

**Minutes of the Faculty Senate  
February 28, 2005**

**Present: Senators Anton, Bartanen (Academic Vice President), Beardsley (Chair), Cunningham, DeMarais, Edgoose, Foster, Haltom, Holland, Maxwell, Orlin, Porter, Tinsley, Wimberger.**

**Visitors: Barry, Bodine, Goodman (Comp Soc), Hooper, McGruder, Rickoll.**

**Call to Order: The Faculty Senate was called to order by Chair Beardsley at 4:05 p.m.**

**Approval of Minutes: The minutes of February 14, 2005 were approved as amended with one abstention.**

**Chair's Report: None**

**Special Orders: Cunningham inquired about the academic calendar. He noted that students feel that Reading Period was "psychologically healthy" and that a full consideration of the academic calendar should be made that takes into account student feedback.**

**Continued Discussion of Teaching Evaluations: Senators Orlin and Holland distributed a document concerning student rating forms. They proposed that the Senate generate a shorter list of important topical areas from the document that Senators think would be important. Faculty would then give feedback on these broad categories and assign a value to each area. Porter commented that the composition of the Senate might not have a broad representation of faculty areas and that this might skew the distribution. Hooper asked whether student evaluation forms of professorial competence are useful as students may not be able to evaluate whether a professor is competent in their professional area. He also opined that the evaluation form could drive the way a course was taught. Wimberger asked what traits students could evaluate? Orlin noted that Macalester College does not have current students complete a rating form, but asks students who have completed a course to describe the qualities they believe makes a good teacher and then to evaluate faculty on that basis. Cunningham asserted that the key issue is what attributes define a good teacher. He inquired whether there was a document that defined these traits. Perhaps statements rather than questions would be a better approach to assessing faculty performance. He suggested that narratives may be more accurate than value judgments.**

**MSP: Senators will evaluate students rating items and generate a list that the faculty will review.**

**DeMarais distributed (attached) a working document for Faculty Senate discussion concerning faculty evaluation and governance (hereafter referred to as the working**

document). Some of these issues are being discussed by the PSC and others may need additional clarification (highlighted items).

Holland asked how the Senate should proceed. Should these issues be discussed by the Senate or through another mechanism? The options suggested by the working document included:

- to seek interpretations from the Professional Standards Committee (despite potential conflicts of interest),
- to create a task force to consider these and other matters of governance,
- to refer issues to the Ad Hoc Committee on Faculty Evaluation,
- to ponder issues in the Senate itself, or
- to do nothing.

DeMarais suggested that the Ad Hoc Committee on Tenure address some of these issues. McGruder opined that since the Faculty Senate was an elected body of the faculty, that a subset of the Senate comprise the task force. Haltom suggested a Senate review of the items in bold in an effort to prioritize questions dealing with faculty evaluation. Edgoose inquired whether pro and con arguments could be offered as each item is considered. Bartanen noted appreciation for the section of the document that notes the importance of looking ahead rather than to revisit past cases. She noted that the PSC is working on questions 1, 2, 3, 4, 5, 6, and 8A, all of which have to do with hearing boards and implementation of remedies in the Faculty Code. The issue of the “life” of a hearing board is also being discussed by the PSC, she said.

Anton noted that there were really two overlapping issues in the document: the first focusing on governance issues and the second on how a governance entity, the Professional Standards Committee (PSC) dealt with specific issues. Orlin asked what would possible task force issues include. Anton noted that perhaps two task forces be constituted, one evaluating faculty governance issues per se (e.g. direct election versus appointment of committees, liaison responsibility of Senators, possible sunseting of committees, establishment of new committees, periodic self-assessment of committees as part of their charges, etc.) and the other task force to address the issues concerning the PSC raised by the working document. Hooper noted that the Senate oversees Committees and it is the Senate’s responsibility to review them. For example, he asked what the rationale was for “ex officio” members of a committee. Holland and Foster supported the concept of a Task Force on Governance. Bartanen noted that the idea of a broad review of governance might be important, but that the specific items in the document which need to be addressed might get set aside in a larger review. She suggested that a set of items be delegated to the PSC. Wimberger questioned whether University committees were necessary. Anton moved (MS) that a Task Force on Governance be convened. Beardsley ruled the motion out of order because the motion didn’t have specified task force constituents or specific charges. Anton noted that the task force could be

approved in principle and that details could be discussed at a future Senate meeting. Beardsley reiterated that Anton's motion was out of order. Anton appealed the ruling of the chair. The chair's ruling was defeated by a unanimous vote of the Senate and a task force on governance was then considered. Foster believed that governance issues should be discussed by the Faculty Senate. McGruder suggested that the Task Force be a subset of the Senate. Conversation moved to possible task force members and task force charges. Faculty, students, administrators, staff, and Trustees were mentioned as possible members. Charges could include the issues mentioned above and fold in the issues raised by the working document, or they could be considered separately. Revision of Senate by-laws would be required if the Task Force proposed substantive changes. Beardsley noted that Article 4 Section B of the by-laws charged the Senate with evaluating all standing committees.

