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### 2013 September 16 - Faculty Senate Minutes

Faculty Senate, East Tennessee State University

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**2013-2014 Faculty Senate**  
**MINUTES—September 16, 2013**  
Faculty Senate—East Tennessee State University

UPCOMING MEETING:	FOLLOWING MEETING:
October 7, 2:45 pm Forum, Culp Center	October 21, 2:45 p.m. Forum, Culp Center

*Present:* Beth Baily, Robert Beeler, Jim Bitter, Sally Blowers, Doug Burgess, Randy Byington, Kathy Campbell, Charles Collins, Bruce Dalton, Susan Epps, Virginia Foley, Allan Forsman, Jill Hayter, Bill Hemphill, Ken Kellogg, Dharendra Kumar, Tom Laughlin, Kurt Loess, Fred Mackara, Theresa McGarry, Jerome Mwinyelle, Kerry Proctor-Williams, Thomas Schacht, Melissa Shafer, Kathryn Sharp, Taylor Stevenson, Jerry Taylor, Paul Trogen, Jennifer Vanover-Hall, Shimin Zheng, Meng-Yang Zhu

*Excused:* Dave Arnall, Katie Baker, Patrick Brown, Sharon Campbell, Ron Hamdy, Evelyn Hammonds, Tammy Hayes, Lorianne Mitchell, April Stidham, Kim Summey, Teresa Wexler

*Guests:* Karen Kornweibel

**CALL TO ORDER:** President Byington called the meeting to order at 2:48.

President Byington introduced Dr. Karen Kornweibel, Honors College Director of Honors-in-Discipline programs, who was in attendance to present a proposal to create Honors College faculty designations.

Dr. Kornweibel began by saying that one of the things the Honors College wanted to do is to recognize and give credit to faculty for the work that they're already doing with honor students around campus. Faculty status will be voluntary; it is not a credentials critique. Benefits for faculty include formal recognition and inclusion in the community with other faculty around campus. Dr. Kornweibel asked for feedback to the proposal.

Senator Epps stated that she was not sure what the positive impact of 'enhanced communication' involved. She asked how that is different from what the Honors College is already doing. Dr. Kornweibel replied that last fall she found 140 faculty in 10 different colleges were engaged with honors students - teaching honors sections or actual honors classes or directing an honors thesis. Until she did that work they didn't know that 140 faculty members were working with students. The Honors College hopes that the designation will give them a list of people with whom they can more intentionally communicate.

Senator Epps asked why faculty have to apply for Honors College faculty status. Why aren't they just given honors faculty status as opposed to having to apply for it? Dr. Kornweibel answered that the Honors College wants some record of commitment of working with honors

students. If you teach an honors section one time, that wouldn't necessarily qualify you. They want people to opt in.

Senator Hayter requested clarification with the qualification of serving as a director or mentor or serving as a thesis reader. She stated that right now she is doing both - a reader and a director of an honors thesis. One requires significantly more work than the other. How often does one have to be a reader in order to qualify? Dr. Kornweibel replied that part of the problem with being too specific and having numbers is departments vary so widely. Some departments have lots of honors students and some departments have very few.

Senator Hayter asked if this is an annual status and application. Dr. Kornweibel replied that it is a three year term; if you apply for it, you have status for three years. She stated they are hoping to come up with a streamlined process for re-application.

Senator Laughlin asked if this is something that would fit into someone's teaching responsibilities or is it more of a service activity. Dr. Kornweibel responded that the Honors College will leave it to colleges and departments to decide as it could fit in teaching, research, and service.

Senator Kellogg commented that most of us in attendance are graduate faculty. Faculty apply for graduate faculty status by writing down their credentials. If one does work associated with handling 4 master's thesis candidates there are no accolades or anything like that. How does that make one any less or any more than a faculty member doing something in the Honors College?

Senator Foley interjected that she did not think that we as faculty senate would have generated the idea of Honors College faculty and appreciates that it's being brought to us before it's being taken somewhere else. She continued that we can't teach graduates unless we have grad faculty status; so that is just a condition of our job. People who are working in Honors College are taking on some responsibilities that are above and beyond, especially if they're mentoring research. It is not coming with extra pay; it is coming with acknowledgment that they're invested above and beyond the normal call of duty. She thinks it's a positive if we can build some status into work like that.

Dr. Kornweibel responded that graduate faculty status and honors faculty status certainly invites comparison, but they really are two different things. One is credentialing, the other is recognition after the fact.

