some type of organizational flow chart or some type of guidelines developed for problems like this? President Foley replied that a flow-chart would be great.

Senator Felker asked as a tenured faculty member, don't I have a property interest in my employment? Senator Masino replied that, you have been afforded certain rights with your tenure; you've been

afforded certain due process by procedures. ETSU is supposed to provide you due process, but they're not. That's what this memo is getting at.

President Foley stated that at the very least, we should highlight these differences and bring them to whatever the appropriate authorities might be and say "we need to rectify these differences to that we're consistent with TBR policies both for the benefit of faculty who might be facing termination, and for the benefit of the university which might be facing a lawsuit by not observing the proper procedures.

President Foley asked if the process, then, should be that this be a particular memo that highlights the discrepancies be shared with the administration. Senator Byington suggested that because we're talking about changing the handbook the appropriate changes should be made and adopted by the senate and sent it to the Academic Council for action. Senator Masino offered that there is an easy way to resolve this, just refer to the TBR policy. Senator Byington commented that by doing that we are also setting ourselves at the timelines that TBR has set forward. Senator Masino replied that the TBR version is better because it tells him the exact dates, what he needs to do, and sort of a timeline for when he needs to turn things in, when he will get things back, and how he needs to prepare. Senator Byington recommended that we change language in the Handbook to comply with the TBR policy and then take that forward to Academic Council. It would be very difficult for someone on the Academic Council to argue against following the TBR policy.

President Foley charged Senator Byington as chairman of the Handbook to make those changes and bring it before senate. Senator Alsop asked Senator Byington if it is required to go to Academic Council before it goes into the faculty handbook. Senator Byington responded yes and then it goes to the president. The president is the final signature on it. Senator Alsop said that he believes that on the flow chart, faculty senate can push for something that's a change in faculty handbook without it going through academic council. He asked doesn't the flow chart just go to the president? Senator Byington replied that he would need to check on that. He thinks it goes by the Academic Council. That's not to say that if the senate was at a different opinion than the Academic Council that the senate could not then directly approach the president.

President Foley asked if there was anything else on Faculty Termination for Cause. She stated that Senator Byington will make the changes as they will look when it goes to Academic Council. We will look at it one more time, and then it will require a motion.

President Foley moved to the announcements on the agenda. She stated that president Noland is scheduled to give the State of the University Address on the afternoon of January 30th. She asked Dr. Noland if he would present at a plenary meeting of the faculty those things that he presented at the leadership retreat about changes that are happening with policy and operations at the university. There will also be an opportunity for question and answer with the faculty. He agreed and asked that the plenary meeting be before his State of the University Address so that he would be able to incorporate into his address concerns or issues that emerged from the faculty meeting. We've scheduled the plenary meeting for January 15th. She said that she realizes some people may not be in town, but it was better than having it when people couldn't come because they have a class commitment. She will be sending

that announcement out to the faculty so it can get it on our calendars. She hopes it will be well attended. People have complained about communication on campus, and this is an opportunity to have direct question and answer with the president. Senator Epps asked if there was a set time for the meeting. President Foley replied that it is scheduled for 3:00 in the afternoon on January 15th. She added that our next regular faculty senate meeting will be January 26th. Senator Mackara asked what the format of the meeting will be. President Foley replied that Dr. Noland will do his presentation from the retreat updated with current data. After his presentation, he'll open the floor up for questions. She has asked for microphones to be in the aisles for the question and answer period. Senator Mackara asked if President Foley new how long Dr. Noland's presentation is. President Foley speculated that it would run 20-30 minutes and the auditorium is booked for 2 hours. She said that she would like senators to encourage people to attend. It's frustrating when people say they haven't had an opportunity to be informed or give input on something. ETSU is emerging on a new planning cycle and there will probably be a new vision for the university that comes out of this. It is an opportunity for faculty input. Senator Kellogg asked if the meeting would be streamed. President Foley replied that president Noland was open to it being broadcast but she hasn't talked to anyone about making that happen yet. She wasn't sure how to go about making that happen. Senator Byington suggested president Foley contact David Curry.

President Foley asked if there were any other announcements. Hearing none she asked if there was a motion to adjourn. Senator Brown moved to adjourn. Senator Epps seconded.

ADJOURNMENT: The meeting was adjourned at 3:45 p.m.

Please notify Senator Melissa Shafer (shaferm@etsu.edu or 9-5837, Faculty Senate Secretary, 2014-2015, of any changes or corrections to the minutes. Web Page is maintained by Senator Doug Burgess (burgess@etsu.edu or x96691).