



MINUTES
FACULTY SENATE MEETING
MARCH 18, 2009
DODD HALL AUDITORIUM
3:35 P.M.

I. **Regular Session**

The regular session of the 2008-09 Faculty Senate was held on Wednesday, March 18, 2009. Faculty Senate President Jayne Standley presided.

The following members attended the Senate meeting:

M. Allen, I. Audirac, T. Baker, K. Bearor, J. Beckham, S. Bellenot, W. Berry, P. Bowen, J. Bowers, K. Burnett, D. Butler, M. Cai, E. Chicken, J. Clendinning, E. Cormier, F. Davis, J. Dorsey, J. Druash, J. Fiorito, S. Fiorito, A. Gaiser, A. Gallard, J. Geringer, P. Gilmer, C. Greek, J. Hinterlong, W. Hochwarter, E. Klassen, D. Latham, S. Lewis, C. Madsen, K. McCullough, V. Mesev, D. Moore, A. Mullis, R. Pekurny, J. Pignatiello, R. Radach, V. Richard Auzenne, R. Romanchuk, R. Schwartz, D. Seaton, J. Sickinger, J. Sobanjo, S. Southerland, J. Spraggins, J. Standley, M. Sussman, S. Thomas-Tate, E. Trowers, E. Walker, Y. Wang, C. Ward, P. Ward, C. Weissert, W. Weissert, X. Yuan,.

The following members were absent. Alternates are listed in parenthesis:

F. Abbott, T. Adams, C. Alamo, R. Blaufarb, R. Bruscheiler, R. Clarke (V. Costa), J. Cobbe, R. Coleman, L. deHaven-Smith, B. Diskin, J. Dodge, I. Eberstein, L. Edwards, A. El-Azab, K. Erndl, T. Houpt, P. Iatorola, M. Kabbaj, G. Knight, W. Landing (F. Froelich), W. Leparulo, C. Luongo, L. Lyons, T. Matherly, J. Milligan, S. Milton, W. Mio, R. Morris, P. Munton, J. O'Rourke (A. Epstein), G. Rogachev, K. Rost, H. Schmidt, O. Steinbock, E. Stewart, H. Tang (H. Yu), N. Trafford, J. Turner, C. Upchurch, P. Villeneuve, D. VonGlahn, L. Wakamiya, M. Wasko, L. Wexler, C. Wiebe, P. Young, J. Zheng.

II. **Approval of the Minutes**

The minutes of the February 18, 2009 meeting were approved as distributed.

III. Approval of the Agenda

The agenda was amended to add a report by Senator Joe Beckham and the Athletic Committee. The agenda was approved as amended.

IV. Report of the Steering Committee, E. Walker

Since the February Senate meeting, the steering committee met once in regular weekly session, on February 24.

At that meeting, we received a report from the senate president from the meeting of the council of deans, with updates at that meeting about the new percentage-of-assignment reporting system in OMNI and about the summer budget. We discussed the senate bylaws amendment put on the floor for notice and discussion at the February meeting. Subsequent to that meeting, in conversation with the Dean of the Faculties, we determined that the proposed amendment is unnecessary and the steering committee has thus withdrawn the amendment from consideration.

Members of the steering committee represented the faculty at the meetings of the Board of Trustees on February 25 and 26.

The President's Budget Crisis Committee has met once since the last Senate meeting, to review the Governor's budget recommendations for 09-10, which were released on Feb. 20. The BCC is scheduled to meet again next Monday, our first meeting since the Revenue Estimating Conference released its latest gloomy projections on Friday March 13.

One last item of information. We have learned that FSU has allowed its institutional membership in the Workers' Rights Consortium to lapse. You will recall that the funding for FSU membership had been cobbled together precariously from multiple budgets, including student government, the Center for the Advancement of Human Rights, and the administration. In the wake of severely constrained budgets and the prospect of increased dues based on sales of licensed apparel, that fragile funding formula has come undone, and FSU can no longer (as of the moment) meet the membership fees.

This concludes the report of the steering committee.

V. Report of Standing Committees

a. Elections Committee, D. Seaton

1. Nominations for the University Committee on Faculty Sabbaticals

There were no additional nominations for the University Committee on Faculty Sabbaticals.