Senator Bitter asked if a faculty member is still fully invested in his or her own department and this doesn't do anything to create faculty assigned to the Honors College. Dr. Kornweibel indicated that this was correct.

Senator Beeler asked if someone is graduate faculty wouldn't that mean automatically they are qualified to be honors faculty status? Dr. Kornweibel replied that they are not qualifying anybody to work with honors students. If you're a faculty member at ETSU, you're qualified to

work with honors students. They are trying to create a way to recognize the efforts faculty have already taken on. Anyone who is a faculty member at ETSU would still be qualified to supervise an honors thesis.

Senator Schacht stated that he would like to make a motion that we form an ad hoc working group to study this proposal and to make a recommendation as to whether or not the faculty handbook should be modified to reflect this. Senator Forsman seconded. President Byington called for the vote. The motion carried with one opposed and two abstentions. President Byington asked for volunteers willing to serve on an ad hoc committee to look at how this might impact the faculty handbook. Tom Schacht, Theresa McGarry, and Dhirendra Kumar volunteered. President Byington asked that they meet and let him know when they are ready for this to be placed back on the agenda.

President Byington moved on to the next information item on the agenda, the report on the monthly executive committee meeting with Dr. Noland. He stated that there were a couple of items that may be of interest. The current level of fundraising for the Fine and Performing Arts Center is \$5.5 Million. They have a number of 'large asks' in the range of 3 million dollars that they're awaiting responses on. The most likely location is still Lot 1 beside the Millennium Center. The Administration is awaiting an inspection report on the drainage on that particular lot. If something were to happen, which is not anticipated, it would revert to going back to its original location, which on the campus master plan was in front of Dossett Hall. It appears as if there will probably be architects elected in the November time frame. So at that point in time, the architects will begin to work with the departments as to what their requirements are for educational structure, for educational resources, and for support structure.

Dr. Stanton is now serving as the interim chair of the Department of Psychiatry in the Medical School.

The other item that faculty senate be working on this year is revamping Faculty Convocation. Faculty Convocation is housed in the Provost's office and is working off an agenda and structure that has been in place since the 70's or 80's. We have an ad hoc committee to look at that and will probably begin to talk about it at the next meeting. If anyone has an interest in that particular topic, let President Byington know.

President Byington moved along to the first action item – the approval of the minutes from the September 9<sup>th</sup> meeting. He asked for a motion to approve. Senator Epps moved to approve and Senator Bitter seconded. The motion carried with no dissent.

President Byington moved to the next agenda item regarding the preamble of the faculty handbook. He announced that Senator Schacht would lead that discussion.

Senator Schacht stated that last year under the leadership of David Champouillon, the Faculty Handbook Committee completed transitioning the faculty handbook from its old format to a new electronic format. One of the major changes is that now instead of giant blocks of text that are copied from other sources there are hyperlinks to that text. That is both a blessing and a

course. The blessing is that it makes the faculty handbook smaller and in some ways easier to use. The curse is that we don't control what is on the other end of those links. They link to someone else's website and they might change what is there. When we realized this was going to be an issue, we had a conversation with Ed Kelly about it. Ed Kelly's solution was to write a disclaimer in the preamble that anything a link takes you to is for informational purposes only. That does work from a legal point of view. What it doesn't do is help faculty members know what the ETSU policy is. The other problem we've discovered with this is that ETSU does not have a central repository for university policy. Senator Schacht stated that there have been at least two examples where this has come up recently. The most recent one occurred in his department and involved the failed search for a new chair. The interim dean of medicine came to the department to talk about the failed search and about reinstating a new search. In the course of that conversation, Senator Schacht pointed out to the interim dean that the prior dean had not followed university policy when he assembled the search committee. In particular, faculty in the department were not given the opportunity to elect 5 members of the committee, instead, the dean simply appointed the entire committee with no faculty input. The interim dean looked confused and after the meeting, he sent an email with a link to the human resources website which has posted TBR which HR believes is ETSU policy. TBR policy on selection of chairs makes no mention of a role for faculty. This is a local procedure that we have adopted. It is a part of our faculty handbook. HR doesn't link to our faculty handbook. It links to TBR. So any time we have a local policy that is different from what TBR has, HR knows nothing about it. We have to do something about this. If any of you have any ideas as to how to fix this, the handbook committee will welcome them. Senator Schacht said the executive committee brought it up with Dr. Noland last week. He understands the issue; he got it immediately. He also understands the magnitude of what a challenge it would be to get all of the university's policies in one place. He said right up front; this is important and it needs to be done. It's not going to happen overnight.

