

**Report of Faculty Council Meeting with the Board
10/7/20**

Board Members Present:

Bill Donnelly, Mike Merriman, Teresa Lewandowski, Nancy Benacci

Faculty Council Members Present:

Brad Hull	Marc Lynn	Sokchea Lim	Joanna Garcia	Gerald Weinstein	Desmond Kwan	Jeff Dyck
✓	✓	✓	✓	✓	✓	✓
Christopher Sheil	Elena Manilich	Mark Waner	Medora Barnes	Mina Chercourt	Malia McAndrew	Angie Canda
✓	✓	✓	✓	✓	✓	✓
Colin Swearingen	Karen Gygli	Brent Brossmann	Sejung Park	Bo Liu	Gerald Guest	Yi Shang
✓	✓	✓	✓	✓	✓	✓
Kristen Tobey	Earl Spurgin	Zeki Saritoprak	Deniz Durmus			
✓	✓	✓	✓			

Brossmann: concerning the timeline, We received the 3 proposed amendments on 9/17, technically have 30 days to respond. The faculty handbook committee and the faculty council have been working very hard on these amendments. When do you need to hear back from us?

Donnelly: 10/23. Asked for an explanation of what divisions are (Brossmann explained it).

Brossmann: what's most frustrating for the faculty about the hardship amendment is the part regarding tenure. Would it be fair to say that, for the board, the most important thing about the amendment is to get the money necessary to save the university, rather than gaining the rights to remove faculty members? Are there other ways to find the savings necessary?

Donnelly: In our mind it's the financial health of the institution that secures tenure. Many handbooks were written to allow for the removal of departments that ultimately leads to removal of faculty members. But eliminating departments eliminates revenue streams. The board thinks that their amendment, which allows for the reduction of departments, is an improvement over the current handbook. The reduction of the departments could be achieved according to some prioritization, such as adjuncts, non-tenured full-time faculty, and within tenure could use seniority as a standard. Tenured faculty would be at the bottom of the list, but I won't rule it out.

Earl Spurgin: why don't you think this amendment is an attack on tenure? Whenever some financial hardship kicks in, we don't have job security, and without job security, we don't have

academic freedom. I don't believe it's your intention to attack academic freedom, but lack of job security is equivalent to not having academic freedom.

Mike Merriman: the context of this is are historically unprecedented losses. We are trying to anticipate and avoid a downward spiral. We currently have a blunt tool that only permits the elimination of departments, and we need a surgical instrument to achieve the right size of the university. We haven't been able to achieve the \$5 million saving on the faculty side. When you asked if there are other ways to get there, we'd love to see it, e.g. early retirements, buyouts. We will do the work that Gerry requested going back 10 years to see if there's a three-year period when there's an accumulation of 5% yearly losses. What is the faculty involvement in the process of budgetary hardship, how departments are analyzed, and what are their right sizes, these are to be worked out. There needs to be means to evaluate tenured faculty, all faculty. It's really a question of is tenure academic freedom or is it guaranteed lifetime employment. I would just say that there's no guaranteed lifetime employment when the university is on a pat towards financial exigency. If you wait till you get there, it'll be too late. Are there other ways to find the \$5 million we are open to hear that. We believe we are acting proactively.

Donnelly: when we first met with Steve Herbert to go over the 3 amendments, my initial assumption was that the budgetary hardship amendment would be the most difficult because faculty wouldn't be fully aware that the financial challenges we had were not Covid related. They were more structural in this post-Covid period. When I read the handbook it's clear to me that it permits the termination of tenure positions and in particular there's the permission of elimination of departments. There are a lot of universities that are implementing that strategy. Our provision is better than the current one from your guys' perspective. About tenure and academic freedom, as Mike elaborated it, we saw that there ought to be ways for us to discuss it in some objective means, the easy one for everybody to understand would be seniority, but there are obviously other ones to avoid that people could be targeted in ways that would hurt their academic freedom. I know you guys view the wording of the handbook differently and I can't judge that. I've read it myself we've had outside counsel reviewed it, too, and that's how we are interpreting it.

