

Report of the General Faculty meeting

October 21, 2020

1. Approve minutes from 8-28 and 9-30

Both minutes approved by acclamation

2. Introduction of New Faculty

- Charles Watts introduced Saban Adana, Asst Professor of Management, Marketing, and Supply Chain
- Barbara D'Ambrosia introduced Paromita Banerjee, Visiting Asst. Professor of Data Science
- Ed Hahnenberg introduced Noah Bickart, Visiting Asst. Professor of Theology
- Gwen Compton-Engle introduced Ernesto Carranza-Castelo, Visiting Asst. Professor in Spanish
- MaryClaire Moroney introduced Bonnie Gunzenhauser, Dean of CAS
- Lisa Shoaf introduced Lydia Kruse, Visiting Asst. Professor of School Psychology, and Sara Parrish, Asst. Professor of Education
- Bill Elliott introduced Jin Peng, Visitng Asst. Professor in Economics and Finance
- Greg Farnell introduced Anna Simonson, Associate Professor of Exercise Science

3. Update on Benefits Proposal (Jeff Johanson)

1) Proposal to amend the amendment process

- Goal is to speed the process by which amendments could be made to the Handbook.
- The board wanted to reduce the number of parties that could bring forth an amendment
 - The committee (Faculty Handbook Committee) recommended against it as it would slow the process of amendment with longer chains of communication.
- The board wanted to make hearings optional
 - The committee proposed expanding the review process by encouraging comments at hearings, through emails, or on a secured online discussion board.
- The board wanted to specify shortened timeframes.
 - The committee accepted some, expanded most, and recommended that time limits constraining the proposers of proposals should be removed as they have a vested interest in bringing their amendments forward.
- The board wanted to be able to amend the handbook over the summer in the event of extenuating circumstances.
 - The committee is against it.

2) Proposal to form a benefits committee

- The board proposed formation of a benefits committee composed of faculty, staff, HR personnel and admin representatives, that would examine benefits offerings, make recommendations to SLT, with final approval for any change approved by the board.
 - The committee thought this proposal seriously flawed—recommendations would flow upstream with no obligation for those higher in the chain of authority to follow those recommendations.
 - The committee rewrote this proposal specifying the members of the committee to be one representative of HR, one representative of the admin 3 elected faculty representatives, and 3 elected staff representatives; the benefits committee should be co-chaired by the HR rep and one faculty rep; the president can accept the proposals, or reject, in which case it goes back to the benefits committee; the

- board is cut out of the approval process; and the committee can convene during the summer in the case of budgetary hardship.
- Jerry Weinstein: There is no administration. All administrators are officially called staff since a few years ago.
 - Dan Kilbride: Could we not specify exactly what positions we mean by administration? Like VPs, associate VPs, etc.?
- 3) These are not the proposals from the handbook committee. It is our feedback to the board about their proposals and it is up to them to decide which of these recommendations they would accept in revising their proposals if they revise them.
4. Faculty seeking counsel of attorney and method of payment (Brent Brossman):
- At this point, we are not talking about litigation, but legal assistance in drafting documents etc.
 - We are in the process of putting together a faculty legal defense fund. The full details will be out for Faculty Council to vote on 10/28.
 - The plan is to set up an account, and to ask for donation (suggested \$100). There will be options of payment method. Three people (in the Faculty Council Executive Committee) can sign off on it at any point in time; two of the three will have to sign to pay for anything. Access to the account will be transferred to the next executive committee at the end of the year.
5. Hardship Proposal Discussion
- Brent Brossman: the Faculty Handbook committee, the Faculty Council Executive committee, and the AAUP Executive committee have been working on the counter-proposal. The draft has been sent to the full faculty.
 - Jeff Johanson: why the hardship proposal is not acceptable.
 - The proposal to create a budgetary hardship standard would grant the administration extraordinary powers to terminate the contracts of tenured or untenured faculty due to budgetary hardship.
 - Budgetary hardship is defined as when the university forecasts an operational budgetary shortfall for a period of 2 or more years; or when restructuring or salary reductions are determined necessary to restore the University's or a department's financial stability; or when the financial situation will result in a significant negative impact on financial ratings; or external factors place the university in a position of not being able to meet financial standards mandated by the US department of Education or HLC.
 - The handbook committee pointed out that the proposal is severely flawed for the following reasons:
 - It makes it easier to terminate faculty.
 - Faculty are given less time before termination can occur.
 - It violates the Handbook in its commitment to follow the 1940 Statement on Tenure by AAUP.
 - It removes the protections of tenure.
 - There is no appeal for terminated faculty.
 - The criteria for establishing budgetary hardship are ambiguous.
 - The declaration of budgetary hardship does not have faculty oversight.
 - The Handbook committee does not think this proposal can be corrected. Instead, they recommended that the board withdraw the proposal and consider the counter-proposal.