Senator Schacht continued that the second issue deals with the impaired colleague policy. He said that we may remember the unfortunate experience we all went through a couple of summers ago with Dr. Simon who was a professor in the Department of Criminal Justice who went through a tenure revocation process. He stated that while he was in the hospital recently recuperating from a car accident, Dr. Simon came to visit him. He said that she is a different woman and explained to him what happened and told him that he could share this information. She had basically been the victim of uncoordinated medical care. She had been given multiple medications that are dopaminergic in effect which promote compulsive behavior and paranoia. Somebody finally figured it out, got her off of that stuff and she is a world of different. Now the tragedy in the whole thing is we had, as a faculty, no mechanism to discover that and to deal with it when she was acutely in trouble because we do not have any process for dealing with an impaired colleague. When her situation first came to a head, Senator Schacht said he had a conversation with Ed Kelly about it. He asked if we could ask for a fitness consultation where we would simply say to her, you go to your own doctor - we don't get the results, but you get consultation. We have no process for anything like that. The only tool in Ed Kelly's toolkit was to revoke her tenure. Until we as a faculty follow through and produce a proposal for an Impaired Colleague Policy, that is going to continue to be the state of affairs on this campus. He said he shares this update with us by way of saying, whatever we may have thought about

Dr. Simon's situation, we can now look back at it with different eyes and realize that it was much more tragic than we appreciated at the time.

Senator Schacht continued with one more new piece of business. Last year there was a bill proposed in the legislature, Senate Bill 514, and House Bill 1185, which was to create a religious conscientious objection status for students in counseling, social work, and psychology graduate programs. The essence of the bill was that any student in one of those programs who refuses to provide services to a client in the course of an academic practicum cannot be subject to any form of action by faculty. No remediation, no discipline, nothing. The only choice faculty has is to accept the student's refusal and to go on. The bill says, however, that faculty does have to determine that the student's refusal is based on a sincere religious belief. Now in addition to figuring out what our students are doing in terms of their academic performance, we also have to figure out when their beliefs are religious and also when they are sincere. The Senate passed this bill last spring. The House, for the purpose of summer study, then tabled it. It is now being resurrected for action by the House in this legislative session. Senator Schacht stated that he attended a meeting in Knoxville last week with a group of interested professionals and state Representative Harry Brooks who is the chair of the House Education Committee. The group tried to give Representative Brooks good reasons to oppose this bill. The main message was even if you're not in one of those departments, this has an impact on faculty. Ultimately the bill says the legislature and not the faculty are determining the curriculum at the university. Until now the discussion has been framed in terms of discipline specific accreditation. Senator Schacht believes there is a larger accreditation issue here, which is SACS accreditation of the institution as a whole. Section 3.4 of the SACS comprehensive standards says the curriculum must be under the control of the faculty. If we find ourselves in a situation where the legislature is now dictating to faculty at the university what they can do with their curriculum and how they can decide when a student should or shouldn't advance in the curriculum, we might be out of compliance with SACS. Senator Schacht stated that he has put together a position paper with points on this issue. He is going to ask President Byington to take it to the TBR faculty sub-council and distribute it to the faculty senate so that we can be familiar with what these issues.

Senator Blowers asked what the history is behind this. Senator Schacht replied that the history is a series of legal cases that have been brought by politically active Christian organizations. The most recent case and the one that really prompted all of this occurred in Michigan where a counseling student at Eastern Michigan University by the name of Julia Ward told her faculty that she was not going to counsel a client who had been assigned to her because that person was homosexual and that violated her religious beliefs. What she wanted to do was simply refer the person out to someone else. The faculty took issue with that, they could not resolve their differences, the thing squared off to the point where Ms. Ward ended up dismissed from the program. She then filed a lawsuit, she got big public interest groups with a lot of money behind them and it ended up in court in a position where she prevailed against the University's effort to get the case dismissed entirely. At that point they settled it. Her case got a lot of national attention. In response to it, the state of Arizona passed a bill that is somewhat like, but also different from what is being proposed in Tennessee, and Tennessee is now the next state in line for this. There is, within Tennessee, an organization called the Family Action Council. It is headed by an attorney named David Fowler, who is a former legislator. He frames this whole

thing in ways that should be of great concern. Because the Family Action Council appears to believe that university faculty is as a group anti-religion, that we hate Christianity, we have a liberal agenda and want to indoctrinate our students. What we do as faculty is to routinely violate the first amendment by compelling our students to speak against their beliefs. So David Fowler goes to the legislature and he makes a charismatic case. The senate vote was something like 22-2. It was an overwhelming number in favor of this bill.