2. Nominations for the Grievance Committee

There were no additional nominations for the Grievance Committee.

b. Library Committee, D. Moore

It's a pleasure to recommend on behalf of our Senate Library Committee, including the chairs of our three subcommittees -- Ed Gray from History, chairing our subcommittee handling the Faculty Research Library Materials Grants; Denise Von Glahn from Music and Mark Pietralunga from Modern Languages, co-chairing our Patron Services subcommittee; and Jack Freiberg, of the Resources subcommittee -- that the Senate consider the document entitled "Intellectual Freedom Principles for Academic Libraries." (See addendum 1.) As you will see from the handouts that Melissa has prepared, the statement was approved a decade ago by the Board of Directors of the ACRL, the Association of College and Research Libraries. The ACRL is a division of the American Library Association, and that larger body's ALA Council approved it the following year. Item 12 is clear in "recommend[ing] that this statement of principle be endorsed by appropriate institutional governing bodies, including the faculty senate or similar instrument of faculty governance."

The Faculty Luncheon Series' year-long focus, throughout the 2007-2008 academic year, was on "The Constant Challenges of Academic Freedom," a topic that our colleague Cliff Madsden had suggested. When our colleague Ken Goldsby, who organized that year-long series, was deciding whom to invite, I urged him to include Julia Zimmerman, who at the time was our new Director of the Libraries -- and whose title the Office of the Provost has since upgraded to Dean of the Libraries. In conversation with her, I learned about this statement of principle and also learned that Florida State had never, as an institution, endorsed these principles. On that note, our Senate Library Committee recommends that we, the Faculty Senate, do so.

The motion passed unanimously.

c. Athletic Committee, J. Beckham

In previous meetings of the Faculty Senate, I have chronicled the independent inquiries launched by the University's administration in the course of investigating academic misconduct on the part of 61 student-athletes and three staff members within Athletic Academic Support Services at the University. At our December 3rd meeting, I summarized the results of those inquiries and the extent of the institution's cooperation with the NCAA in the investigation and resolution of those allegations. I also reported on the University's corrective actions and the punitive measures that were instituted by President Wetherell in response to our acknowledgement of NCAA violations.

In a hearing held on October 18, 2008 before the NCAA Committee on Infractions, the University's representatives admitted to violations involving extra benefits to selected student-athletes, academic fraud, and failure to adequately monitor employees within the Athletic Academic Support Services unit. The University acknowledged responsibility for these violations due to a compromised on-line course, the academic misconduct of sixty-one student-athletes, the unprofessional conduct of three Athletic Academic Support Services staff and administrative failure to adequately monitor the unit. In defense, the University emphasized the unique context of the online course and the circumstances that surrounded its administration, due diligence in conducting a thorough investigation of all allegations that followed the NCAA's recommended path to resolution, and continuing efforts to insure appropriate oversight of Athletic Academic Support Services.

In light of these admissions and the documentary record provided by the University, the NCAA issued a report on March 6, 2009 in which the Committee on Infractions proposed additional sanctions against the University. Those sanctions include the extension of our self-imposed probation for a period of four years beginning in March of 2009, additional reductions in the number of scholarships for student-athletes in selected sports, and vacating wins in those sports in which student-athletes who had cheated on the on-line examinations participated. The enforcement staff of the NCAA required that the university determine those student-athletes who were "ineligible" at the time of their participation and vacate those wins.

The University has accepted the additional sanctions proposed by the Committee on Infractions with one exception. An appeal of the sanction

having to do with vacating games is forthcoming.

There are several points that will be argued on appeal. First, the severity of the sanctions imposed by the Committee on Infractions is inconsistent with Florida State University's unequivocal commitment to cooperate fully in the investigation of academic fraud and sends a message to NCAA member institutions that institutional cooperation is not a mitigating factor in the imposition of NCAA penalties. Florida State University officials acted immediately and decisively once the first report of academic misconduct was discovered. Two separate internal investigations were undertaken, the first conducted by the University's independent auditing unit and the second by an ad hoc committee under the leadership of the Provost with the assistance of an external consultant. The institution's representatives cooperated fully with the NCAA and the ACC in the course of pursuing the investigations, providing complete disclosure, and consulting on appropriate steps related to investigation and corrective actions. Our representatives reached agreement with the NCAA enforcement and eligibility staff concerning the path to resolution of the academic fraud allegations. Imposing the proposed sanction is inconsistent with that agreement and may compromise the NCAA's policy on institutional cooperation in future cases.

