

MINUTES OF A SPECIAL MEETING OF THE FACULTY SENATE
120 Kane Hall
5:00 p.m., Tuesday, 14 November 2000

Introduction

Mary Coney, Chair, began the meeting at 5:07p.m. She announced that the purpose of this meeting is two fold: to provide information about the TA organizing drive, and then to discuss and debate the Faculty options in the event of a job action by the teaching assistants. The revised version of the agenda was approved.

Coney then explained the procedures that would be utilized at this special meeting, noting that a preference would be given for Senators because this is a meeting of the Senate. To maximize debate, and to end in a timely fashion, she asked speakers to adhere to a two-minute limit. Then, she outlined the order of speakers and their purposes. Lea Vaughn, Secretary of the Faculty, and Tim Washburn, Executive Director, Admissions and Records, would present information. Richard McCormick, President, and Ken Lang, Spokesperson for the Graduate Student Employee Action Coalition (GSEAC) would explain the reasons behind their positions.

Presentation of Lea Vaughn regarding Faculty Rights and Obligations: Statement Regarding Faculty Responsibilities in Event of TA Job Action

Today's meeting has been called so that Faculty can discuss what position, if any, they may wish to take regarding the proposed job action by the graduate teaching assistants. In Faculty Senate discussions regarding enabling legislation, we have touched on some of the issues regarding unionization but not all. The purpose of my remarks is to provide the Faculty Senate, and the Faculty generally, with information that I hope will be of use as we make decisions about both our group and individual positions and conduct. Most of this information will come into play only if there is a sustained job action.

Although I am a Professor of Law, specializing in labor and employment relations, I speak today as the Secretary of the Faculty, responsible for interpreting the Code on behalf of Faculty. Ordinarily, when a lawyer gives advice, she has a set of facts from which she can predict legal consequences. She presents options, and it is up to the client to make a decision. It is not always that case that the client likes the information or options, so I ask that you not shoot the messenger for the message. But that leads me to place the following caveats on my remarks. First, almost nothing is known as to what job action the teaching assistants will undertake. That makes it very difficult to provide reliable advice. Second, the other variable here is administrative response. The Faculty Code and state law leave the administration a great deal of discretion in how they respond. I have every reason to believe that their response will be tempered, and judicious. And the third variable, which I will address at the end, is to remind my colleagues that the Faculty, the Administration and the Graduate Students are not the only players. It may well be that various members of the University family and our constituencies may weigh in with their opinions, some of which have legal dimensions.

First, I would like to remind the Senators present today of two things about the operation of the Senate. First, is that Mary Coney, as Senate Chair, is the only person currently designated under the Code to speak for the Faculty Senate. Second, while the Senate has broad powers to pass legislation and make resolutions, the Faculty Code in Section 22-37 charges the Faculty Senate to be guided primarily by a concern for "the general welfare of

the University." We are charged in fulfilling that duty with listening to the opinions of all, and of representing our departmental group.

Faculty have asked questions in three general categories:

1. What are my obligations to teach, and grade, during a TA job action?
2. May I speak to my graduate teaching assistants about the union and the proposed job action?
3. What would happen if the job action transgresses the line of peaceful picketing or other "lawful" job action?

The Faculty are charged with the overall responsibility for delivering academic instruction at the University, including meeting classes and providing feedback on examinations and papers. (Sec. 25-71: Standard of Conduct) As it pertains to these duties, the Faculty Code points out that Faculty tenure is conditioned on performance of one's job. Failure to perform these duties can lead to dismissal or reduction in salary. In the case of a conflict of interest arising from the clash between one's teaching obligations and one's moral belief, the Code counsels a Faculty member to request a "leave of absence or resign his or her academic position."

-Sec. 24-33: Academic Freedom and Responsibility

-Sec. 25-31: Definition of Tenure

-Sec. 25-51B (neglect of duty), F (conviction of a felony) and G (scholarly misconduct)

If anyone would find themselves subject to discipline in this situation, the Code also provides generally in Chapter 25 and Chapter 28, procedures for disciplining Faculty and for Faculty to contest the administration of any discipline. In outlining these provisions, I do not speak for the Administration but I am only alerting you to provisions in the Code that spell out the discretion that they have if they should choose to use it.

