

Report of the General Faculty meeting

January 20, 2021

1. Approve minutes

- General Faculty Meeting minutes of 11/18/20 is approved by acclamation.

2. University Tenure Committee Proposal

- Jeff Dyck: The first 30 day period concluded last week. We had open hearings. There were some active discussions during the open hearings. After those discussions and meeting with Jeff Johansen, the faculty handbook committee, and Brent, we decided to make a minor but substantive change to the way the proposal would roll out. What is changed is for faculty seeking full professor promotion, there would be a couple of years where faculty would have the option to either stay on their current system or move to the new system. That's in a footnote. I'll provide an explanation in the canvas discussion board later today or tomorrow.
- Brent Brossmann: Jeff and I will meet later this week to set up times for open hearings on these revisions and we'll be done with that process.

3. Chairman of the Board of Directors presented the Board's amendments to the Faculty Handbook

- Bill Donnelly:

the board and the board task force on the faculty hand book amendments all appreciate the engagement and the input of faculty in this amendment process. I want to present the board's three amendments that will be subject to faculty vote, but start by saying that we understand that the faculty will be considering and voting on counter-Proposal amendments from the faculty hand book committee. If these amendments are also presented to the board following a faculty vote, I want to let you know that the board will also consider them carefully and will take them to the board for a vote. I'm working with Colleen on the appropriate timing for that.

The board's fiduciary and financial responsibility to JCU prioritizes ensuring that the institution get deliverance on its mission for the long term. Our current financial structural position represents the most significant institutional challenge we faced in many decades. As I've noted in prior meetings, we're on a path to annual losses in excess of 20 million dollars absent implementation of a significant restructuring program of permanent and structural cost savings. While some progress has been made in the restructuring plan, it's not been sufficient. A large part of that burden today is

falling on staff. Further there's uncertainty that the significant declines in enrollment in the last two years will not continue. The board has observed the administration's attempt to address the financial and structural challenges, and concluded that it needs additional tools to overcome that. It's also important that future administrations have these tools to address financial challenges that are not present in the current handbook. As part of these efforts we've submitted for your consideration three amendments.

The first includes changes on how to streamline handbook amendments as proposed and adopted. The second impacts the process around benefit plan administrations, specifically to establish a benefits committee with significant faculty representation to review and recommend benefit proposals or changes. The third amendment deals with how JCU could reduce costs in a period of budgetary hardship.

Two of these amendments are pretty straightforward and put JCU's faculty hand book in line with customary best practices of colleges and universities. The third amendment was originally written to update the handbook for serious financial situations and adopt provisions that exist in the handbooks of other Jesuit Institutions, such as Loyola Chicago, Loyola Maryland, and Marquette. Based on faculty input to our original proposals, we've added significant limitations to this amendment, and also defined more processes than what we originally proposed, such that the provisions could only be used in very specific circumstances with clearly defined and prioritized processes. To be more specific, we added a threshold that would limit the utilization of the provision to only sustained and dramatic financial losses. We added a detailed process to provide faculty with financial information and for identifying cost savings, which includes significant faculty involvement. We've made a prioritization of cost savings by category that requires reducing all other cost categories before any reduction in tenured faculty positions.

In summary, we are proposing two amendments that are clearly in line with market practices and a third, which is a much more faculty-favorable version of what exists at other Jesuits schools today. The latter would give JCU tools which the board believes are much more effective in dealing with financial challenges than those available under the current handbook, and we believe it's in the best interest of John Carroll, including the faculty, to have this amendment adopted. In challenges. In the current book. Is such we believe it's in the best interest of John Carroll including its faculty to have this amendment adopted. While the discussions about these proposed amendments have sometimes been difficult, the board appreciate faculty engagement and input during this process. We understand that faculty believes these provisions are an attack on tenure and on academic freedom, but the board feels strongly that this is not the case. We ask that you consider these three amendments individually on their merits with all due consideration. I encourage you to review the webpage the board created that includes these amendments and my letter to the faculty describing the many revisions

made to the original board amendments following input from faculty and others during the review process. We ask that your evaluation process include due consideration of our structural and financial challenges, and the fact that the amendments are similar to the provisions utilized at other universities, and that the most controversial amendment is based on what exists in several other Jesuit universities, and has been adjusted since it was originally proposed to be more favorable to faculty than those other institutions. We hope and we pray that you will vote for all three of these amendments, as we believe they are in the best interest of John Carroll.