Second, the penalty unjustly impacts coaches and athletes who played no role in the instances of academic misconduct. The Committee on Infractions and the NCAA staff found no evidence implicating any member of the Florida State University coaching staff in the instances of academic fraud that led to the proposed sanction. The University's investigation discovered bad actors in what was presumably an effectively administered academic services department whose director reported to an academic unit outside the Athletics Department. To impose these consequences on coaches and players who played no role in the instances of academic misconduct is unjust and unreasonable.

Third, the Committee on Infractions may have exceeded its authority to promulgate standards for the adjudication of these cases and acted arbitrarily in the imposition of sanctions based on the interpretation of those standards. The Committee has not received the approval of the NCAA membership or the Board of Directors for the standards it has evolved and applied in this case. As a consequence, previous precedent has ceased to be a guide for institutions subject to the Committee's jurisdiction. In light of the lack of clear guidance on appropriate standards, the Committee's action was beyond delegated powers and did

not have the endorsement of its member organizations or its governing body.

The President has notified the NCAA of our intention to appeal the specific sanction and we await the next step in the process of review.

Q 1: When you say the University believes, are you speaking for faculty, the administration, or yourself?

A: The University acts with one voice in so far as the appeal is concerned from the standpoint of the NCAA. This was a determination that was made in consultation with both the administrative and academic leadership that has been in the process of resolving this in the last year and a half. I participated fully in that decision as did the Provost and the General Counsel and athletic director, all of whom served on the committee that was appointed by the President to conduct the second external inquiry. When I say we, the words I am giving you are my own. They are reflections of what I saw of the deliberations that occurred and they reflect as complete a disclosure as I can offer.

Q 2: So as a faculty member, you believe that the reasons outlined by the President are perfectly reasonable, accurate?

A: I do and I also do that in my responsibility to represent the University to both the ACC and the NCAA, which I've been tasked to do for the last 3 years.

Q 3: I raise these questions because I respect the President's tenacity in defending the University's image. I couldn't help but think when reading these comments that we weren't getting the full picture of these events as they've unfolded over the last year and a half. For example, the University's cooperation emphasize that it was staged. My recollection was that early on in this case – December 2007 – that the President stepped in to oversee the investigation because the Athletics department couldn't be trusted. You refer to 2 investigations – one by the office of Audit Services and the second by this adhoc committee. My understanding from your previous comments to this body is that the second investigation was necessary because the first investigation believed that more student athletes were implicated than the 21 or 22 actually admitted complicity in the first round and it was only when the University cut a deal with the NCAA in November of 2008 that the additional 38 or 39 students came forward. So I guess whatever the

University does in this, the University can do, but from my perspective, if I were to take an outsider's perspective, although the administration remained diligent and cooperative, there are elements in the University that might not have seemed fully cooperative, the Athletics department initially and then more than half of the students who were implicated. But I think the NCAA report actually believes that more students were actually involved than the 61 who were identified, but because the evidence is circumstantial, the case could not be sufficiently made. I guess it just seems to me - I admire and respect the University's tenacity in defending the academic reputation of the institution but it seems that there are holes in the argument. If someone goes through the material, the picture is not so clear cut as the information being released to the media.

A: A few observations on your observations: The first would be that from the time that I was notified of this instance of academic misconduct by the athletic director on the Monday following the initial disclosure on Friday that we had a single incident of academic misconduct, I've been actively involved in the course of investigation. I know of no instance in which staff or leadership in the athletics department in any way impeded the investigation. In fact, I would note that the NCAA report actually applauds the institution's cooperation. I think that a question of whether the institution has been fully transparent in communicating information on this, is at least in part resolved by the body of the NCAA Committee on Infractions report. Your observation that we were the first to admit that there may have been instances of academics misconduct involving other students that we did not discover is true. That is an admission that we made in the course of both reporting to the NCAA and in the course of reviewing what evidence we had that suggested that other students had cheated. But in some instances - only a few - those athletes had either left the institution or refused to cooperation in the continuing investigation other than to say they have no involvement and because they weren't impacted in terms of their eligibility, there was no basis for leveraging the truth. In our admission to the NCAA that there may have been additional instances of academic misconduct for which we could not account, that was simply an attempt to be completely candid and recognize that within our administrative authority, there are just limits on what we can do to compel confessions.