Another question that I have been asked is what conversations may Faculty have about the proposed job action with their teaching assistants. In the absence of legislation, you are generally free to hold conversations about the job action. I would advise you, however, to follow the advice that is commonly given to supervisors where a statute is in place: While public sector employees and supervisors enjoy a right of free speech, it is tempered in the situation of union organizing. Faculty, as supervisors, cannot conduct surveillance, nor can they interrogate or question TAs about their union activities. Along the same lines, Faculty cannot promise or withhold benefits to influence TA behavior. In short, you cannot cross a line into coercive behavior.

Following from this point, I do want to remind Faculty and their departments of the obligations they owe to graduate students under the University Handbook (Vol. IV, Ch. 6), E.O 28 and Graduate School Memorandum No. 14. These place responsibility for instruction and supervision of teaching assistants in the departments and units, and are worth reviewing before making departmental decisions on the coverage of courses.

On the third question, some Faculty have asked what would happen should the job action threaten the personal safety of individuals or encompass damage to University facilities. I do not expect this to be the case, but if it should happen, the University has broad powers,

acting through the Attorney General's office, to protect property and persons. In its discretion, it may seek an injunction to limit behavior, and if they are successful in obtaining an injunction, violating its terms may lead to either civil or criminal contempt. Similarly, those who engage in conduct that goes beyond peaceful protests may be criminally charged.

A statement providing remarks to Faculty is incomplete if it provides only what "The Code" says. In making your decision, you need to be aware that the University Administration, the Faculty and the Graduate Students are not the only people involved in this situation. The following people may also play some role:

- Legislature: House, Senate, political parties
- Governor
- Public: East of the Mountains, Puget Sound Area
- Parents
- Undergraduate Students and their Organizations: ASUW
- Press and other Media

In this connection, I want to alert us to two possibilities. First, that the handling of this situation may affect the likelihood and type of enabling legislation proposed and possibly passed as well as the budget that will be crafted in the next legislative session beginning in January. As Tim Washburn will explain, if the job action is prolonged, it may affect undergraduate students' opportunities. Concerned students and parents may elect to file lawsuits in which they name both the University and discrete faculty members as defendants. If they should do so, and a Faculty member has not fulfilled their responsibilities under the Code to teach and grade a class, it is possible that the University, under law, would deem the Faculty member acting outside of the course of their employment. This means that the University would not be able to represent you in any lawsuit and that you would have to bear your own legal costs, including any damages assessed against you.

Again, I caution you that the scenarios I have just outlined are the extremes that are possible under the Faculty Code. I am hopeful that the Faculty Senate, working with both the Administration and the Teaching Assistants, can find a way to address the concerns of the graduate students while at the same time continue to fulfill our statutory mission of providing education.

(This statement was read verbatim and later distributed to all Faculty via e-mail.)

Presentation of Tim Washburn regarding impact on undergraduate students

Washburn pointed out that the University collects approximately 85,000 grades each quarter, and that students could be affected in receiving grades in a timely fashion. His office will soon be mailing grade forms to departments, and the ultimate due date for grades is 19 December 2000. He stated that the Offices of Financial Aid, and other student services will try to do everything to adjust to any change in schedule. If there is not a

grade, faculty can submit "x" grades. He pointed out that for some of the procedures relating to tuition remission and financial aid, the University would attempt to do everything in its power to prevent any disruption to students. His office will work with all of the information that they have to help students. On the other hand, there are situations that are out of the control of the Registrar's office, e.g., employment offers, and graduate and professional school admissions. His office will notify transcript recipients that the lack of grades is not the fault of the student.

Presentation of President McCormick

McCormick welcomed this opportunity to hear from the Faculty. It has become clear that graduate students wish to be able to choose representation by the UAW. The University's position has been that such representation was not desirable. He noted that there is a trend toward recognition of these students as employees. But, he wants to convey that we care about the graduate students. He announced that the administration has concluded that the graduate students should be able to make a choice and to that end, the University will support legislation that would provide a legal framework for making a choice while at the same time protecting the core values and unique features of the University. McCormick expressed the hope that the TAs would submit grades for their classes. So the position of the University is clear: we want the TAs to be able to make a choice within a legal framework and the University administration will work to seek the passage of such legislation. After the legislation is passed, if the students should elect bargaining representatives, the University would bargain in good faith. In the meantime, we expect the graduate assistants to meet their obligations. At this point, the future is uncertain and depending upon the decisions of the graduate assistants, the University may face difficult decisions. The decision may lead to a clash of values: freedom of expression vs. student learning. He asked that all consider the long-term picture and to keep in mind the values for which the University stands.