Spurgin: but let me say that we do have a procedure for interpreting the handbook. It's not about outside counsel, it's about our handbook committee, its chair, and the provost. It's not supposed to go to outside counsel. It's supposed to go to the chair of the handbook committee and the provost.

Barnes: as a faculty member, over the last dozen years, I spent a lot of time and effort committing myself to John Carroll in ways that will never be enumerated. A lot of those things are in areas that could be highly controversial. I served on the diversity, equity and inclusion committee. I am also a title IX investigator. I do these things because I believe they are important. It sometimes puts me in a position where we have to have difficult conversations. We have done town hall meetings where we sit down and talk about racial bias. As a title IX investigator there have been outcomes that people don't like. I also served as the gender, sexuality, and women's studies program director and I was one of those people that was trying

to deal with the fall out from the drag show last year. I felt like John Carroll had committed to me and I am committed to John Carroll. The idea of tenure, I do see as this commitment from the university to me, and that's one reason why I do those things. But some of this (amendment) strikes right at the heart. I'm not teaching my class on sexuality in the spring because that's highly controversial. I don't know if I'm going to teach classes on race in an environment where student could get very angry and it might cause a big issue. I won't be involved in anything like that anymore. If things start causing problems, if we have another drag show incident I feel like we might be two minutes from people deciding well we may only need two tenured sociologists not four. Some of us are more at risk than others due to the courses we teach, some are more at risk due to the fact that they are more outspoken and more involved. This is what we mean when we talk about academic freedom, and this is what I'm worried I'm going to lose if I don't have a commitment from John Carroll. If I feel like next year the year after I could be gone, I can't invest in John Carroll, I need to start investing in my own social capital instead of doing the voluntary title IX work and the voluntary diversity work. Thank you for listening.

Teresa Lewandowski: speaking as the former chair of the mission, identity, and diversity committee, and now the chair of the academic affairs, I want to invite people to help us modify this amendment to help protect from exactly that kind of thing, because that was not anywhere in the board members' intent. We value academic freedom, it's a Jesuit thing. It's what we need, it's what makes Carroll the fabulous place that it is. Bill's already heard me saying it. I'm not a big fan of seniority being a way that one's selected. You all know these things much better than we do. If there's a way that that can be incorporated into it, the more power to it. But this was not looking at attacking academic freedom. But somehow we need to balance that whole-department or nothing. I think you guys have the experience and the understanding and if you can bring that to us, so much the better. That's how we can work together to get where we need to go.

Nancy Benacci: Our suggestion of this amendment is not in anyway to take away academic freedom at all. And it is not our view that we as the board would be the one saying this is who should be terminated. It is up to the provost and the deans and the department heads. That's why as Merriman mentioned if there were productivity measures in place which will all be different for different things. It is how we can continue to survive and sustain the school.

Spurgin: what you were saying about it not being the board who decides who goes actually is the problem. we'll have to please those who are responsible for personnel decisions. I said something quite strong about the decision to cancel the drag show. It needed to be said, but I don't know that I would say it after this amendment, because people who have power over me could retaliate over what I said.

Merriman: Medora we are do indebted to your service to the university, and we can't put a price on that. What we are asking for is just more work around the process here. We all need to think hard about the process if we get into that budgetary hardship situation. What is the process, what is the metrics, what can we do to safeguard the things you are worried about? Thank you for telling us how you feel and we need to figure it out.

Donnelly: in our meeting with Earl, Gerry, and Mariah, one of the questions was would we be in this all the time. Clearly it is not the case. We are in unique circumstances now. There's a series of hurdle to even institute the provision. Once it is instituted, and it is a rare instance, we are in rare difficult times now, but once that happens what are the processes, how can it be done fairly? I agree seniority is not perfect so I'm looking for examples about other ways in which it could be done. We understand the point that's been raised. We don't want the Medoras of the world not to feel the same commitment to their institutions. We all agree that we need the institution to be in a stronger financial position. What the board can do is to provide some short-term cover for the next few years. But let's put in a decent foundation in place, cost-structure wise in 2023.

