

SPECIAL MEETING OF THE UNIVERSITY FACULTY SENATE

January 26, 1981

MINUTES

A special meeting of the Faculty Senate was called to order on Monday, January 26, 1981, at 4:00 p.m., with President Toensmeyer presiding. Senators not in attendance were:

Edith Anderson	Stuart McGee	David Stixrude
Fred Masterson	Richard Murray	Tom Watkins
Anne McCourt-Lewis	David Nelson	John Zimmerman .

Senators excused were: Eric Brucker, L. Leon Campbell, Alexander Doberenz, Charles Epifanio, William Gaither, Helen Gouldner, Irwin Greenfield, Nancy King, Donald Mogavero, Erwin Saniga, James Story, E.A. Trabant, Peter Warter.

President Toensmeyer opened the special meeting by stating that the purpose was to obtain a full discussion on the subject of film selection on campus, and requesting approval for the procedures to be followed. He reported that he had received, from the sponsors, a request to amend the first and second resolutions (Item A of the published call to the special meeting) and the first need would be to adopt the amended versions. He then proposed that a representative of the sponsors of each of the three resolutions speak, with no debate after each presentation; at the completion of these presentations the floor would be open to debate on each of the resolutions in order, followed by the voting. There were no objections to this procedure.

In response to a question, Senator Waid said the omission of the word "literary" from the last paragraph, line 5, of the amended version of Resolution I had been accidental; the word was restored by consent. In the absence of objections, President Toensmeyer declared Resolutions I and II amended, with the correction, as indicated in the material distributed by the sponsors.

Item A, Resolution I, was introduced by Senator Waid, acting as spokesperson for the sponsors. She reminded the Senate that under the University Charter, "the faculty shall have the care, control, government and instruction of the students," and under the Bylaws, "the faculty shall formulate rules and regulations for the government and discipline of the student body," "provide for the establishment of a program of extra-course education for students," and "make recommendations for the conduct of formal exercises and public functions held under the auspices of the University." She noted that in keeping with this, Resolution I reaffirmed that the faculty deploras and opposes censorship as being contrary to the philosophy of a university, but that that statement should be considered in the light of what sort of responsibility this brings upon the individuals who are concerned with selecting films, and the resolution therefore asked the Films Committee to consider things of importance, such as the sensitivities of others, in deciding whether a particular film should be shown. Referring to the 1940 AAUP Principles of Academic Freedom and the Interpretive Comments,

she pointed out that in its discussion with respect to academic freedom the document notes that academic freedom carries with it duties correlative with rights, and with respect to professors, that they should remember that the public may judge their profession and institution by their utterances, and they should exercise appropriate restraint, show respect for the opinions of others, and make every effort to indicate when they are not institutional spokespersons. She said the resolution's sponsors felt students should act in a similarly responsible way and, while not bound by censorship, they should pay attention to the sensitivities of others. She said the second part of Resolution I therefore encouraged the members of the Student Films Committee to select films of serious artistic, literary, social or scientific value.

Item B, a report and recommendations from the Committee on Student Life, was introduced by Prof. Haas, chair of the committee. He reported that the committee had voted 5 to 1 to recommend against the two resolutions published as Item A, and 6 to 0 to recommend for the resolution which had been distributed as an addition to Agenda Items B and C, under joint sponsorship with the Committee on Academic Freedom. He added that although the resolutions of Item A had been amended somewhat, he felt he was still speaking for the committee since the changes had gone further in the directions the committee had opposed, but in any case the committee members were present and could speak on their own as he interpreted their mandate.

Prof. Haas then reviewed the discussion on the issue of films selection which had taken place in the Senate last November, noting two objections that had been raised to the proposal presented by his committee at that time: 1) although no "ban" was being proposed, any written statement would have a chilling effect, and 2) there is no pornographic film problem at the University since only one such film had been shown, as the result of a misunderstanding, and the students were in fact already being sensitive. He said he had concluded that the Senate had been right to raise these objections at that time and he thought the resolutions presently being proposed were even harsher and more oppressive than the ones proposed in November. Referring to the last paragraph of Resolution I, he noted that the courts had generally found it impossible to show that a film had no value. He also argued that the ambiguity of the phrase "sensitivities of others" makes it dangerous. Referring to the third paragraph, he argued that the sentence "Nevertheless, sensitivities of others should be considered in decisions concerning such events as films shown on campus" broadened the application from just the selection of films to the entire scope of university life. He noted that 16 years after the Supreme Court had ruled that pornography is not protected by the first amendment and that it could be defined and therefore regulated, Justice Brennan had said that he had been wrong, that pornography cannot be defined, and when we try we fall into the hands of censors.