Senator Loess asked if there is a vehicle for some sort of conscientious objection in counseling cases. Is there any room for compromise? Senator Schacht replied that what the Family Action Council says they are trying to do with this bill is put into law what is already part of the ethics codes of the various professions. Because each profession does have in its ethics codes a provision that says if personal circumstances make it unwise or impossible for you to serve somebody, then the appropriate thing to do is to refer them out. So the Family Action Council is saying religious belief is such a circumstance. If you will let someone make a referral out for other reasons, but not for religious reasons, that is viewpoint discrimination, which is prohibited by the constitution. That is their argument. It all sounds very persuasive except that it is built on a faulty foundation, which is a gross misunderstanding of the ethical principle to begin with. The whole idea of referring somebody out is that it is an exception to the ordinary fiduciary duty that a counselor has to their client. It's an exception that is only exercised when the counselor is impaired or incompetent and unable to carry out the duty. The Family Action Council doesn't want to see that ethical principle as involving duties of the counselor, they want to see it as somehow establishing rights for the counselor. That is not what it is about.

Senator Bitter added that is a little more convoluted than that. The psychology and counseling professions take a stand in favor of people developing competence to counsel multi-culturally, to counsel both genders, to counsel anyone from any sexual, effectual orientation. They specifically state that it is the duty of counseling programs. The problem and this is what got Michigan to refuse to throw it out, the ethical code did allow for a conscientious objection in the case of end of life. So if you were counseling somebody with an end of life issues like should they live or not live, suicide, any of those kinds of things you could opt out of that. They essentially say that if you're going to opt out of that for basically "religious reasons" you can opt out of this other stuff for religious reasons. That was the position of the court. The American Counseling Association (ACA) went back and looked at that and revised their code of ethics. But it was a bit late for that particular court situation. Senator Bitter stated that when he called ACA and asked will you take a stand against what is happening, they replied that they won't take an official position in relation to the case in Tennessee. He asked why not and they responded that it is not the best interest of the national organization to get involved in state issues. So taking that position was problematic followed quickly by the American Psychological Association who essentially took the same position. They will supply information and help out any way they can, but this is essentially a state issue. Senator Bitter said the his program is literally building into their interview process and pre-screening of students a statement that says 'we expect you to counsel all of these people under all of these circumstances and by signing this agreement that you declare that you are not only willing to do that, but willing to be trained to do that and that there is nothing in your value system or viewpoint that would keep you from being able to do that.' We are essentially trying to short circuit what is almost certain

to become a legal issue. Senator Bitter stated that Senator Schacht's position that the bill may violate SACS standards is useful.

Senator Schacht continued that one thing that could happen down the road, if the legislature were to pass this law, would be for the faculties in the affected departments to affirmatively state that they do not approve of this as part of their curriculum since the legislature cannot force the faculty to approve a curriculum. At that point, we would clearly be out of compliance with SACS. SACS requires that curriculum be approved by the faculty. So an affirmative vote of disapproval would squarely place us out of compliance with SACS. At that point, it's going to be who blinks first. Senator Loews commented that in that case the pressure goes upwards to the administration.

President Byington added that there is an additional SACS standard that says one of the responsibilities of the board is to make sure that the organization is free of undue political influence. So there are multiple SACS standards that might be called into play.

Senator Kellogg asked what positions the various licensing boards take. Senator Schacht replied that he is not aware that any of them have taken a position.

Senator Lowes asked with regard to impaired faculty, we can't come in and declare somebody impaired, what can we do? Senator Schacht replied that part of what he was talking to Ed Kelly about was this is because years ago he worked as a consultant for the Tennessee Valley Authority which has in its corporate policy specific procedures for dealing with the possibility that an employee is impaired. That is a particular concern to TVA because they have a lot of employees in very safety-sensitive positions dealing with generator plants, nuclear plants, and so forth. If a supervisor in the TVA believes an employee may be impaired, they have a process for referring that person for consultation. It is very respectful of the individual's privacy, but it forces them to deal with the possibility that there is a behavior problem that is the result of some kind of impairment. It doesn't guarantee a good outcome for the employee, but it is a step in a process that makes sure that issue can get looked at formally and an alternative path to simply dismissing the person.