Joanna Garcia: I think the reason why faculty is pushing so strenuously back is because there's the existing language which in your first read seems pretty reasonable. But we've seen it implemented this year in a way that is completely inappropriate and not in accordance with the intent of the handbook. So we are very on edge about how things will be interpreted in the future that can be used against faculty. We are looking at every way that it can be used in a way that you are not intending because we've just gone through this. Even if you have the best of intentions, we don't necessarily trust that that's going to come to fruition if this is implemented.

Donnelly: Joanna I resonate with what you said about the explanation of emotions. That's how we interpret things as well.

Marc Lynn: I never planned to come to John Carroll to teach. I had a couple of consulting firms. I was called to design a course for the business school associated with computers. I was contacted a few weeks later to teach the class. I took a \$150,000 pay cut when I decided to come full-time to JCU. In 2008 when the recession hit, they asked people to take voluntary pay cuts. I took a \$36,000 pay cut because I cared about JCU. My biggest concern is losing the committed faculty that, after Covid, will have opportunities all over the country. As morale and trust deteriorated, it may be hard to attract faculty to come here. You do have sufficient funds in the endowment to handle the short-period stuff that right now seems to be driving long-term critical decisions.

Donnelly: one thing I'd like to push back on is this long-term vs short-term issue. We definitely are eating into the endowment, we are reducing our restricted net asset position, we are raising money from ourselves and from the donors for this year and the next. What we try to get at is 23 because it is beyond the short term. We very much worry about the faculty but we also worry if we don't do these things that John Carroll is approaching financial exigency. We are addressing things that are structural in nature.

Benacci: we look at what needs to be done in marketing and enrollment, and to really leverage the wonderful brand that we have at a wider geographic base. That costs money. We also need to enhance some of the programs in health sciences and data analytics. We need to offer those classes so kids want to come. We need to make the dorms a bit more livable than they are now.

All these things add on to the outstanding education that they get here. If we don't do anything to fix these enrollment will continue to decline.

Margaret Farrar: I have a comment and a question. One thing I'm not sure the board understands from the conversations that we've had is what tenures is as a signal to other academics. There's a reason handbooks across the country have financial exigency as the high water mark. It's because tenure is supposed to be unassailable for a variety of reasons that go far back in history. If we include this handbook amendment as it's written now or even some versions of it, there's a whole section of faculty who are not going to come to this university. And they are going to be in the fields that we most want to draw faculty to. If they read a handbook that says you might not have tenure if we are in financial hardship, and btw we've been in hardship for two decades now, they're not going to come. Past 2023, what does faculty recruitment look like? Our younger competitive colleagues will have fled the ship. My question is: Where else in the country is using this model right now? What's been tried and what hasn't? Can we learn from them?

Donnelly: we have not been in budgetary hardship for two decades. We're proposing a threshold for that. If it isn't clear it will be clear. We are working on answering the written questions from the faculty forum, which includes your question. The short answer is we didn't invent it. We asked for input from counsel who has been working with other universities on the topics. Every handbook is different. We appreciate this engagement process. We'll hopefully come up with things that are tailored to specific circumstances. The differences in the development of this amendment have to do with the financial health of the institution, its size, and the percentage of tenured faculty. Colleen is working on our answers for that specific question and we will publish it through Brent. We are not suggesting that half of the country is doing what we are proposing. But a lot of people are using this current eliminating-the-department thing. We see it all the time. I see it being discussed in the Chicago world. And it's not good. I would love that we could avoid using the tool, but if we have to use it I would much rather have the tool we propose than the tool exists in the handbook today. We understand what you said about attracting faculty. We think it's very hard as well if we're approaching financial exigency to bring in those same people you describe. Everybody felt comfortable that tenure existed in the old handbook. We think we make a better provision that protects more jobs and we're being accused of reducing tenure. I don't feel we need to market ourselves as not having tenure after we make this provision. I know you guys read it differently. I just want to describe how we see this situation.

Swearingen: I echo what Terry and Medora said earlier that seniority should not be a key criteria in faculty evaluations. In your opening statements you talked about mistakes have been made, I think one of the frustrations that I heard from a lot of faculty is that when mistakes have been made, board members and faculty, who didn't made the decisions were left to pick up the pieces from that. how do we hold decision makers accountable? If the strategic plan doesn't work out, who gets punished for decisions that other people have made? Faculty is upholding their end of the bargain, but how are members of the senior leadership team held accountable for these kinds of things that go on?