Following the faculty vote on these amendments, the board intends to follow the process set out in the faculty handbook, and to continue our review and vote on these proposed three amendments, depending on what happens in your discussions. and I want to thank you for your consideration, not just by myself but also on behalf of my colleagues here on the phone today and for the whole board. I am happy to answer questions but I also understand that you have other discussions and my colleagues and I will drop off the call if there's not any questions so that you can continue your deliberations, but again, thank you for giving us an opportunity today to present these to you.

- Kate Malone will send out the link to the webpage of the Board's amendments.
- Brent Brossmann: a question to Michael and to Steve, clearly the board of directors believes that the hardship amendment is essential for John Carroll to be able to meet its fiduciary duties. Is that a position that the administration also holds?
- Michael Johnson: I think one of the key considerations here is that the board needs to think not just in terms of current administration but future administrations as it considers changes to the handbook. One of the things that is important for the board to consider is whether or not at some point, this is something the administration would use. That said. It's like any other emergency procedure. The administration never wants to use any emergency procedure. Our goal as the administration is to balance the budget and never to be in a hardship case. Right now we're in the process of seeing what the fiscal year 2022 early projections would look like, (we've had success in the cost savings program) and to see where we are from the enrollment standpoint. We are down year to year in enrollment, but our retention has been holding relatively steady. some graduate enrollment is up, we're down about five plus percent of the undergraduate level. I guess I'm not a position to say this is something I would use tomorrow. I think the question really before the board is, is this something that administrations will need going forward.
- Brossmann: I believe I heard Bill saying earlier that the board believes that they would need this tool going forward is that correct?
- Donnelly: I can assure you that while the board thinks that this is a tool that they should have, we don't want to use this tool. I think I heard Michael saying that we all hope and pray that we will not need to use this tool, but we have losses now in excess of 20 million

dollars projected for 2023 with the target to try to get to break even for 2023, we're covering the losses in this interim period which are significant and actually cumulatively will exceed that number. What I want to say is that the ability to predict where our enrollment will be this year and next year, what kind of average net tuition we are able to receive, how our cost structure evolves with the different things underway, is not known as of today. For that reason we would love that the downturn that we've seen in enrollment over the last two years stops, but there's uncertainty to that and if it continues to decline we do need tools such as those described.

- Brossmann: would Steve be willing to speak to this as well?
- Herbert: I think both Bill and Michael have summarized it well. I would go a little farther and add, as I'm seeing right now, my best judgment is that I would not need to use this tool in the near term. As Bill rightly points out, that's based on somewhat conservative projections, which we really do have a good sense of whether they're going to bear out. so if our enrollment situation were to decline significantly in the next several years, that could change. As I'm looking at our staffing levels and as best I can see our budgetary needs, I've communicated this to the board, that we would not need it at this moment. That said that was not the argument that I heard Bill make, and it essentially was affirming what Michael said as well.
- Question in the chat: could we see the budgetary hardship language from the other Jesuit schools?
- Donnelly: Every handbook reads differently but all three of them have provisions that would describe the ability to reduce cost related to faculty in periods other than financial exigency and without eliminating departments.
- Colleen: that is correct.
- Donnelly: Loyola Chicago, Loyola Maryland, Marquette. None of them has thresholds, none of them has process definitions to the same level of rigor or detail that the current version the board presented does.
- Brossmann: do you know whether those are long-standing policies or are those relatively recent changes?
- Donnelly: I don't believe any of them are recent in the last 12 months. We are aware of multiple universities that are contemplating what we've done. But the three that we mentioned have all added it in for some period of time.