Q 4: Thank you for addressing those questions. As the earlier question said, it's the need to uphold academic reputation in the midst of this time. You mentioned a little bit earlier - and I'm glad that you did - that you weren't going to necessarily recant all the elements of the investigation,

but I don't know if one of those elements might be something that I heard secondhand. I didn't get to go to the news conference yesterday but I heard: if someone who is 18 years old sees the test, then it seems that they're maybe going to look at it and cheat. I don't know – I hope that we, as a Senate, are not going to rethink or reformulate the policy in order to comply with that attitude that scares me when I think ahead to giving that stack of papers back because I feel that somebody in there that suggests that whoever did something that violates the honor policy, I don't know how seriously to take the possibility that they saw somebody else's paper? I don't know those details. In other words, it's more than a little disturbing to think about those messages we're sending not only to the legislators who are in town but to the whole generation of students who we are teaching and with whom we're trying to uphold the integrity of this institution's academic standard. If we treat that as a question – is that line of defense going to be part of what we tell the NCAA?

A: Let me give you 2 answers to that. The first is: I am not the President of the University and I did not participate nor was I present at the press conference, nor do I speak to the press. That is not my job. I can't really account for what you may have heard. I'm hopeful that the President can come today. I know he wants to. That's a question that he would be willing to answer or respond to. So first of all, I want to be held accountable for what I know about the course of the investigation, which I've reported to you on 3 separate occasions in the course of this meeting. I share your concern and I have been fortunate to be tasked to be fully engaged in this deliberative process and to represent the athletics committee and your interests. To the extent that I have been able to do that, I know of no intention of the part of the University to advance a thesis that when given an opportunity to cheat, an 18 year old will do so, and that should somehow excuse our failure to monitor this process. In the context of failure to monitor, we have implemented extensive and quite costly (to the Athletics department) oversight controls on student-athlete academic services, extensive induction at orientation to tutors and staff of which I am tasked to participate, and a number of structural reforms that we think are responsive both to guidance from the NCAA and the ACC and our own belief. I want you to understand. In fact, the committee's report, in its entirety, discusses the range of corrective actions that was taken and I have that information and would be more than happy to make it available to you, but I did not anticipate enthusiasm for the details of those steps. I share your concerns about the integrity of this institution, as I believe everyone affiliated with it shares a concern. I don't want that compromised. This represents a compromise of the integrity of

the institution and we've made diligent efforts to investigate it and correct it. If we make missteps going forward, we need to hear from you and I particularly need to hear from you. I will do everything in my power to see that those are addressed and to see that we fulfill our obligations to uphold the integrity of the institution and its full membership and participation in the NCAA.

Q 4: I'm not trying to attack you ... but when we hold press conferences it's a concern. You're from FSU. My concern is by prolonging this process through an appeal, it does not enhance our academic standing in any way whatsoever, whether or not we win this appeal. And I wonder whether or not it's time to adopt a different tactic and say, "We disagree with the penalties that the NCAA has imposed, thus we are an academic institution. This is a case of academic fraud, however we may disagree with them, and we will accept this and take ... and just be done with this. And get on with the business of academics. After the press conference, this message that I got on the internet from the NCAA's website that claimed that the penalty of vacating victories is somehow imprecisely defined or lacks clarity. I think within 20 minutes I was able to discover that indeed there has been controversy over this penalty in the past 10 years. I thought that I read in June 2007 on the NCAA website that the committee issued a new policy that in the event of aggravating factors ... if those included academic fraud, lack of institutional control, but failure to monitor ... My reading of it was that 5 of those aggravating factors that the committee found the Institution to be in violation of but the appeal was focusing on the 1 factor...

A: We are focusing on the factors as well, in the 3rd argument.

Q 5: I agree. It seems unfair that those not involved – coaches and student-athletes – like people on our track team, which run the risk of losing 2 national championships because of 3 or 4 or 5 students at the most. I thought that I could in 20 minutes find a fairly clear explanation that violation or presence of any of the following factors would increase the likelihood ... focus on the fact that our coaches are being penalized, enough there was academic fraud and a lot of our students were involved.