Presentation of Ken Lang, Spokesperson, GSEAC

Lang noted that the vote for a job action was by an 86% margin. First, he wanted to outline some facts. Last winter quarter, 2000, 80% of TAs chose GSEAC as a collective bargaining agent and they asked recognition which was refused. This request was repeated in the spring quarter, and refused. He noted that numerous other institutions, including peer public universities, have recognized their teaching assistants. The GSPSS and the ASUW have both officially resolved that the Administration should recognize GSEAC. Similarly, about one dozen state legislators have supported the request for recognition as have other employee groups. In this context, and by an overwhelming margin, the teaching assistants voted to engage in a strike. A willingness to seek enabling legislation will not postpone the strike since they believe that they can be recognized without the benefit of legislation and agree, like the California schools, that any bargaining could take place with a shield over academic matters. It is only this recognition that will forestall a strike, he concluded.

Discussion

Coney opened the discussion by reminding Senators and Faculty of the dual purposes of the meeting. To this end, she has divided out time in two. The first part of the discussion will focus on the graduate assistants' request for recognition.

First, one faculty member asked what about the important distinctions between voluntary recognition and recognition under a statute. McCormick stated that without a statute, it is

unclear what the bargaining unit would be, and what topics would be bargainable. Lang stated that he believes that any of these issues could be resolved without taking this to Olympia. Holzworth (Chair, Faculty Council on Faculty Affairs) asked for an explanation from students or Faculty of what are the issues that are so important that they cannot be resolved through current collegial processes. Lang stated that there are several issues: workload issues and cost of living issues in Seattle. He feels that the 80% vote is a statement that the current governance system is not working. Rep. Conway (Washington State Legislature) noted that he was asked to speak by the GSEAC. He said that Rep. Frank Chopp has asked the University to voluntarily recognize GSEAC. Two other representatives are asking that this be resolved short of Olympia, especially given the challenges ahead on budgetary issues. He pointed out that the strongest supporters of the University are the Seattle delegation and they are asking for a resolution short of going to Olympia.

A faculty member from the School of Pharmacy asked for a point of clarification since she had heard that not all TAs were allowed to vote. Lang began by pointing out that the number of TAs varies on a quarterly basis, and that they allowed every person within certain job classifications to vote. Those teaching for credit were not considered employees and could not vote. Jasmine Weaver, ASUW President, then made a statement about the effect of a strike on undergraduate education. The ASUW urged the University to recognize the union so that a strike could be averted. Gerry Philipsen (Faculty, Speech Communications, and former Senate Chair) aired some concerns that have been shared with him by graduate students. First, he stated he was told that there was not an election but only a campaign. The students said that they were not given a chance to read the (union authorization) documents carefully before they were asked to sign. Also, he was told that election times were not always announced fairly and that only supporters were encouraged to attend meetings and vote. So, the students with whom he spoke felt that they had not had a clean, honest election. Philipsen felt that these facts should temper the degree to which they are moved by the GSEAC's reports of support.

Jerry Munson, a TA in the Spanish department, explained that he had gotten involved in this during the last summer, and that he had written a letter to Pres. McCormick that was never answered. He felt that the administration had not communicated well with the graduate students and that we might not be here if there had been better communication. He cited the example of the cut in health care benefits as an issue that caused great concern. Then, he described his colleagues as people who spend 20-30 hours a week in their teaching and are quite dedicated. Sandy Silberstein (Faculty, English) supervises graduate students who teach international students who may lose their visas if they do not get their grades. Silberstein pointed out that she had not heard of any problems with the election in working with students, and noted that she had been president of the TA union at Michigan. In her opinion, the University's failure to recognize TAs feels disingenuous because the issues in contention can be agreed upon without going to Olympia. It feels disingenuous because of the historical context in which this has been done across the nation for 30 years. There are resources that the TAs need that have not been provided, citing the example of students who have been attacked in their offices and did not have a phone.

Next, John Gastil (Faculty, Speech Communications) noted that he had been a member of a TA union. He wished to ask some questions: (1) He wanted to know if the 84% figure cited by Lang was of everyone or what. Lang replied that it was 84% of the graduate students employed in the quarter. Second, he asked about voluntary recognition: If the University voluntarily recognizes the union, would there then have to be an election? Lang said that the next step would be negotiating a contract, not an election, and then the membership could vote on ratifying the contract. A TA from Slavic Languages spoke about how her

