

SPECIAL MEETING OF THE UNIVERSITY FACULTY SENATE

March 21, 1977

MINUTES

The special meeting of the University Faculty Senate was called to order at 4:00 P.M. Senators not in attendance were:

Edith Anderson	William Hynick	John Reynolds
Daniel Biebuyck		Mark Sharnoff
Bob Cook	William McDaniel	Lloyd Spielman
Alexander Doberenz	Frank J. Murphy	Edward E. Trabant
William Gaither	Franklin Newman	Thomas Watson
	Lucia Palmer	

Senators excused: Helen Gouldner, Laurence Kalkstein, Asa B. Pieratt, Irwin Greenfield, Rodney Gray, Barry Morstain, Blaine Schmidt.

President Pikulski reminded the senators that the business of a special meeting is limited to the items listed on the call. The reason for calling the special meeting grew out of Senate action on May 10, 1976, when a vote to approve a change in the procedures for termination and non-renewal of contract between a faculty member and the University was passed and subsequently forwarded to the Committee on Education and Training of the Board of Trustees. That committee had some questions regarding these procedures and returned them to the Senate Committee on Welfare and Privileges. This committee considered these comments and as a result made the recommendations attached to the agenda. President Pikulski explained that the deadline for submitting agenda items to the Board of Trustees Committee is approaching and that Senate consideration of the proposed changes was in order.

President Pikulski then read an addition from the Committee on Welfare and Privileges to the proposal on the agenda. The addition should be added at the end of line 12, page 2, of the agenda which reads "after choosing from within the University in their presentation." The addition is:

The Faculty member charged may appoint a member of the University community to represent him/her at the hearing.

Prof. Magoon, chairperson of the Committee on Welfare and Privileges introduced the resolution and gave the rationale for the proposed changes. Two additional pieces of material were distributed and explained: 1) an explanation by the committee of the reasons for resubmitting the changes, and 2) an outline of the procedures to be used in a pre-termination hearing. Prof. Magoon explained the major change in the proposal from the present Section III-N-1 of the Faculty Handbook is the removal of a mandated hearing for faculty at the department or unit level, and simply requires the Committee on Welfare and Privileges hear the case.

Prof. Magoon discussed the question of whether the faculty member should have the right to legal counsel present at a hearing; he suggested that the committee has discussed this possibility and feels that they could adjust to having an advisor from inside or from outside the University, as long as the procedures were spelled out and clear in the charge to the committee. The committees' preference, however, was stated as favoring internal representation. Prof. Magoon explained that the use of the word "advisor" means someone at the hearings simply to advise, whereas "representative" would be a person who could conduct questioning.

Prof. Warren offered an amendment to the resolution, to be inserted in the third sentence of paragraph 2 which would read

Faculty members should be informed in writing at least four weeks prior to the hearing of the reasons for the proposed termination, shall have the opportunity to be heard in their own defense and shall be permitted to be advised and represented by persons of their own choosing.

This amendment would eliminate the final phrase of that sentence which reads "from within the University in the presentations as well as the additional sentence inserted on line 12, p. 2 of the agenda. Professor Finner seconded the motion for the amendment. Prof. Warren spoke to his amendment, suggesting that the change in time from two weeks' notice to four weeks' is necessary for the faculty member to organize his/her defense in that presumably the administrative persons bringing charges have had at least that long to assemble their charges. He also suggested that most faculty would be unable to defend themselves in quasi-judicial situations and that good legal representation at this point might eliminate the need for a law suit. It was also stated that as the Committee on Welfare and Privileges sets the procedures for the hearings, they would be in control and not the lawyers.

Prof. Magoon stated that the committee has been involved with hearings which allowed outside legal representation and that this has slowed down the procedures considerably due to the unfamiliarity with university procedures. Discussions with the University Counsel suggest that the strength of such hearings as proposed in the original resolution lie in a procedure which allows the faculty member to have a representative within the system, and that judges find these are fair hearings by peers. Prof. Magoon felt that the change from two weeks' to four weeks' notice was legitimate. Dean Brown spoke against the proposed amendment, stressing the matter of trust and the desirability of peer review. Prof. Smith spoke for the amendment, feeling that faculty involved in such hearings should have the choice of whether or not they wish advice or legal representation, and also stressing that this is still in the hands of a senate committee which would make the recommendation to the administration following the hearing.

Dean Wenger asked whether this amendment would allow for initiators of charges to also have the right to counsel. Prof. Finnter offered an additional amendment to be inserted in the amended sentence previously reported, after the word "permitted",

along with the initiator

stating that there is nothing in the grievance procedures that prevents counsel for both parties. After some discussion, during which Provost Campbell stated that such an amendment was not appropriate as the entire resolution comes from a Faculty Senate Committee and deals with faculty, not administrators, Professor Finner withdrew his amendment.

Prof. Boyer then offered an amendment to strike the phrase gross irresponsibility from the final sentence of paragraph 2, Item I of the resolution. The motion was seconded but failed passage.

Prof. Finner asked for the question on the entire resolution. It passed with 1 nay and 1 abstention.

N. *TERMINATIONS AND NON-RENEWALS*

1. *Terminations*

A clear understanding of the terms of the contract between the faculty member and the University is a prerequisite for a harmonious relationship. Within the terms of his contract, a faculty member at the University of Delaware is assured that an appointment will be terminated only for adequate cause -- incompetence, gross irresponsibility or moral turpitude--except for retirement because of age or termination caused by extraordinary financial circumstances.

Faculty members shall be terminated for cause only after being afforded a hearing before the Senate Committee on Faculty Welfare and Privileges. Faculty members shall be informed in writing at least four weeks prior to the hearing of the reasons for the proposed termination, shall have the opportunity to be heard in their own defense, and shall be permitted to be advised and represented by persons of their own choosing. This committee shall render its advisory decision to the appropriate administrative officer within 14 working days after the hearing. In the case of termination for cause, the burden of proof in the proceedings rests with the party or parties bringing the charge. In the case of proposed termination for moral turpitude, faculty members may be temporarily suspended in the event that their continued presence at the University would constitute a clear and present danger to the health, morals, or safety of members of the University community until the final decision is rendered. Termination for cause shall become effective after one year's notice of the final decision to terminate; however, the effective date for termination involving gross irresponsibility or moral turpitude may be immediate.

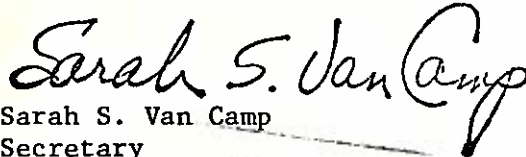
2. *Non-Renewal*

Proposals for the non-renewal of faculty members' contracts, and the reasons for them, shall be reviewed by the faculty or an appropriate group of the faculty of the departments/units concerned. The written recommendation resulting from such review shall be taken into consideration by all the administrative officers concerned before a final decision is made. Faculty members shall be given notice in writing of the decisions and the reasons for them.

In the event of a decision not to renew, the faculty member shall have an opportunity to request a timely reconsideration by a decision-making body. A faculty member who alleges that academic freedom has been violated by the decision-making body, or that the decision-making body did not give adequate consideration to the circumstances, may petition the appropriate faculty committee. Notice of non-renewal will be given in accordance with the following standards recommended by the Faculty Senate and approved by the administration.

The special meeting was adjourned at 5:30 p.m.

Respectfully submitted,



Sarah S. Van Camp
Secretary
University Faculty Senate