Addressing the issue of faculty responsibility, Prof. Haas stated that, in the case of student activities, this responsibility was shared with administrators, professional staff, and the students themselves, and he argued that faculty should not get involved unless there was a problem, and there was no pornographic film problem on campus. Referring to the argument that University-administered public funds subsidize campus films, Prof. Haas said that fact does not negate first amendment freedoms; he noted that public funds also help support the library, but he questioned whether library staff would be asked to be mindful of the sensitivities of others when they were selecting library books. Referring to the argument that the faculty must act to prevent censorship, Prof. Haas said the administration was not censoring the Student Films Committee, but was quite correctly advising the students about current Delaware law in this area.

Prof. Haas concluded his presentation with a summary of his committee's arguments in support of the resolution they had jointly sponsored: their resolution would not have a chilling effect or open the door to censorship; it would encourage and facilitate communication with the Films Committee; and it expressed trust in the students.

Item C, a report and recommendations from the Committee on Academic Freedom, was introduced by Prof. Haskell, chair of the committee. He reported that the committee had voted 4 to 1 to recommend rejection of Resolutions I and II (Item A) and he reviewed their arguments, noting that they applied equally to the amended versions of the resolutions. He expressed the view that subsidized activities are more prone to greater control precisely because they are subsidized, and that distinction applied to students as students at a state university. He noted that the new term "sensitivities of others" lacked a legal history and appeared to be more dangerous than "community standards," which it replaced. He also said the phrase "such events as" was so broad that it could mean objections to such things as rock groups, right- or left-wing speakers, or plays with homosexual themes. Referring to paragraph 4 of Resolution I, he expressed the view that the phrase "select films of serious literary, artistic, social or scientific value" apparently excluded entertainment as such, and that the question of University subsidy of entertainment was an issue which should be debated separately and not slid through as part of the issue of the film selection procedures.

Regarding Resolution II, Prof. Haskell expressed the view that it implied a mistrust of the Student Films Committee and its professional staff advisors. He read the Student Guide to Policies section on the selection and role of advisors to student organizations, noting that the Films Committee was in compliance with the policy. He also read the policy which directs that "No registered student organization is to be granted privileges denied to another or to be subjected to regulations not binding on another," and questioned whether additional advisors could be imposed on the Films Committee.

Prof. Haskell read the following statement, which had been circulated to potential co-sponsors of Resolutions I and II with the message that it was to be read with a request for approval as the sense of the Senate, if and when the Senate approved the resolutions: "Be it recorded that it is the sense of the Senate that past film selection by the Films Committee of the Student Program Association, done in the absence of guidelines from the Faculty, has been satisfactorily performed. The Faculty expresses continued appreciation and confidence in the work of the Films Committee." He said this raised the question, if the film selection process is satisfactory, why is further action necessary?

Prof. Haskell concluded with a statement in support of the resolution jointly sponsored by his committee. He noted that the resolution affirmed the importance to the University of mutual trust and respect among the members of its community, acknowledged the existence of a responsible Films Selection Committee with professional staff advisors which welcomes comment, and urged that comments and correspondence should be channeled to that committee.

President Toensmeyer then recognized Senator Braun as a second speaker representing the co-sponsors of the resolutions under Item A. Senator Braun objected to the characterization of the phrase "sensitivities of others" as a flag-word for the far right, and opposed the suggestion that the resolutions contained any "hidden agenda." He urged the Senate to consider what the words of the resolutions actually said, and

called attention to paragraphs 3 and 4, the actual "resolution" portion. He said academic freedom did not mean a total lack of restraint, and the resolution only asked people to think about the restraints. Referring to the phrase "sensitivities of others should be considered," he said you could "consider" without saying you were for something, and noted that the resolution also said this "may not necessarily be the overriding consideration when compared to educational values." Referring to paragraph 4, which encourages the selection of "films of serious literary, artistic, social or scientific value," he said that does not say every film has to have those qualities, or that films with them are boring. Referring to Resolution II, he said it reflected the faculty's duty to try to make sure the Film Committee's choices were made responsibly, and it provided a mechanism and a live example of what the students were being asked to do. He said the role of the two faculty members would be passive; they would be there as an example that the faculty is interested, but they would only communicate advice from the Senate Student Life Committee when the advice was requested by the students. He concluded by noting that the resolution directed an evaluation of the procedure after two years, and the Senate could look at it again then.