Donnelly: very fair questions. I want to point out that Steve and Michael have not been in their roles for long. Our expectations for Michael and Steve to deliver on things is different than in the past. Successive leadership have been looking for a way to solve our marketing and enrollment problems. They've changed people, but one of the big mistakes they've made is they've cut back on investments. Michael and the board is very much aligned in that we need more investment in marketing and enrollment, and we need a strategy in these areas. I'd give Michael credit as a good start on that strategy. It's far from a five-year detailed plan but its' thoughtful. It's very data-based. That's the part that he's farther along than others. We'd like to see how that translates into market share gain. I do agree with your comment that there should be accountability in our culture. It should be with the leadership and it should continue to be with the board as well. We are moving in that direction and we need to move faster and more effectively.

Merriman: another hope that the board has in this whole process is that as we work together to solve these difficult problems we develop new channels of communications and perhaps new processes where the faculty feels that they are being heard as we make these important decisions.

Emily Butler: faculty members are working on alternate versions of some of these amendments and are looking at what could be mechanisms for accomplishing some of what you're looking for. We're just really wondering what are the institutions that you have in mind, if you could just point us to some of the specific institutions that would be really helpful input for people who are trying to figure out ways of drafting the language and learning from it. The second thing I want to ask about is about the long-term ways that we can try to address some of the underlying concerns that we all share. Clearly there will be some difficult conversations and decisions. One thing that makes John Carroll unusual is that up until we hit this crisis this year, there hasn't been a lot of interactions between the board and the faculty, and the board and the staff. It's not necessarily the norm for the administration to be the conduit between those groups. It's actually often not the case. One way the board can help us shifting the culture on campus is, for example, there's been a long history of resistance to fundraising for academic programs. There could be another way of addressing this, say, here are the institutional needs, let's figure out what are the things that have been transformative for students in these areas. It's something that has been difficult to get traction on for people in academic affairs over the years. I wonder if the board could help to shift some of the conversations as we try to continue communicating more often. The board may be sending a signal about saying we need to think about strategies for supporting things that are central to our mission and that we know we have students and faculty who we can speak to.

Donnelly: to your first question we're going to respond specifically to the question. I doubt the counsel will list which schools she's working with. What we can probably get her to do is to give it a description, Jesuit, non-Jesuit, size etc. I think she only works with private.

Colleen: I think that's right. Our counsel represents many, many institutions. We can provide the more general information about the type of language and the type of institution. Our goals would be to get more information to you.

Donnelly: that's the hardest one to answer, because of this outside attorney piece. I'm not sure we have a current draft right now. It should be coming shortly.

Merriman (responding to what Colin wrote in chatroom about metrics on enrollment): we absolutely need metrics on enrollment, goals on enrollment in 23, 24, 25. We have this current class of 632. We hope to improve from there but until that class rolls off we're going to be in a challenging situation. I also believe, to your point Emily, interaction with you with respect to the strategic plan. We'd love to get your unvarnished feedback like you are giving us. We'd love to have future interactions, not years from now, but weeks and months from now about the strategic plan. I would think that any number of the board members would want the feedback from the faculty leadership that you all represent.

Benacci: a question from Margaret in the chat regarding the strategic plan is that there were no metrics in there. That's something that's important for us. If we get new programs we want to get the numbers of students. We are very interested in metrics so we can analyze things in a better way than we've been before.

Gerry Weinstein: on the issue of the pay cuts. You indicated the intent to return the salary to the appropriate level in 2023. There's some confusion as to whether the pay cuts of this year or next year will be returned to the faculty. I think a written statement with clarity on that would be helpful.

Donnelly: the board believes that it should be restore. That's our recommendation. In terms of the timing i think it would be inappropriate for me as a board member to say. I can't make that decision for Michael and his team. 2023 wasn't meant to be a transition or timing, so don't read anything into that. What the board like to see is that it is restored with inflation. We didn't made a specific comment about back pay or not. We would be supportive of that, but our specific statement didn't include that. It's not ultimately our decision.

