

## Report of the General Faculty Open Hearing with the Board

November 16, 2020

Bill Donnelly:

- thanked faculty and faculty leadership groups for engagement in the process. Introduced board members present--Bruce Jarosz, Terri Lewandowski, Nancy Benacci, Mike Merriman. Reviewed the university's financial situation: more than \$20m loss projected by 2023; currently a large portion of the cost cut is borne by the staff, 60 staff positions removed with staff salary and benefit cuts.
- The board proposed the faculty handbook amendments as an effort to address the issues with recognition of the central role that faculty plays and with the goal to fully preserve tenure and academic freedom.
- The board has had at least 6 formal sessions with faculty and staff, and more informal sessions; created webpage with web form for submission of comments and feedback, that was used by all JCU stakeholders. Since the last time we met as a group, the board's task force on faculty handbook has had about 6 meetings; the executive committee of the board has had two meetings. Recently the entire board has been updated on where things stood and the reactions of different stakeholder groups.
- On 11/2/20, the revised amendment proposal, which Incorporated as many suggestions as possible but kept the original intent to preserve the long-term interest of the university, was sent to the faculty. In the board's communication of 11/2, they described how they considered the feedback and whether it was incorporated, and if not, why.
- On 11/13/20, the board received letter from the faculty handbook committee. Comment on the feedback of this letter: regarding the amendment process, idea of the summer timing, the normal course of business would be during the academic year, but there are circumstances when summer meetings would be appropriate, considering the technology we have at our disposal; with regard to the benefits amendment, the board considers its proposal mainstream. The benefit committee serves a substantial role. While sometimes it's necessary to have the president making the ultimate decisions, or, in extraordinary circumstances, we may need short-cut process, what was proposed was appropriate for circumstances. The benefit committee would be serving a good purpose in terms of collaboration and shared governance, but there may be circumstances when this may need to be re-routed.
- With regard to provision about budgetary hardship, a misunderstanding needs to be clarified: the criterion for financial hardship is defined as an average of 6% budgetary deficit per year. It is a highly significant number. In a back test over a number of years, only the current situation would meet the threshold.
- Timeline: we are now in our 2nd 30-day period, the board will continue to take submissions of feedback. The handbook doesn't permit change to the current proposal, but the board welcomes comments or questions via the web platform. the first faculty vote is expected to be scheduled in Jan. 2021.

Questions and Answers:

Rodney Hessinger:

What kind of information has been gathered on whether and how we could meet program requirements if we "surgically" cut faculty out of existing programs. In my experience, we already can't stage all the classes needed by students to fit our current set of programs. This is not the path of least resistance that it seems to be.

Donnelly:

Via the academic affairs process, Herbert is working with a group of faculty on measures of course loads (productivity measure?). It's a work in process. It's premature for us to judge if removing faculty members would hurt academic product.

Herbert:

Rodney brings up an important point. Either way would be difficult and should involve faculty voice. If we have to go through the pains of reducing faculty positions, there should be significant faculty involvement. This handbook amendment does include the feedback mechanism.

Hessinger:

I'm also concerned about the list of possible criteria that may be consulted. There is no sense of how they would be prioritized, which gives faculty little predictability as to which criterion will be used and why. This should be specified more clearly.

Herbert:

There is a group of faculty, in addition to Deans and the provost, to work on the details. Among the things that would be taken into account of, there are length of time in tenure, in rank; additional inherent contribution to the curriculum. They are guidance for decision making, not requirements. If we are ever in this unfortunate position to cut faculty, there will be consultation with the group about the criteria and the process so as to avoid any situation whereby it looks like we are going after people due to controversial subject matter.

James Bretzke:

I speak in support of the board. I have taught in 4 Jesuit institutions in the US. I have been troubled by the strong adversarial nature of a number of faculty members vis-a-vis the administration and the board. shared governance is important, but I look at it more in terms of shared competence. Not all faculty members have the competencies to work through the complex budgetary considerations. Small institutions tend to be vulnerable. I

would encourage my colleagues in the faculty to work for common purpose and work with the administration.

Margaret Farrar:

One thing I've learned in the 6 years that I've been here is that there is a lot of role confusion about who should be doing what. Take the health benefit amendment and the amendment procedure proposal for example. The role of senior leadership should be that of teacher. They need to teach the faculty about what's going on and make a case for the changes being proposed. No one on SLT has made such efforts during the 6 years I've been here. Colleagues who've been here 10 years or more said that no one in the SLT has done this. Same is true with amendment proposal. It is very unusual for a board to be involved in granular governance. I'm sorry the board has to be involved in this way. But this kind of proposals, especially if they are passed over the objection of the faculty, do nothing to help the relationships between the faculty, leadership, and staff, because we skipped an important step where someone in the SLT making a case why these things are necessary. I'm sorry the board has to make this case, but it's in the absence of any other case being made.