President Toensmeyer declared the floor open for debate on Resolution I of Item A; he recognized Prof. Raffel, who reported on a resolution, passed unanimously by the College of Urban Affairs, to reject Resolutions I and II, and urging support of the resolution from the committees on Student Life and Academic Freedom. He expressed the view that the appropriate place for discussion of the issues raised by the selection of films was in the Films Committee. Senator Mosberg responded that Resolution I and II say that that is the place where the issues should be debated, and they also urge the Films Committee to be mindful of the sensitivities of others in the deliberations, but they do not require anybody to do anything.

Charles Langenhop, speaking as president of the Student Program Association, opposed the resolutions. He argued that: 1) the faculty can and has appropriately delegated its authority to carry out policies on film selection; 2) the proposed regulations would impose higher standards on the Student Films Committee than on other film-selecting groups on campus and were therefore selective treatment of one student group, in violation of the Senate-approved policy; and 3) the requirement that films be of "serious" value raised an issue much broader than films, and constituted de facto censorship on "box office hits." He concluded with an endorsement of the joint committee resolution, arguing that it did not advocate censorship, but was a positive statement of support of the student committee which put the student-faculty relationship in the right perspective.

Prof. Goldstein spoke in support of the spirit of Resolutions I and II, arguing that it was an insult to the students to believe that enacting them would "squelch" the students, noting that despite the Supreme Court ruling that pornography can be banned the United States has not been moving toward the rise of petty censorship, and pornography was, in fact, spreading. She expressed concern about the breadth of the resolutions' wording, noting that the phrase "such events" was vague and did cover everything on campus. She also said she thought requiring consideration of "sensitivities of others" could force a choice between educational value and sensitivity, and sensitivity might win out, and that would be a dangerous position to take. She suggested the following changes, which were subsequently moved by Senator Flynn and seconded by Senator Duggan: Resolution I, paragraph 3, lines 6 and 7, for "such events as films" substitute "the showing of arguably pornographic films"; paragraph 4,

lines 7 and 8, insert "arguably pornographic" between "selecting" and "films."

Referring to the phrase "in the absence of such guidelines," Prof. Halio asked if any standards had been adopted by the Films Committee. Mr. Jack Sturgell, Director of the Student Center, responded that the guidelines being used now were the ratings from the National Film Board and that non-rated films are not shown unless someone is familiar with the contents, and they try to avoid all hard-core pornography, including X-rated films.

Prof. Kepley, Director of the English Department Film Studies Program, said he thought even with the substitution of the phrase "arguably pornographic" the resolution was still based on an attempt by faculty to gauge the sensitivities of others, and the areas of ambiguity were still there. He said some groups would define pornography so broadly that the resolution could be cited to oppose films which deal with a number of sensitive issues such as sex, family life, ERA, abortion, or homosexuality, introducing more problems in choosing films than there are now. He concluded by supporting the joint committee resolution.

Senator Braun responded that it was the students and not faculty who would be concerned with the sensitivity of others; the students were supposed to ask for advice and then decide. In rebuttal, Prof. Haas noted that Resolution II, in paragraph 1, referred to the guidelines which were to be adopted by faculty, and in paragraph 4 required the addition of two faculty advisors to the student committee to implement those guidelines.

Bruce Rogers, an undergraduate student senator, spoke against the phrase "arguably pornographic," stating that under this term someone would always object and the result would be a minority tyranny where the rights of the few would be overriding. Responding to Senator Braun, he said if the decisions really were to be made by the students he questioned the need for adding faculty members to the Films Committee. Prof. Kepley agreed that since the students already solicit faculty opinion the appointments would be superfluous.