**MSP: To postpone discussion of the Task Force on Governance until the next Faculty Senate meeting.**

The Senate returned to the issue of the working document. Some items (7, 9, 11, & 12) could be referred to the Ad Hoc Committee on Tenure. Items 1-6, & 8A could be assigned to the PSC and reported back by the end of the academic year. Goodman questioned the limits of the PSC's authority. He noted that the PSC has removed a possible check on their work and that they should report their interpretations so that future issues could benefit from these precedents. He inquired about what would happen if a previous PSC broke the Code. DeMarais replied that the purpose of the working document was to address how these issues might be handled in the future.

Haltom requested that the Professional Standards Committee (PSC) respond to the DeMarais motion that minutes of the PSC be as forthcoming as they could be, consistent with faculty confidentiality requirements. He noted that the Faculty Senate should be asking the questions rather than asking for an interpretation. He commented that the PSC should be responsible for duties assigned to it by the Senate. Holland suggested that item 15 go to the full faculty for discussion. Haltom requested that the Professional Standards Committee respond to the DeMarais motion.

**MSP: To refer items 1-6 and 8A of the working document to the PSC.**

**Adjournment: The Faculty Senate adjourned at 5:30 p.m.**

**Respectfully submitted,**

**Barry Anton**

**February 28, 2005**

## **WORKING DOCUMENT FOR FACULTY SENATE DISCUSSION OF EVALUATION / GOVERNANCE OF FACULTY**

Many faculty have expressed to multiple senators over the last few years concerns about processes of evaluation and governance. Since the Faculty Senate is responsible for faculty governance and faculty evaluation, the Senate should inform itself and determine what, if anything, to do about missteps and injustices.

This memorandum does not presume the manner in which senators may elect to respond to matters below. For each question raised, senators may prefer

- to seek interpretations from the Professional Standards Committee (despite potential conflicts of interest),
- to create a task force to consider these and other matters of governance,
- to refer issues to the Ad Hoc Committee on Faculty Evaluation,
- to ponder issues in the Senate itself, or
- to do nothing.

Senators should focus on the general issues rather than disputes about specific sets of facts. Of course, we cannot forget that these questions arose from actual cases and are not simply abstractions but issues affecting people's livelihood and status. Nevertheless, these are general issues that must concern everyone who is subject to evaluation and grievance. Let us be as proactive as we can be.

### **A. Questions dealing with Faculty Evaluation**

1. **Must a hearing board, if it determines that probable cause for an appeal exists, hold a hearing? May a hearing board skip the hearing and decide the appeal and/or issue remedies?**

The Faculty Code states that “if two (2) or more members of the hearing board determine that probable cause for an appeal exists, a hearing will be held by the hearing board pursuant to Chapter III, Section 6” (Chapter III, Section 5, d, (4)).

The Faculty Code further states that “In proceedings before the board, the respondent shall be represented by a person or persons designated by the president or the dean. The appellant may attend all hearings in person and may be assisted by an academic advisor and acted for by lawyer or non-lawyer counsel chosen by the faculty member” (Chapter III, Section 6, b.).

2. **May a hearing board, if it determines that probable cause for an appeal exists, generate a remedy without recording the discussions by which the remedy is reached?**

The Faculty Code states that “In all cases, the university shall provide an electronic record and, if requested by either party, a verbatim transcript of the proceedings paid for by the requesting party. Records made of the hearings shall be retained by the university for six years after the committee makes its report” (Chapter III, Section 6, d.).

3. **Who is entitled to participate in the departmental response to an appeal? Who, if anyone, is required to participate? Who, if anyone, is not entitled to participate or to be consulted? Is anyone barred from participation or consultation?**

The Faculty Code states that “Any response(s) from the department, school, or program; the Advancement Committee; or the president shall be submitted to the chairperson of the Professional Standards Committee within ten (10) working days of the respondent(s)’ receipt of the list of alleged violations. The chairperson of the Professional Standards Committee and the chair of the hearing board may grant an extension for submission of a response if a respondent demonstrates that s/he was unable to take receipt of the list of the alleged violations at the time they were provided by the evaluatee due to circumstances beyond his or her control. Any respondent(s) who respond(s) must provide an evaluatee with a copy of the response” (Chapter III, Section 5 a. (3)).