Donnelly:

To clarify one thing. The board is involved for a couple of reasons. One is the financial situation we are in. the other is our ability to propose these amendments which are part of the solutions necessary going forward.

Earl Spurgin:

I appreciate father Bretzke's frankness. To be equally frank, I am offended by his remarks about lack of competence on the part of the faculty.

Dan Kilbride:

Faculty members that are the loudest and most contrarian are not representative of the full faculty. It is in the faculty's keen interest to keep the institution sustainable. In the board's letter to the faculty, several times there's a statement that board respects tenure and academic freedom. Yet under the condition of budgetary hardship, tenure and academic freedom will be suspended in the next few years, if the amendment is imposed on the faculty (since faculty will not vote for it), and the president will be free to eliminate faculty for whatever reason he wishes. The criteria for removing faculty are optional. in what aspect can the board say they respect tenure and academic freedom while under budgetary hardship tenure will not exist at JCU?

Donnelly:

Because of the financial situation, we have to look at academic costs. In what we proposed under budgetary hardship we think we will ultimately save more jobs than the

current provision of department elimination allows. In that sense we feel like we are protecting tenure. Tenure is ultimately dependent on the financial viability of the institution. With regard to the guidelines (of removing faculty members), at least half a dozen faculty members expressed to me that making it too stringent/rigid would not necessarily be in the best interest of the institution from an academic perspective. In the business world, tenure would be based on seniority. According to a number of faculty members, the Deans, the provost, and the president, seniority should be an important but not the only consideration. There are all sorts of protections around employees being terminated. There are protections in employment law. We would have to follow a process that was considered fair ultimately.

Margaret Farrar:

there is not explicit protection of academic freedom written in the proposal. Other institutions that don't have a tenure system find other ways to protect academic freedom, contractually and otherwise that don't rely on generic employment law. The fact that there is no explicit endorsement of academic freedom is concerning. Unless there is explicit protection for it there is no respect for academic freedom. A question about the strategic plan: how much money from our saving is going to fund the strategic plan. There is no enrollment target or tuition revenue targets in the plan. It's unclear whether we are shrinking or growing. What portion of the savings from firing faculty will go into hiring new faculty?

Donnelly:

I will get back to you about explicit protection of academic freedom. I thought it was explicit but I could be mistaken. With regard to the second question: there is a total \$5m built into the forecast of restoring salaries as well as new investment in the plan. So the modeled investment cost is \$2-2.5m, the majority of which is related to marketing and enrollment. Even with those boosts we will still be under benchmark in marketing spending. Amount invested in new programs is not significant and not defined in such details. The plan may evolve to be more specific sometime in the spring. When we have strategic plan finalized we should have goals about enrollment and new programs. There should be more investment in digital marketing and content. There should be a target in total of their return.

Michael Johnson:

there is no accounting today about # of faculty reduced and hired in different areas. Our deficit is mainly a structural issue. We'll be looking closely at the cost, at the projected revenues, and at the cost of the investment, once the plan is approved. We'll focus on our cost structure going out of the pandemic, and what saving we need. The May 29th memo explained the size of the problem and the need to have savings. We have made good progress. We made it explicit to the community that there are some areas in growth. But conservatively we won't even include them in the analysis, because we

know the growth will go into investment. E.g. the growth in graduate programs is already in investment. There's no plan that we are going to eliminate certain number of faculty and come back with a certain number of positions in other areas. We will do a cost benefit analysis in the winter and in spring, and we are going to find the revenue separate from the \$5m savings that we needed from faculty. Staff savings are approaching \$5m already, and faculty savings currently are at \$2.2m. Faculty needs to contribute to that in different ways.

Terri Lewandowski:

Margaret identified that other institutions have varying definitions of tenure. Some have weak definitions, and nevertheless more carefully defined academic freedom. Perhaps interested faculty could work on the definition of academic freedom since you would understand it better than someone outside of the academia does. That may be incorporated in the faculty handbook via another amendment. The board members all value academic freedom.

Nancy Benacci:

Regarding Margaret's remarks about enrollment and marketing, we are focused on identifying the target schools, the key schools in different territories and will have detailed metrics and target on how we can bring more students and be accountable as to where we need to go after it again and how many visits are being made to different schools. We are in agreement with you on that.

Simon Fitzpatrick:

I shared with the board an advisory letter that the JCU chapter of AAUP received from the national Academic Freedom Office of the AAUP. They are the experts on tenure and academic freedom. They said clearly that the budgetary hardship amendment proposal is de facto elimination of tenure and academic freedom. It may not be your intention, but it is what the proposal does. We need greater level of honesty about it.