A call for the question was seconded. In the absence of objection, President Toensmeyer moved directly to the vote on the motion to amend Item A, Resolution 1; the motion to amend was approved by a hand vote. Debate then continued on the resolution as amended. Senator Smith said he had opposed the resolutions presented to the Senate in November because they had tried to specify film characteristics, but he supported Resolutions I and II because they were clearly recommendations representing faculty sentiment that students should consider, and they showed faculty concern. He said approving the resolutions did not mean faculty were forcing something on the students, but the absence of guidelines had meant students were vulnerable and the resolutions would give them something to fall back on.

James Fisher, a graduate student senator, asked how the role of the faculty advisors proposed in Resolution II would differ from that of the professional staff members currently advising the Films Committee. Senator Waid responded that there was no contradiction between the roles, but the faculty advisors would be there for the specific situation in which the students want advice from the Student Life Committee as a macrocosm of the University.

Senator Kalkstein said if the resolutions were intended to give students justification for what they have done, then we would need guidelines for a lot of things on campus. Senator Braun responded that because students serve on the Films Committee for only a short time they are not aware of changing attitudes, and having written guidelines would protect the students.

A motion by Senator Waid to call the question was seconded. In response to

a request from the floor, President Toensmeyer determined that a quorum was present. The motion to call the question was approved by a hand vote. A motion by Senator Haskell to vote by closed secret ballot was seconded; the motion was defeated. President Toensmeyer called for a hand vote on Item A, Resolution I, as amended; the resolution was approved. (See attachment) He then called for a hand vote on Item A, Resolution II, as amended; the resolution was defeated.

President Toensmeyer declared the floor open for debate on the resolution jointly sponsored by the Committees on Academic Freedom and Student Life. Senators Haskell, Braun, and Waid each said they did not find this resolution inconsistent with Resolution I. There was no further discussion, and the resolution was approved by a hand vote. (See attachment)

The Agenda of the Special Meeting having been completed, President Toensmeyer declared the meeting adjourned at 6:00 p.m.

Respectfully submitted,

*H. T. Reynolds*

H. T. Reynolds  
Secretary  
University Faculty Senate

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Attachment: Resolutions as approved

Resolutions on the Selection of Films for Showing on Campus

approved by the University Faculty Senate  
January 26, 1981

WHEREAS, the faculty "shall have the care, control, government and instruction of the students" according to the Charter of the University of Delaware (8 Delaware Code (1953), Title 14, Par. 5111) and the Student Program Association is a registered student organization of the University; and

WHEREAS, university facilities and university administered funds are used to subsidize the showing of films of the Student Program Association thereby making these showings a matter of students' lives as students in contrast to students' private lives as citizens,

NOW, THEREFORE, BE IT RESOLVED, that the faculty deplores and opposes censorship as being contrary to the philosophy of a University. Nevertheless, sensitivities of others should be considered in decisions concerning the showing of arguably pornographic films on campus, although such sensitivities may not necessarily be the overriding consideration when compared to educational considerations.

BE IT FURTHER RESOLVED, that the faculty encourages the members of the Films Committee of the Student Program Association to select films of serious literary, artistic, social or scientific value, and urges them to be mindful of sensitivities of others when selecting arguably pornographic films.

\* \* \* \* \*

WHEREAS a university is an institution built upon and dependent on mutual trust and respect among students, faculty and administration, and

WHEREAS on balance, film selection by the Films Committee of the Student Program Association, in the absence of guidelines from the Faculty, has been performed satisfactorily, and

WHEREAS some complaints were received subsequent to the showing of "The Opening of Misty Beethoven" during the Spring 1980 term, and

WHEREAS central to our mutual efforts "is the maintenance of an atmosphere conducive to the pursuit of knowledge, where risks are and should be taken" (introduction to the President's Annual Report for 1979-80), and

WHEREAS the faculty deplores and opposes censorship or the spirit of censorship as being contrary to the philosophy of a University,

NOW, THEREFORE BE IT RESOLVED that the university community and the public be informed of the existence of the Films Committee of the Student Program Association, of its responsibility for selecting films to be shown on campus and of its selection process, and be encouraged to communicate with that Committee about its film selection policies.

BE IT FURTHER RESOLVED that if complaints or concerns about the Committee's film selection policies are received by members of the faculty or by administrators, these persons are encouraged to forward such complaints or concerns to the Films Committee of the Student Program Association.