Senator Burgess said it may be a fitness for duty. It's a little better way of approaching it. Senator Schacht replied that in the health profession there are formal bodies that are set up to deal with impaired professionals. Senator Bitter asked how this fits into the larger issue of due process for faculty and have we done anything about that yet? President Byington replied that we have not. He said that we would discuss how to approach this issue at the next executive meeting and solicit volunteers to seat the committee. He would like to address this issue and the Code of Ethics by the end of the academic year.

Senator Bitter asked if there was a committee in place to deal with the Code of Ethics. President Byington answered that we have the Code of Ethics committee that Tom originally chaired which has been inactive for at least last year.



Senator Schacht stated that where we left it last spring was with a request to Dr. Noland to consider disbanding the existing Academic Freedom and Faculty Ethics Committee which reports to his office and replace it with a committee that would report to the senate and that would have much more specific charge including monitoring of academic freedom issues on campus as opposed to simply responding to things that may occur. We never got a specific response.

President Byington asked if Senator Schacht would like to continue as chair. Senator Schacht answered that he would like senate to find another chair. President Byington asked for volunteers. Senator Bitter volunteered to chair. Senators Foley, Kathy Campbell and Loess Volunteered to serve as members.

Senator Bitter asked, with regard to the preamble why we can't just have a book of policy printed. If we have all the links, why can't we just print everything and put it in the library? President Byington answered that we can but those policies aren't in concert right now. There are conflicts. As an example, our faculty handbook policy on the selection of chairs is not in concert with Human Resources policies.

Senator Bitter asked why Human Resources can't be directed to go to the faculty handbook first and to TBR second. Senator Schacht replied that is the problem. Right now there is no overarching policy that says who has the right to make representations about what is policy on their website. So HR can create its own website and put stuff on there and HR says this is university policy, they don't have to account to anybody for the accuracy of that information. Any other unit in this institution can do the same thing. If there are errors or conflicts, there is nobody playing watch dog.

Senator Foley commented that Dr. Noland said he was going to use this particular conflict with what the faculty handbook said and that policy that HR is published as the start of dealing with the bigger issue of the policies.

Senator Hemphill stated that when we first started the process of streamlining the faculty handbook and moving from print to electronic form and going with the idea of hyperlinks, it was well recognized that one of the problems is just the name Faculty Handbook. Because a lot of the policies that were in there deal with students, staff, and faculty. Really what we have is an institutional policies and procedures. When we first started this we went in with clearheaded ideas that we couldn't do everything and get it all done. But it is substantially better than it has been.

President Byington stated that Dr. Noland has asked to come to senate three times per semester, roughly once a month for thirty minutes, rather than spending one time taking the whole meeting. The cycle of information speeds up in that manner. Are there questions we want him to address specifically?

Senator Blowers said that the handbook says that votes for promotion and tenure are confidential, in fact we emphasize that significantly and yet the electronic promotion and tenure

system, and if the vote is unanimous the vote of the committee members is clear. It's not confidential any longer. That seems to be a bit problematic.

President Byington asked if that is a faculty handbook issue or an electronic process issue. Senator Blowers replied handbook. The vote could be in a section that the candidate does not see and it can then be determined whether that goes in the letter. They are either recommended for tenure or not that's all they need to know.

President Byington stated that somebody brought up a concern at the faculty retreat about what gets into the Johnson City press. In yesterday's paper, the press asked for input for the community advisory board. I thought this would be a good opportunity if somebody was interested in putting their name out for this. He then asked for any other business.

Senator Mackara commented that this month we have lost at least 3 former members of our faculty. Is there any sort of recognition such as flowers or donations on behalf of the faculty senate? President Byington replied that there is a faculty senate courtesy fund and we're in the process of getting the signatures changed to Senator Epps as treasurer and Senator Foley as the assumed next president. That would have been handled in that way and in that instance someone would come to senate and make the motion that we donate x number of dollars to the foundation in remembrance of these individuals. Senator Mackara commented that he would even extend it to non-faculty senate members as we represent the faculty. President Byington stated that once we get the signatures changed he will send out an email to all faculty. He asked for any other items. There being none the meeting adjourned.

ADJOURNMENT: The meeting was adjourned at 4:20 p.m.

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*Please notify Senator Melissa Shafer ([shaferm@etsu.edu](mailto:shaferm@etsu.edu) or 9-5837, Faculty Senate Secretary, 2012-2013, of any changes or corrections to the minutes. Web Page is maintained by Senator Doug Burgess ([burgess@etsu.edu](mailto:burgess@etsu.edu) or x96691).*