4. **May the Professional Standards Committee, on its own initiative, implement or manage a remedy prescribed by a hearing board?**

4a. **May the PSC do so in the absence of direction from the hearing board?**

4b. **May the PSC do so in the absence of a formal request from any parties to the hearing?**

The bylaws state these duties of the Professional Standards Committee:

1. To recommend and improve continually the instruments and methods of Faculty evaluation and to facilitate their use in the University community. In performing this duty the Committee shall have the authority to call upon any part of the University for assistance.
2. To fulfill responsibilities assigned by the Faculty Code.
3. To recommend to the Faculty any changes in the Code and Bylaws when needed.
4. To establish standards of professional performance, including those for promotion and tenure, and responsibilities for members of the instructional staff.
5. Such other duties as may be assigned to it. (Article V, Section 6, sub-section E, part c)

5. **May the Professional Standards Committee implement or authorize a remedy different from that authorized by a hearing board?**
6. **May the Professional Standards Committee disband a hearing board?**
  - 6a. **In particular, if a hearing board has prescribed a process by which to inform itself that its remedy has been fulfilled, may the PSC declare that a hearing board has completed its work and ceased to exist?**
  - 6b. **What authorizes the PSC to take any part in a formal appeal of a departmental evaluation, deliberation, and/or recommendation?**
  - 6c. **May the PSC intervene in an appeal of an evaluation or recommendation from the Faculty Advancement Committee?**
7. **Does the Faculty Advancement Committee have the authority to request an evaluatee to submit to it directly, to become part of the evaluatee's file, materials that the evaluatee elected not to include in his/her file?**

The Faculty Code states that "The Advancement Committee shall consult with the head office from the department, school or program or the person(s) serving as head officer for the evaluation, as provided for in Section 4.a. (3) (b) and (d) above: if the Committee is not assured that the department, school or program gave adequate consideration of the faculty member involved; or if the committee feels that additional information is needed" (Chapter III, Section 4, c. (4) (a)).

8. **If the Faculty Advancement Committee becomes aware of procedural violations that may have occurred before the file reached the FAC, what must the FAC do to insure fairness, impartiality, and/or adequacy in its review? What may the FAC do?**

The Faculty Code states that "Before proceeding to a recommendation, the Advancement Committee through the Committee's careful review of the evaluation file shall determine whether the department, school, or program gave adequate consideration to the evaluatee..." (Chapter III, Section 4, c. (4)).

"Having determined that it has the materials and documentation necessary for making a fair and impartial evaluation, or at the conclusion of the dispute process in Section 4.c.(4) above, the Advancement Committee shall proceed to a recommendation based on the evidence at hand" (Chapter III, Section 4, c. (5)).

- 8a. **In particular, if a hearing board has prescribed a remedy for violations sustained in a formal appeal, what must or may the FAC do to assure itself that the remedy has been fulfilled?**
9. **May a department or a head officer refuse either to hold a vote or to make a recommendation regarding an evaluatee?**

- 9a. **If a Department chair were to forward a file without vote and/or recommendation to the Faculty Advancement Committee, may the FAC accept a departmental recommendation other than by a vote of the departmental faculty in some departmental assembly?**
- 9b. **May the FAC permit the chair of the Department to derive from letters written prior to the department's deliberations a vote or recommendation in lieu of a vote or recommendation in a departmental meeting?**

The Faculty Code states that "When the information has been assembled and evaluated by the department, a departmental recommendation shall be reached by members of a department other than the evaluatee through a deliberative procedure based upon the above information considered in light of departmental and university needs (tenure cases only) and standards. There should be evidence that the department had available the necessary materials and documentation and that adequate consideration has been given to the candidate's qualifications" (Chapter III, Section 4, a. (2)).

10. **Is it appropriate for the Dean of the University to participate in the crafting of procedures in the Professional Standards Committee pertaining to a specific case, then to participate in the Faculty Advancement Committee on that case?**
11. **Is it acceptable for a faculty member of any rank (instructor, professor, emeritus) to coach students to write letters against a faculty member coming up for evaluation?**

The Faculty Code states that "Faculty respect the private nature of the relationship between instructor and student, avoid any exploitation of students for private advantage, ..." (Chapter I, Part C, Section 2, a.).