4. Chair of Faculty Handbook Committee present the committee's recommendation on the Board's amendments, and the FHC counter-proposals—Jeff Johansen

- For the recommendations and counter-proposals, see supplemental files.
- The FHC's recommendation regarding the board amendments is that we should have a motion to put the board's amendments forward for a vote that should be seconded, but what we recommend is that we vote against sending it forward for a vote. We table it. if we have an overwhelming vote to not even send it forward, then these three proposals fail. We feel

that they are flawed to an extent that they should not even have an opportunity to be asked. This would send a message to the board from the faculty.

- Regarding the FHC Counter-Proposal: there will be two open hearings on the final versions of these amendments on 01/21/21 (10:00-11:00) and 01/22/21 (2:00-3:00). There will be a special meeting of the general faculty on 01/27/21 (2:00-3:00) to send the final FHC proposals forward for a vote.

5. Discussions

- Kristen Tobey: I don't fully understand the logic of voting to not vote on the board's proposals. I don't quite understand how that sends a better message than voting them down and I think maybe it just furthers the impression of us as just recalcitrant and not willing to even engage.
- Johansen: one reason is that we have a large audience in this meeting right now. we will have a very sizable number of the faculty that make it clear. There is also historical precedent. there have been amendments brought forward to the faculty in the past that the faculty voted not to send forward because they were proposals that were so problematic. that's happened a number of times in the past where faculty handbook proposals have been tabled. The message to the board is go back to the drawing board. These proposals are not even acceptable to the point where we want to vote on them. We would send an email to Bill Donnelly explaining what this vote means.
- Patrick Mooney: I have a suggestion about something should be made clear with the board, should we get to that point where we get to start over and they are still willing to work with us. After hearing the chair of the board's remarks makes me think it's still not getting through. We seem to be talking across purposes here with the board. we maintain that the hardship proposal is an attack upon tenure and on academic freedom. And the board not only today, but in previous meetings with us, has routinely stated that this is not an attack on tenure. The board seems to mean, they do not intend to attack tenure when they put forward the hardship proposal. That may well be true. But when we say it is an attack on tenure we are not saying you intended with this proposal to attack us and attack academic freedom. we are saying it is a cross purposes with the 1940 statement in the handbook if therefore weakens tenure. We are saying that even if the present board in administration are perfectly angelic, we will not always have those angels in administrators. Presumably the board's hardship proposal will still be sitting there for anyone to use. we are not talking about their intentions. The board's intention isn't relevant. We are saying that any future administration or board could have such intentions. You assume the worst possible intentions, especially when it comes to about particular feature of the handbook, academic freedom, and its protection, that is most at the heart of liberal arts university, that's the thing that needs protection against any covers. So that's what we were saying. we're not talking about their intentions. So if there is discussion with the board going forward and I hope that there is, may we please make that clear that we are not saying you have bad

intentions in putting this forward, we are saying the *effect* of it is an attack on tenure never mind what you intended.

- Johansen: That's a good point. I'll make sure to include this statement in my message to Bill Donnelly. In one of the meetings, he talked about how he wanted a scalpel so he could go in to departments and remove faculty. That's sounds like intention to me.
- Brossmann: I think that if Bill were here his response would be something along the lines of right now they can remove tenured faculty by eliminating departments that's sort of a club approach and that it's better for the university not to have to eliminate departments, hence the scalpel approach. He would be ultimately protecting tenure since you would remove fewer tenured faculty members. The faculty's answer to that in the past is it's precisely because you don't want to remove entire departments that there's a level of protection that's involved.
- Margaret Farrar: I wanted to agree with Pat but I also wanted to go back to the question that Kristen asked originally—I'm not sure I understand the strategy for postponing this. Why are we not just voting this up or down? I worry about a couple of things. I worry about a loss of momentum, we have a lot of faculty at this meeting today as you noted. I think we've engaged the board, and there is still fundamental disagreement about this basic thing—are they attacking tenure or not? Not voting to send this out is not a strong message as voting it down resoundingly because we've now articulated many times what we think the problems are.
- Brossmann: At no point today can we vote down the proposals in its entirety. Today the only thing that we can do is to vote to send this to the full faculty or not.
- Pam Vanderzalm: Given that our two open hearings are this week on the faculty handbook committee's proposals, would an electronic vote be one ballot for all of them if we voted to send it today for the board's proposals, or would they be two separate electronic votes?
- Brossmann: It is likely that they would be two separate electronic votes because if we vote to send the board's proposals out, we don't have any justification to wait 7-8 days to have the full vote. It takes a little bit of time to put that together, we would then send this one out, and the next week send out the other.
- Chris Sheil: In any of these options a mechanism is in place for the board to implement their intended changes. It is just a matter of how long or how difficult that process would be, right? for example, if we move to table it, there is a mechanism in place for the board to step in and just make their changes, or if it goes to a vote and the faculty vote, yes, let's we support these proposals from the board, then those changes will happen. And if we say no, a mechanism is in place for the board to make the changes that they intend. Is that correct?
- Brossmann: That is all correct.
- Sheil: In all three avenues the board can achieve these proposals so it comes down to the message that we want to send and where we actually stand on this.
- Rodney Hessinger: We had a set of resolutions that in very strong fashion renounced the amendments and provide a full throttled rationale as to why we did so. I believe the vote on