- Marcus Gallo about the counter-proposal:
 - There is a fundamental misunderstanding on the part of the board of what academic freedom means, and how that's related to tenure.
 - This misunderstanding is further proved by the letter they sent to the Faculty this morning (10/21), which includes a list of schools that have similar provisions as they propose. Out of the 14 schools on their list only 9 actually have similar provisions, and 5 do not. The list of schools that are used as a precedent to establish the hardship policy includes some that have been censored by the AAUP, some that are on probation from HLC, one that has been stripped of accreditation, and some that do not have the 1940 statement on academic freedom in their handbook.
 - In the current handbook, the board can unilaterally impose amendments to the handbook and the faculty cannot stop them. The counter-proposal aims to give the board a set of provisions that will allow them to impose financial hardship on the faculty through salary cut for a temporary period in exchange for guarantees for tenure/academic freedom, representations on the board of directors, and financial transparency.
 - The biggest protection for faculty would be a faculty veto on any amendments to the handbook that violates the 1940 statement of academic freedom.
 - The only significant difference between the drafts of this week and last week is that we've taken out benefits as something they can cut temporarily in the event of budgetary hardship. The reason is 1) it is already addressed with the fringe benefits committee proposal; 2) there is provision in the handbook that says that faculty can't have their benefits lowered below a certain floor, so lowered the benefits temporarily may be interpreted as lowering the floor.
 - We must take the fiduciary responsibilities of the board seriously. They are responsible for the long-term survival of the university. And the faculty is even more committed to it.

- Discussion
 - Rodney Hessinger: just want to highlight the importance of keeping channels of communication open. The board has fundamental misunderstandings about many things other than tenure. E.g. the idea that there's fat to be cut with a scalpel shows a misunderstanding about the fact that we already stretch ourselves incredibly thin to cover a wide range of programs.
 - Anne Kuglar: I think it is a good idea to pull benefits from the hardship discussion as a separate category from salary. Because salary is more obvious, whereas if retirement goes down, it may just disappear.
 - Margaret Farrar: anyone who is an academic understands that the hardship amendment proposal is an attack on tenure and on academic freedom. But the board simply keeps repeating that it's not. Their letter today repeated it again. There are universities that don't have tenure, and they have ways of protecting academic freedom regardless. If the board wanted to protect academic freedom, they would have. I'm not sure that channels of communication would help that.
 - Emily Butler: Could we get more clarity around the staff/administrator status of people affected in #9 on page 12? ("No staff members or administrators (all assistant, associate, and full Deans, Vice Presidents, or the President) may receive bonuses before all Faculty members are made financially whole. No administrator may be made financially whole before all Faculty members are made financially

whole.”) If there’s no “administrator” status, then who is affected there?