Marcus: I'm hearing a little bit of confusion on the part of the board members as to whether or not this is actually tenure once the budgetary hardship goes through. We would still be advertising tenure positions in national advertisements and so on. So, For example, if we have an objective measure that says it's strict seniority and that's how people are going to be eliminated if we right-size a department. to use Medora's example, if Medora upsets an administrator or a donor to the University, or a member of the board, then if I know for example that she is third on that list, then I know that that department needs to be right-sized to get rid of three people. And if someone else is somewhere else on the list well then I can arbitrarily pick whichever department I need to in order to eliminate the particular faculty member that's a problem at the university. Perhaps that person's a problem because of their research or their teaching or their political views. So that's the reason that tenure specifically has to have this get-

rid-of-the-entire-department-or-not-at-all. It has to be this blunt instrument, because if you allow it to be a delicate instrument, it destroys academic freedom in the sense that individual people can be targeted and punished for their behaviors. The question that I would have is, are any of the universities that you're looking at for a model of this, not being investigated or sanctioned by the AAUP (the American Association of University professors)? Because my assumption is that they must be doing it right this moment.

Donnelly: We read AAUP stuff, but we did not seek to review whether it was AAUP compliant. We did seek to understand HLC implications, so that was done proactively. With regard to your first point. I get it and I don't dismiss it. my first reaction is hey that seems to be closing a loophole that's applied only in limited circumstances. if you carry people with such bad intentions, they could do the same thing to the department. there's so much untrust on how things could be abused. this instrument tool could be used in smart ways that would help the institution longer-term. but I heard what you said. I don't have a answer Marcus that I think would satisfy you but I will keep exploring and looking for it. I do feel a huge fiduciary responsibility to try to find ways to address our cost structure and to do it now not later.

Lewandowski: That's not an approach that most board members would have considered. That's not a way we would look at solving the problem. And I understand we wouldn't be the people determining which faculty stayed or went but this is why it is helpful for us to have these conversations with you. This is where we need input from you--How would you approach it so that somebody didn't do that? What are concrete measurable clear expectations and processes that could be put in place that would help us to avoid such a thing.

Benacci: there's a lot of comments in the chat about why don't we just file financial exigency. I mean to get to that point, you're almost at bankruptcy. we have a fiduciary responsibility to do the best we can to not get to that point and I think that puts us all in a much worse situation in terms of attracting new students, getting support from our alumni base, keeping as many people employed as we can. that's why we're trying to put in place tools that will help us going forward.

Merriman: How would the process be objectively worked out to avoid situations like Marcus has laid out or Medora laid out? What are those objective measures? What recourse faculty might have if they can't be relocated to another department? Like somebody said you can't trust tenures here because you can't trust the administration, and vice versa. so that's why tenure needs the one blunt instrument because you can never get trust. Are there objective criteria?

Brossmann: historically there's probably not an objective criterium for how we would go about protecting in a world in which tenure is produced. That's that blunt instrument. But perhaps there are criteria that we could establish that would help to find money without engaging in the tenure part of the conversation.

Merriman: part-timers, adjuncts, non-tenured, they are all at the front of the line. I guess that's obvious to all of you. But as you try to find cost savings, at some point you might have to dip into the tenured ranks, and you have this blunt tool right now. Back to respecting tenure, it's an order of priority I suppose. seniority comes into play at some point. But what are the other objective measures?

Brossmann: As I said I'm very excited about the possibility of interacting more on a variety of other issues.

Donnelly: you guys often refer to AAUP. when we talk to leadership there's often references to HLC. I think what we need to find there is a balancing act that makes everyone feel that there's an appropriate level of interaction. I think maybe Brent at some point down the road maybe a smaller group from your side, from the board, and from Steve and Michael could have that discussion in a way that is viewed by everybody as constructive. we want to be open and accessible. We don't want to make Steve and Michael's job harder either. that's the balance we want to find. on behalf of the board if I could just thank everybody for their time. we look forward to getting concrete input from you guys.