January 9, 1980

We, the undersigned senators, jointly sponsor resolutions 1 and 2 enclosed herewith.

Signatures:

1.	<i>John P. Liskakis</i>	11.
2.		12.
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January 9, 1980

We, the undersigned senators, jointly sponsor resolutions 1 and 2 enclosed herewith.

Signatures:

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|-----------------------------|--------------------------------|
| 1. <i>Thomas A. Brennan</i> | 11. <i>David G. Rydman</i>     |
| 2. <i>David L. Steynson</i> | 12. <i>Byline F. Anderson</i>  |
| 3. <i>James A. Kent</i>     | 13. <i>Margaret Seamer</i>     |
| 4. <i>N. P. Gross</i>       | 14. <i>Gene McConit-Hewitt</i> |
| 5. <i>Ludwig Mosberg</i>    | 15. <i>H. K. Kahlberg</i>      |
| 6. <i>Philip Flynn</i>      | 16.                            |
| 7. <i>William J. Kelly</i>  | 17.                            |
| 8. <i>Margaret C. Waid</i>  | 18.                            |
| 9. <i>Robert Hageman</i>    | 19.                            |
| 10. <i>William F. Ritt</i>  | 20.                            |

*Can be found in the file of the  
H. K. Kahlberg*

January 9, 1980

We, the undersigned senators, jointly sponsor resolutions 1 and 2 enclosed herewith.

Signatures:

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|---------------------------|-----|
| 1. <i>George H. Brown</i> | 11. |
| 2. <i>Richard Nixon</i>   | 12. |
| 3.                        | 13. |
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January 9, 1980

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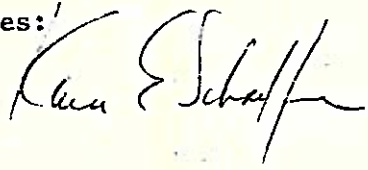
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| 1.  | <i>Gerard J. Manjone</i> | 11. |
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January 9, 1980

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Signatures:

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January 9, 1980

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Signatures:

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| 1. <i>Frederick M. Luvain</i> | 11. |
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January 9, 1980

We, the undersigned senators, jointly sponsor resolutions 1 and 2 enclosed herewith.

Signatures:

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| 1. David W. Smith  | 11. |
| 2. Mark A. Westman   | 12. |
| 3. Fred C. Masterson   | 13. |
| 4. Douglas P. Ridge  | 14. |
| 5. Thomas B. Birk  | 15. |
| 6.  | 16. |
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RESOLUTION I

WHEREAS the faculty "shall have the care, control, government and instruction of the students" according to the Charter of University of Delaware (8 Delaware Code (1953), Title 14, Par. 5111) and the Student Program Association is a registered student organization of the University; and

WHEREAS, university facilities and university administered funds are used to subsidize the showing of films of the Student Program Association thereby making these showings a matter of students' lives as students in contrast to students' private lives as citizens.

NOW, THEREFORE, BE IT RESOLVED, that the faculty deplores and opposes censorship as being contrary to the philosophy of a University. Nevertheless, "community standards" should be considered in decisions concerning such events as films shown on campus, although such "community standards" may not necessarily be the overriding consideration when compared to educational considerations.

BE IT FURTHER RESOLVED, that the faculty encourages the members of the Films Committee of the Student Program Association to select films of serious artistic, literary, social or scientific value, and urges them to be mindful of "community standards" when selecting films.

## RESOLUTION II

WHEREAS, the guidelines of advisement for student film selection which have just been adopted require careful deliberation in their initial stage of implementation;

WHEREAS, faculty input into students' life as students is entrusted to the Faculty by the University Charter and a codified forum to provide faculty input to students regarding complex issues is in accord with the best tradition of a university; and

WHEREAS, attempts to gauge community standards of the State of Delaware are better rested on an appropriate Senate Standing Committee than on individuals.

NOW, THEREFORE, BE IT RESOLVED, that the Committee on Committees be directed to appoint, after consultation with the chairs of the Senate Committee on Student Life and the Films Committee of the Student Program Association, two faculty members to the Films Committee as liaison advisors from the Senate Student Life Committee. The appointments are for a single term of two years. The Committee on Student Life is directed to conduct an evaluation of this procedure by the end of the two year time period.