department supports her, and how their complaints are about the Administration and the bureaucracy. She offered the example of someone whose health insurance had been cut. She did not think that this would affect her relationship with her coordinator but that it would give them a tool for working with the bureaucracy. Galya Diment (Faculty, Slavic Languages, and past president, AAUP) said that those who are deeply sympathetic to the recognition request are put in a difficult position not by the students but by the Administration which is refusing to recognize the Union. This places faculty in a moral dilemma if they do not wish to cross the picket lines, and she feels this dilemma is created by the Administration. A faculty member in Pharmacology, who also sits on the Graduate Council, stated that he is concerned about the fuzzy logic of who would be members of the union if there is voluntary recognition. He did not feel that this creates a union. A faculty member in Zoology asked a question about what happens after graduate students unionize and whether there are any studies on this issue. McCormick noted the national trend towards unionization, and that in those cases, it was against the background of existing statutes. In those situations, there has been some diminution of collegial relationships but it has not brought any University to its knees. He stressed that the experience of other Universities was based on bargaining in the context of a statute. Lang asked to work out the framework here on campus. He stated that the only survey he had seen involved faculty at unionized campuses and that in 9 out of 10 said that unionization had not affected their relationship. Also, he noted, it varies by campus.

Marsha Landolt, Dean of the Graduate School, reiterated Lang's and McCormick's comments regarding negotiations that had taken place in states with statutes and that we would need to do a real comparison for an effective study. Jim Gregory (Faculty, History) noted that there has been a case of voluntary recognition at Eastern Washington University. He also had taught at UC Berkeley in 1995 and witnessed a TA strike there and urged thought about the experience. There were eight years of strikes before the legislature forced recognition of the union. While he thinks enabling legislation is wonderful, he does not think we should use it as an excuse to duck recognition. A TA in political science said that she was disturbed that the shared governance system treats TAs as children rather than as adults. The current relationship assumes that they need to be taken care of while they would prefer to be recognized. One assistant professor, who had been at Yale, described the organizing efforts over the last several years there. She noted that she was surprised that she has never heard a clear argument from the Administration about the dangers of unionization. McCormick stated that the loss of collegiality by interposing the UAW into the relationship would cause problems. The California experience, he suggested, is still too new to evaluate. He returned to his earlier comments in which he acknowledged the desire of graduate students for a choice but felt this was better under a statute. If those students would make the choice, under a statute, he would recognize it and bargain with them in good faith.

Duane Storti (Mech. Engineering) moved that "The Faculty urge the administration and/or Board of Regents to commence bargaining with GSEAC/UAW. John Gastil (Faculty, Speech Communications) noted that McCormick did not want to negotiate over academic issues. He asked if this was true of both parties. McCormick stated that academic decisions are the prerogative of the Faculty and cannot be bargained over. But the crux is what is an academic issue. Is selection of texts or class size an academic issue? This is not clear, and there is no legislation to provide an answer. Lang said that he was confident that the parties could create a shield over academic topics. A faculty member in Psychology expressed a concern that this motion was too vague and wondered what the effect of such a resolution would be. Coney stated that this would be a Class C resolution that would not change the Faculty Code but would express the will of the Faculty. Seelye Martin (Faculty, Oceanography) said that the language does not encompass the need to develop a framework that would be needed prior to bargaining and therefore presents problems. Storti

said that what if it were amended to cover the need to sit down and work out the framework, but he could not see what exact words he should use.

Another faculty member expressed a concern about how the UAW would make this any better than a self contained group of graduate students from the University only. She wanted to know why the UAW had been brought in. Lang stated that the UAW stated that this is the union that the graduate students voted for and that is what they wanted to do. They felt that the system of shared governance had not addressed their employment issues. McCormick described the way in which graduate students had been involved in governance and noted the committees on which they sit. He also reviewed the problems regarding health insurance, and noted that shared governance was successful in securing funding for healthcare costs. At the same time, the administration has been working on a special budget request for graduate students recognizing the high cost of living in the Seattle area. On the other hand, McCormick noted that there were many non-economic issues that were causing dissatisfaction and he had asked the Graduate School to map out these issues. He acknowledged the lower salary but felt that shared governance had been a success. Thad Spratlen (Faculty, Business School) was concerned that if some actions is not taken, then everyone will lose. He wondered what would happen if we do nothing. President of GPSS said that GPSS has supported GSEAC and the request for voluntary recognition. He also stated that shared governance had looked at some issues that are vital to graduate students, but that graduate students ultimately had no control over what happens. While he acknowledged that shared governance might work for some issues, he opined that graduate students needed GSEAC.