- Marcus: we did not discuss this much. The concern was that there may be people in advancement that would receive bonuses, and would not be covered by the term “administrator”.
- Emily: The context of my question is that there may already be talk that faculty are less concerned with staff welfare.
- Brent and Marcus: the wording of this provision can be tweaked. It should be a minor revision.
- Bill Elliott: there has been some discussion among the Boler faculty around #6 on page 12 of the counter-proposal (“Acceptable financial solutions shall distribute the burden of the financial suffering across both Faculty and administrators (all assistant, associate, and full Deans, Vice Presidents, and the President) as a whole. The University shall distribute the financial suffering in an equitable way, so that Faculty who are less able to withstand financial suffering share less of the financial burden. To do so, the University shall establish multiple tiers, in which lower paid employees will receive cuts to a lower proportion of their salaries. The tiers for Faculty shall be distinct from those of administrators, so that all Faculty members receive a lesser financial burden proportionate to their salaries.”) The wording of this provision seems to mandate tiered salary cut. Boler faculty raised the point that if faculty agrees to tiered cuts in certain cases that’s fine, but there’s no good reason to mandate it in the handbook. Nowhere else in the handbook is there this kind of specificity.
- Marcus: I could explain the logic of this, but this is probably something that should be decided by a vote. Initially the administration was not interested in doing tiered cuts. If you leave it an open choice, then they may choose not to do it. Some of the faculty is making in the \$50,000 range, and some make well over \$200,000. So a flat cut across the board may be an equal distribution but not equitable.
- Bill: “financial suffering” can’t just be determined based on salary. If the other relevant elements are not included in the concern, then there is no equity in this “equitable” distribution.
- Bob Giacalone: why are we fixing on salary alone if we are trying to be fair across the board? E.g. retirement benefit cuts would affect faculty members differentially depending on their age. Medical benefit cuts would affect people differentially based on their medical conditions. If we are trying to be fair, then we need to bring everything into the discussion.
- Marcus: what I would end up doing is probably side stepping what you said. A 5% cut of the salary would be felt differently for a person making 1/3 of my salary. I would probably not want them to get any cut at all. People that are not paid much are talking about the possibility of not making ends meet, as opposed to not being able to put as much into their retirement funds. Originally my thought was that this would affect adjuncts as well. Then it became apparent that adjuncts are not affected by the faculty handbook and are not protected by it.
- Margaret Farrar: reasonable people can disagree on this issue, but what we’re looking for is an unanimous vote on this proposal. And if this language is divisive to enough people, I think we need to take it out. I also think it’s overly prescriptive for

handbook language.

- Mindy Peden: my research has a lot to do with ethics and theories of taxation. Adam Smith himself on the issue of taxation said you don't tax people below a certain amount. In the chatroom some people said that salaries are determined by market, but many of us are not payed our market value. We have mortgages and dependents as well. And we don't have the protection that the Boler school has in their accreditation mandates about faculty salary.
- Bill Elliott: I'm absolutely in agreement with progressive taxing regimes, but those are ex-ante, and this provision is ex post. People's long-term financial decisions cannot be easily altered at a low cost.
- Straw poll 1: "do you prefer to remove the language about the tiered salary reduction for faculty in the hardship scenario?" Yes-57 (59%); No-39 (41%)
- Marcus: the language is two-tiered. The administrators have a tier, and the faculty has a tier. The decision is to remove the tiers within the faculty only, correct?
- Brent: correct. Is there any conversation about the rest of the proposal?
- Marcus: To reiterate, this is not an amendment. this is just our suggestion to the board to revise their proposal.
- Margaret: question about timeline. Assuming we vote to send this to the board, what happens then?
- Brent: The board will get the counter-proposal with cover letter no later than 10/23; they are looking to have a final decision by 11/12; I think they are trying to get something set up for a January/February vote, so I would expect them to come back to us in mid-November with their final proposal asking to start a 30-day clock. The amendment can't changed once that clock starts. And we'll be obligated to cast a vote at the end of that.
- Jeff Johanson: If the board comes back with their original proposal, I hope every single faculty member on campus would vote and vote against.
- Amy Wainwright: the three faculty member who would serve as representatives on the board, how would they be selected?
- Brent: I have given it no thought. Perhaps a Boler rep, a CAS rep, and an at-large rep. but we have not outlined that.
- Poll 2: "should we send this counter-proposal (with language about tiered salary cut pulled out) to the board of directors?" Yes-97 (95%); No-5 (5%).
- Mindy Peden: I think the board will do it at their will. So I urge people to think about the next steps.
- Mark Waner: when we send this to the board, we'll also send the cover letter from the legal firm that we hired, and they cited some specific case law that might get the board to at least consider the fact that this could lead to a public lawsuit.
- Brent: the AAUP national letter also stated strongly that this is a unique and untold venture.
- Anne Kuglar: we need to know what are the 9 institutions that they say are also considering this provision, and we need to know who the external counsel is.