Donnelly:

we did receive the AAUP letter. We disagree with the conclusion. I don't appreciate the reference to honesty. AAUP is not the sole source on this. The faculty handbook of each institution stands on its own. AAUP is not a regulatory body that has governance over that. They have opinions over that. The board has its opinion as well. We also take these opinions in the context of what the handbook said in the past and what we think we need to do. If the AAUP ignores the financial situation of an institution in evaluating academic freedom, I think it's silly. I don't understand how they think that if we don't correct our financial situation somehow academic freedom is protected.

Fitzpatrick:

You are presenting a false choice here. The choice is not between saving money and tenure. In the counter-proposal that the faculty offered and supported, we are willing to give the university a mechanism that they do not have to save money when there is financial emergency. The question is what is the best way to save money? Our position is, if you eliminate academic freedom, you will effectively destroy the faculty of this university. And that has long-term financial implications for the university. We won't survive as an academically rigorous institution without protections for academic freedom.

Donnelly:

1. what was proposed in terms of correcting the financial situation isn't sustainable. It is not enough to address the financial challenge that we face. 2. our budgetary provision is very similar to what other institutions have, and the budgetary hardship triggers that we defined is in many ways more stringent than what is provided in other institutions. So I struggle with their isolation on ours.

Margaret Farrar:

In response to Terri, the thought that the faculty should have to investigate academic freedom, given that the SLT has two lawyers and outside lawyer is crushing. Any faculty member coming to this institution understands tenure to be what is written in the handbook right now.

Donnelly: I heard what you said.

David Shutkin:

if you aren't able to embrace the AAUP definition of academic freedom. Can you share your source of definition?

Donnelly:

Many other institutions have wording similar to what we have about different levels of financial challenges beyond financial exigency. Our triggering threshold is much more defined and restrictive.

Shutkin: respectfully I didn't ask about that. I was asking about your alternative definitions of tenure and its sources.

Donnelly:

I believe the context is that we are somehow challenging academic freedom by introducing the budgetary hardship provisions. All we are saying is that we are doing what many institutions already have and we are doing it with more discretion.

Anne Kugler:

An average faculty member spent 5 years in phd, 5 years in tenure track. It's an immense investment. When prospective JCU faculty come on the national job market, they will research the institutions. How the amendments would look to our recruits? What is your strategy to recruit faculty?

Donnelly:

if we can't be financially viable, it's difficult to recruit. In my cover letter, I made the point that there's no good choice here. We are only choosing the lesser of evils.

Herbert:

the higher ed market is changing. Expectations are different. It will be more challenging, but there's no evidence that we won't be able to recruit.

Marcus Gallo:

Do you intend to impose these amendments regardless of how faculty vote?

Donnelly:

there's a process we are going through now. We'll get feedback over 30 day period. We'll digest the feedback. We'll observe what the faculty votes are on the different amendments, take the information into account, and decide whether we would go forward with the board vote anyway. The board has been kept up to speed with this. We shared with the board the feedback we received in the process, largely from the faculty but also from other stakeholders. The board has approved the revised amendment.

Rodney:

With regard to our competitiveness in the job market, we are not hiring faculty from low-demand fields, we are hiring faculty from high-demand fields. They are in a better bargaining position. We did homework on the 14 schools that the board listed as references. They are not schools that we would want to be. We have to protect our brand. Eliminating tenure is a brand killer. We cannot, when interviewing job candidates, in good conscience tell them that tenure is protected on this campus.

Brent spoke of the quality of the 14 institutions: only one school has a hardship provision that affects tenure, they have 30% 4-year graduation rate and 52% 6-year graduation rate, not who we want to be. One of them is under sanction by AAUP, one by HLC, one of them lost its accreditation, one of them didn't have tenure.

Medora Barnes: it's different when faculty are eliminated compared to staff being eliminated. When individual faculty member is eliminated while the department remains intact, the individual would be unhirable. Similar problems don't exist for the staff. The idea of coming in and surgically eliminating people but still saying that we have tenure is a situation that doesn't

resonate across academia. Eliminating departments is something that people would understand.

Bill: regarding the list of 14 schools, weren't there 3-4 Jesuit schools on that list?

Kilbride:

the list includes: Bacone, Doane, Loyola Chicago, Loyola Maryland, Marquette, Pacific Lutheran, Paine, Radford, Sacred Heart, Saint Mary's, University of Alabama Birmingham, Memphis, Scranton, Utah State,

Nancy Benacci:

There are other institutions in the process of going through the same thing, but we are not able to share who they are now.