Seelye Martin (Faculty, Oceanography) pointed out that GSEAC would de facto determine salaries for RAs and they are not represented by the union. Gail Stygall (Faculty, English) who supervises 55 sections of English urged McCormick to recognize the TAs and bargain. She stated that she feared what would happen if students are not graded by their own instructors, and that the TAs had the human right to organize. A fifth year TA told a story about not being considered as either a student or an employee and recited the case of a student who had an accident. This person could not get Workers' Compensation since he was a student but the healthcare plan would not pay since they felt this person was an employee and should be covered by Workers' Comp. Thus, they wished to be recognized as employees not students. The question was called. Vote: Yes: 50 No: 7 Motion carries.

Coney then asked that we turn to the second part of the meeting in which we would address what would happen in the event of a strike. One faculty member asked if TAs would continue to get paid. Lang said you would have to ask the University, but the TAs assumed that they would not be paid, and that they would have access to the UAW strike fund. Another faculty member asked about what would happen to tuition waivers in the event of a strike. McCormick stated he did not know what the GSEAC game plan would be, and that accordingly, the Administration was not going to announce what the consequences would be in advance. Another faculty member stated that she felt that the issue was how to avoid a strike rather than how to deal with one. Lang reiterated that the strike would be for voluntary recognition and that he felt that the law already permits this. A faculty member in Chemistry wondered what would happen if the job action is short. Washburn said that if it is brief, that there is some latitude for delivering grades to students but at this time they do not know. Steve Schwarz (Faculty, Psychology) said that the Administration should inform the Faculty about their obligations in the event of a strike, and he also wondered about graduate students who are not paid from state funds. McCormick pointed out that Sec. of the Faculty Vaughn had pointed to the Code options, but McCormick stated that he did not wish to inflame the situation and did not want to exercise the options that are available in

the Faculty Code. He reiterated his belief that the best way to resolve this was to jointly seek legislation. He did not want to inflame the conversation with discussion of consequences. Schwarz stated that he understood this concern, but that he was concerned about students who are supported on grants and what their options would be.

Another faculty member asked that the Senate think very carefully about the implications of the job action for faculty. He saw only three options. First, do nothing. The second was that faculty could act in the place of the teaching assistants. Essentially, faculty would be asked to act as replacement workers, a.k.a. scabs. This would neutralize the impact of the TAs' strike. A third option would be not only to honor the TAs' strike, but also to join them and acknowledge that there is an unhealthy condition and faculty should withhold their labor also. Jennifer Souders (Faculty, Anesthesiology) said that she could not understand why if we could avert the strike by recognizing the union, then why not recognize the union, and at the same time, work on enabling legislation. A colleague in Drama asked a question about the ramifications of a late grade submission. An incomplete grade, said Washburn, would be undesirable because it is never removed from the transcript and suggests that the work was not completed on time. His office would be providing more information about grade submission. Another person asked about the enabling legislation and said she worried about the University quashing legislation. McCormick acknowledged that was true in the past but that the University had taken a new position. Another faculty member chose not to characterize covering classes as "scabbing," and suggested that faculty are caught in a difficult position. What is the impact of state law on the strike? Steve Olswang, Vice Provost, said that there are no strike provisions that cover this situation because there is no legislation. Thus, the graduate students would be individual TAs who chose not to perform their duties. He stated that he spoke as a professor not as university counsel, which he is not. Vaughn addressed the difficulty of operating without a statute because it is not clear what the legal status of the strike would be, noting that existing state statutes forbid strikes in the public sector. Christine Di Stefano (Faculty, Political Sci.) made some comments about faculty options. She felt that some faculty will feel obligated to complete grading and that others will want to avoid getting in the way of graduate student actions. She noted that she will have 200 essays and 200 non-scannable exams coming in and that she cannot complete this in a timely manner by herself.

Holt (Senate Vice Chair) introduced a resolution that stated that "The Faculty Senate as a body takes no stand of support or non-support of a job action, but the faculty does support the action of any faculty member who acts in good conscience." Schwarz did not understand why this needed to be in two clauses and suggested that the first clause be deleted. Holt stated that the first clause is included to recognize the division of faculty opinion on this topic. Storti also suggested deleting the first clause. One person spoke against this stating one would not know what the issue of conscience was, and thus the first clause was needed to make the resolution comprehensible. The motion to amend the resolution by deleting the first clause failed. The body then voted on the original motion which passed overwhelmingly.

Adjournment

The meeting adjourned at 7:08 p.m.

SUBMITTED BY: Lea B. Vaughn, Secretary of the Faculty

APPROVED BY: Mary B. Coney, Chair, Faculty Senate