12. **When and how may "personal and professional characteristics" be used in faculty evaluation?**

## **B. Questions that Pertain to Grievance Procedures**

13. **May the PSC delay grievance hearings beyond the time limit prescribed in the Faculty Code?**

The Code states: "Upon receipt of the grievance the committee shall fix a time, not later than fifteen (15) days of receipt for a hearing and shall give the dean, the grievant, and respondent five days notice thereof" (Chapter VI, Section 4).

"In all cases, the university shall provide an electronic verbatim record, and if requested by either party, a verbatim transcript of the proceedings paid for by the

requesting party. Records made of the hearing shall be retained by the university for six years after the committee makes its report” (Chapter VI, Section 4, c.).

- 13a. **May the PSC substitute an unrecorded session within the fifteen-day limit for a grievance hearing that is recorded and that parties may attend?**
  - 13b. **If a hearing regarding a grievance is postponed, does the grievant or respondent have any input about the postponement?**
  - 13c. **May the PSC postpone a hearing over the objections of one or more parties to the grievance [including grievant, respondent, and/or witnesses]?**
14. **May the PSC demand that testimony to be offered be critical to the case rather than merely relevant? May the PSC reject evidence or testimony that is relevant but not critical in the view of the committee?**

The Faculty Code states that “Each party shall offer such evidence as the committee deems relevant” (Chapter VI, Section 4, c. (6)).

15. **What responsibility do faculty members have to participate as witnesses in grievance procedures?**
- 15a. **If a witness in a grievance hearing ignores the directives of the Professional Standards Committee in a way that could reasonably be said to hinder process, is this a violation of the Faculty Code?**
  - 15b. **Does “governance” of the university include participating in grievance procedures or can faculty simply refuse to be interviewed or to give testimony where that testimony is critical to a respondent's defense?**

"Tenure-line faculty accept a personal share of faculty responsibilities for the governance of the institution" (Chapter 1, Part C, Section 3).

16. **Should parties to a grievance be notified of the PSC's recommendation when it is transmitted to the President, or is notifying the parties the responsibility of the President? May the PSC notify parties or not at its discretion?**
17. **Must the PSC provide the President with a summary of grievance hearings?**

"The committee shall send the president a copy of the grievant's notice of complaint, a summary of their hearings, and tangible items of evidence they received in their hearings" (Chapter VI, Section 4, c. (9)).

18. **What are appropriate processes for addressing matters of professional behavior or professional ethics that arise or are raised during an evaluation or a grievance process?**
  - 18a. **During an evaluation process, how should departments, hearing boards, the FAC, and the President handle issues of misconduct on the part of evaluatees and/or evaluators?**
  - 18b. **If issues of professional behavior or personal characteristics are raised during an evaluation, what role(s) is the PSC authorized to play?**
  - 18c. **During a grievance process, what are the appropriate processes for addressing allegations of intimidation related to the filing or consideration of the grievance?**

**C. Questions regarding the Limits of the PSC's Authority**

19. **May the chair of the Professional Standards Committee, the Dean of the University, or any other member(s) of the PSC interpret the Faculty Code in lieu of the full PSC, or do interpretations require deliberation by the PSC?**
  - 19a. **May the chair or any other member of the PSC issue interim, independent, or unilateral interpretations of the code?**
  - 19b. **What is the status of any interim, independent, or unilateral interpretation of the code by any member of the PSC? Is it authoritative until considered by the entire committee?**
  - 19c. **If interim, independent, or unilateral interpretations are permitted, how may the faculty, especially members of the Faculty Senate, learn about these interpretations?**
20. **How can an individual appeal an interpretation of the Faculty Code if the PSC fails to report interpretations of the Code to the Faculty Senate?**
21. **What may faculty do if or when they believe that the PSC has violated the Faculty Code?**
22. **What may faculty do if or when they believe that the PSC has used different procedures in comparable or identical instances?**
23. **What may faculty do if the PSC does not respond to a written request for an interpretation of the Faculty Code?**

The Faculty Code states that “It shall be the duty of the Professional Standards Committee to issue interpretations of the Faculty Code. Any member or members

of the academic community may request an interpretation of the faculty code, and/or the Professional Standards Committee may initiate the interpretation...” (Chapter I, Part G, Section I).

These questions have been modulated by minimizing references to actual cases that have raised concerns. Those concerns contextualize the questions above, but the questions above have been phrased in reasonably general terms to start a conversation among the senators and the faculty. The Faculty Senate should not rehearse recent conflicts. Senators should, in looking forward, heed whatever lessons they may derive from the past. If some of the questions above may be answered in ways that comport with faculty self-governance and adherence to the Faculty Code, this working document will have guided the senators toward a better university.