A: Now you've introduced 2 new themes and I would like to address those before you move on. The first theme would be whether or not it would be advisable in the interest of the reputation of the Institution to discontinue the appeal, accept the sanction, and to put all this behind us, in essence. Let me assure you that that position was fully embedded in

deliberations. In fact, I was the advocate for that view, but what has turned me in this case, is the sense of injustice and the obligation of reviewing - now I'll go to your 2nd theme - the past precedent of the committee on these infractions over the last 15 years, and in those cases, instances in which no coaches were involved, did not result in the severity of the sanction of vacating wins. When you look at that past precedent and to the immediate precedent offered to us in the Arkansas case, which does involve those sanctions and which did involve coaches - and then the Oklahoma coach which was overturned by appeal, now I put my lawyer hat on and I say, "How do institutions define the applicable sanction relative to the misconduct?" Particularly in the context of the institution in which there has been no effort on the part of the institution to impede the investigation. I believe that there is a requirement - that we balance our institutional integrity against our obligation to ensure that justice is done here. I can see that there is a persuasive point to be made in that point of view but I'm not inclined to it at this point. The second point - the clarity of guidance from the committee on infractions. In their report, I think there should be exquisite, eloquent logic because you have 2 judges, 2 former institutional counsel athletic directors, and 1 one of those institutional counsel has also been an athletic director. You currently have a former prosecutor who is now a senior professor at the University of Nebraska's law school. This is an intimidating array of legal talent and confidence in the field. I am confident of their great coherence and rationale. The problem is that the standards that they evolved were submitted to the board of directors in late last year for endorsement. They have never been taken from the table by the board of directors. This leads to the thought that the board composed of institutional presidents was reluctant to grant the range of power and authority to the committee on infractions that they now are taking on this case. I would submit that suggests ultravibrance. Beyond powers and it should be addressed. I believe that's one dimension of this. The other is the coherence of that opinion when compared to the coherence of the committee in other recent decisions creates some question about the integrity of the standards that are operational in relation to the integrity of the standards that were articulated in the other 2 most recent cases. I'm left to wonder: what is the standard? Does it vary with institutions and to what extent does it vary? Because if it varies too far from a standard, we know what that is. Then it's arbitrary and capricious. I would answer other questions but I don't know if the Provost would like to come and ...

May I just add one other thing: I don't know if anyone saw this but FSU Men's basketball team and Wake Forest's basketball team are among the

top programs in the country, not only in the terms of the NCAA regionals but in their ability to graduate their students. We have 100% graduation success rate for our basketball students-athletes in 2008. You can find that as recognition on a lot of the NCAA websites. My hope is that I can come back here, put this particular topic behind me, and we can talk about dimensions that must seriously occupy us over the next few years.

VI. Old Business

There were no items of old business.

VII. New Business

There were no items of new business.

VIII. University Welfare

a. Update on Bargaining Related Matters, J. Fiorito

In bargaining, faculty and administration teams continue to focus on new classifications for non-tenure track teaching faculty and new teaching awards.

- On the first topic, the teams face significant challenges in reaching a mutually agreeable way to balance the interests of the university administration, NTT teaching faculty, the interests of tenure-track faculty, and our desires to preserve the critical role of a tenured faculty in the university.
- On the second, we are talking about how to distribute stipends for teaching excellence based on football ticket revenues. Here a basic tension has emerged between administration desires to concentrate awards versus faculty desires to recognize that we have many excellent teachers among our faculty.
- Progress is being made on both issues, but as usual, both sides would like to see things progress more quickly.

Although both sides have agreed to defer negotiations on most financial matters while the legislature addresses budget matters, as you know the UFF has taken steps to address budget matters at the legislature.

- The "Fate of the State" Coalition March and Rally on March 3rd turned out as many as 1000 people, mostly students but with a healthy faculty contingent as well. A TV reporter said that legislators inside the Capitol could hear us quite clearly. That's a good thing.

- Today's rally to make our schools a priority was sponsored by the PTA, UFF's FEA affiliate, school administrators, and other groups. There was a great turnout, including some Florida State faculty members. Legislators from both sides of the aisle spoke in support of public education. One important point a legislator made was that his colleagues are hearing lots of folks asking for tax cuts. They are not hearing enough voices in support of public education. We need to change that, and today's rally and our "Fate" rally are helping to do that.

There will be future calls for public education supporters to write and call legislators. We know our local delegation is generally on the right side of this issue, and we will try to target others. When these calls-to-action appear, please make those calls, write those letters and e-mails, and in every way possible help to persuade Florida legislators that public education is a good investment for Florida's future. We know it's true, but others need education on this. Please note that we are asking you to take action as citizens, not representatives of

IX. Announcements by Deans and Other Administrative Officers

There were no announcements.

X. Announcements by Provost Abele

The Provost attended but did not make any announcements.

XI. Announcements by President Wetherell

The President was not in attendance.

XII. Adjournment

The meeting adjourned at 4:25p.m.



Melissa Crawford
Faculty Senate Coordinator