that was something like 101 to 2. So, I think our sentiments have been clearly expressed. We should trust our colleagues. They have spoken consistently against this and we've offered reasonable counterproposals. I also personally have shared with Donnelly and some others some alternative strategies to achieve savings that protect tenure. We might want to let the faculty vote directly. They've already told us how they stand on this on two previous votes.

- Jeff Johansen: What would be a bad message is if we had a mixed message to send it forward, e.g. 52% said don't send it to a vote, that's a very a bad message. If we felt like we had near unanimity in this issue of tabling the proposals, that would be a very good message. If we do not have unity then maybe we do need to send it forward to a vote and rigorously vote it down.
- Medora Barnes: Obviously the whole conversation right now is about messaging. If our amendments go out for a vote and we have the numbers on that, maybe it would be stronger to send this one (the board's) out and then we could compare apples to apples rather than comparing apples to oranges. Maybe there's more power in being able to compare the two actual votes.
- Brossmann: If we decide not to send it out but it's very close, then there is no second message. Bill sent an email to me and Jeff last night indicating that the board would be happy to look at both their and our proposals regardless of how they turned out, if we get them to them in time when they sit down to have their meeting. There's no promise of what will happen to them other than they'll give them their fair consideration.
- Steven Herbert: The next board meeting will be the beginning of March. That was partly due to an anticipation that the faculty amendment process was going to be slightly delayed, so it was an effort to give some space so both sets of proposals could come before the board together.
- Anne Kugler: I really think that clarity is important for strength and holding back on voting complicates the message. It needs to be very clean that there was a vote to send it out. It was an overwhelming vote. and there was a vote to reject it. That was also an overwhelming vote. This choice of not sending it out is too open to misinterpretation and to confusion and we don't really have the luxury of misinterpretation and confusion.
- Marcus Gallo: My feeling is that it's a stronger message to table these amendments because they're not acceptable, and the faculty handbook committee that we've elected to represent us unanimously feel that these are unacceptable amendments so they shouldn't be voted on. We've got acceptable amendments that we are voting on. so if we say no to these and then we bring in the counter proposals and vote on those, that strikes me as cleaner. Having said that it's more important to me that everyone votes in a unified manner to show that the faculty are not internally divided along these issues so I wonder if it might make sense to have a straw poll before we have a vote so that people can see what other people are thinking.
- Straw poll took place: 53 to 4 that we should send these out to the vote.

- Johansen moved to send the 3 faculty handbook amendment proposals from the board for a vote. Yi Shang seconded it. Yes-115; No-13 on each of the three vote. We will send all three of these out.

6. Update on the faculty legal fund:

- We are still seeking an attorney to represent us should there be an additional need for that. We've paid for an attorney to write a letter, a detailed argument about the state of contract law and tenure in the state of Ohio. We've interviewed two attorneys, we are in the process of interviewing a third to represent us. As of right now we have approximately five thousand dollars in the legal fund, after paying for the first attorney. We might need additional funds. For all of you who have already contributed, thank you very much, appreciate it tremendously.