Colleen Trembl:

Our outside counsel identified 9 institutions that they are working with, but they are not able to share. These were the other ones that gave the idea of this being an emerging trend.

Donnelly: We need approval to share

Brossman:

Among the 3 Jesuit institutions listed, one is currently laying off 20% of all faculty, two of them do not recognize AAUP tenure, one of them still will only get rid of tenure for the closure of an entire department. The three schools are not doing exactly the same thing.

Donnelly: we set a high bar for budgetary hardship with 6%. None of them has that flexibility.

Malia McAndrew:

the board and the faculty have different understandings of tenure. The board has to do it for the financial viability of the institution. But some faculty members are already looking for jobs else where. I love my job. But I feel underappreciated. Faculty morale will be extremely low if this is imposed on the faculty.

Donnelly: I'm very sorry.

Brossman:

the crux is our disagreement is exclusively on tenure. We get that the university is in financial difficulty. The university needs faculty to share the sacrifice, and we get that. We didn't vote for the retirement benefit cut, that's true. But that's the day after two of our tenured colleagues got termination letters. That poisoned the well in a significant

way. I believe faculty is willing to work very hard to find ways to help the university. I don't think the faculty is willing to work at all to eliminate tenure. That's really the bottom line. We have to figure out whether we are going to fight over that part of the proposal or whether we can come together as an entire community and find other ways to meet the budgetary shortfall. I think the faculty is more than willing to do the second part. I really don't think we are going to pass this proposal. The two earlier votes made that very clear. If you want faculty's cooperation on this we'll have to find a way to do this without eliminating tenure.

Nancy Benacci:

we are looking at everything possible to keep the institution sustainable. What are the things that you feel that we can do but are not doing now?

Brossman:

We all know that the power of deciding benefits traditionally rests with the faculty and we are giving that up. If they hadn't eliminated Bo and Gerry's positions, the faculty would have voted for that additional \$1m to pass the retirement proposal. Many said that that was the deciding issue that made them flip. We can give up more salary or benefits. Most people would also prefer increased work load for a short period of time to elimination of tenure. There are many options that we are more than happy to discuss. But elimination of tenure is a non-starter for the faculty. If push comes to shove we'll look at other ways to fight it.

Farrar:

With the elimination of tenure we have gone from 0 to 60. Many intermediate ways of saving have not been looked at. There has not been a tough concentrated push on part-time faculty budget. There's no coordination of course cap limits or elimination of tracks within majors. That's the kind of close curricular work that deans and associate deans and the provost supposedly engage in routinely. Maybe there's not much saving to be squeezed here, but we still have an awful lot of part-time faculty, we still have a lot of variability in terms of course caps and in my own major there are tracks that may be eliminated.

Donnelly:

board has asked that we break even by 2023. We give two years of lee way to make that happen. The ways the provisions are written in the faculty handbook, we have to act now to be able to implement them. If you approve the amendment it goes into effect with your contract submitted in March which means we can't even start budgetary hardship process to next fall/winter. There's a long lead time on all those things, so there are many things that faculty and leadership can do to address it. I would highlight that we have a big financial challenge and there's no easy answer to that. We are giving the two-year window for faculty and leadership for shared governance to get to the cost savings.

You mentioned some of them. I don't know what they would add up to, but I would encourage faculty and leadership to do all that they can to address those topics and to address them sooner than later.

Rodney:

progress has been underway. The full-time faculty budget shrank by 10% in 2 years, parttime budget shrank by 20% over the last few years. We have a new course scheduling program that the registrar's office just adopted which will give us better predictive analytics about where we need to put the courses and about course caps. We have made significant cost reductions. We also have to do better on the revenue side. But people won't be willing to do this work if they are totally demoralized. Please give us that breathing room, empower us to be partners and we will take that responsibility to both help grow and find savings for the institution.

Anne Kugler:

We are told that the salary reduction we offered is insufficient. There is room for discussion. What can we do? Also where are we in the savings in the third bucket, the operational budget.

Johnson:

general expenses turn out to be very difficult to reduce. We need better technology governance systems so we don't have different software systems working in different parts of the university. That's in the strategic plan. We are in the process of identifying more general expense savings unit by unit. Lauri and her team are meeting with each of the unit heads. We are less than a million dollars now on that part of the saving. We are looking to find over another million dollars in the next couple of weeks. It's difficult, but we are in active discussions to reduce more.

Donnelly:

thank everyone for participating. We do appreciate you. All of you are impacted emotionally. As a board we will continue to search for good answers. Even if we don't have common answers, we all have common interest. Faculty morale is a critical element. We welcome more communications.