

University Of Washington  
Faculty Council on Faculty Affairs  
October 1, 2013, 9:30 am – 11:00 am  
Gerberding 142

**Meeting Synopsis:**

1. Call to Order
  2. Introductions
  3. Housekeeping Changes in the Faculty Code
  4. Academic Freedom
  5. Adjourn
- 

**1) Call to Order**

The meeting was called to order by Chair Watts at 9:35 a.m.

**2) Introductions**

Members introduced themselves to the council.

**3) Overview of Summer Activities**

Watts provided a background of activities that occurred during Summer Quarter.

A great deal of work has been done on developing a proposal which would change faculty promotion and salary. This proposal will require major changes to the Faculty Code which will go through FCFA. The goal is to insulate faculty from salary compression and build salary increases into the promotion process.

A list detailing the salary proposal will be distributed to FCFA for review once the special committee charged with developing the code language completes their initial draft. A small task force made up of Gail Stygall (past FCFA chair) and Jack Johnson (president's Chief of Staff) will take the first crack at writing the code language which will be reviewed by a special committee before being sent to the full FCFA. The special committee membership will include two people from FCFA so they can be familiar with the code changes once it is delivered to FCFA. Jack Lee, chair of the faculty, wants code language to be drafted and reviewed during this Fall Quarter. This is a tall order and it will be difficult to meet this deadline since this is a major rewrite of the Faculty Code.

A question was raised asking to clarify the impact promotion would have on salary. The current plan would insert a tiered system within each rank with the idea that an internal review of the faculty member would be conducted every 4-5 years. If the department decides the candidate is ready for the next tier the faculty member will also receive a raise. On top of this proposal the UW will continue to follow the regular promotion process that designates rank. One outcome from this proposal would be the elimination of the annual merit review process. Watts reminded the council that these changes are only in a draft proposal at this point.

**4) Housekeeping Changes in the Faculty Code (Exhibit A)**

Watts provided a background on proposed housekeeping changes to the Faculty Code which will be made during the academic year. There are small and large fixes that need to be changed, and the goal is to fix the easy, non-controversial changes early while addressing the larger fixes throughout the year.

Some larger fixes may be difficult, including alterations to the RCEP process and code changes related to intellectual property, adjudications and personal relationships.

Marcia Killien reported on her work over the summer identifying housekeeping changes to the Faculty Code. At this point all the changes have been identified which range from easy, non-controversial modifications to large, complex changes that will require Class A legislation. Several of the changes are non-substantive which can be changed by the UW rules coordinator Rebecca Deardorff without FCFA's involvement.

Killien went into detail of the changes she identified:

- Minor Class A legislative changes. These changes would introduce new content into the Faculty Code which Killien does not believe to be controversial.
- Substantive Class A legislation changes. These changes would likely be controversial and FCFA will have to determine the sensitivity of the changes and prioritize accordingly.
- Rewriting of the Faculty Code, including salary policy and changes to the RCEP process.
- Changes to Chapter 21 to clarify voting privileges for faculty.
- Updates to Chapter 22 to clarify the membership of the Faculty Senate. Currently, there is confusion around Senate membership since there is no single place in the Faculty Code that defines who is a member of the Senate.
- Clarification to the Class B legislative process. Current language surrounding Class B legislation is out of context because it was moved from the handbook to the UW policy manual without any revisions.
- Chapter 22.81 states that the minutes of the Faculty Senate may be examined within the Secretary's Office. This is very old, outdated language since the minutes are posted online.
- The chapter on adjudications refers to the adjudication panel as the "application panel". Vaugh stated that historically these typos can just be fixed between the provost's office, secretary and rules coordinator since these are just technical corrections.
- Chapter 13 still uses the term "handbook" instead of "UW policy manual".

The council discussed proposed changes to Chapter 28 which addressed the adjudication process. There are important changes to be made but due to a number of active adjudications Killien suggested that FCFA wait until changes are made. Discussion ensued. There will always be active adjudications so FCFA should not wait to make changes. It was suggested to merge Chapters 27 and 28 together when addressing dispute resolution because people will have a tendency to review only one section in the code. If adjustments are to be made it is important to include attorneys within the UW who have the institutional memory of the adjudication process before they leave for retirement. FCFA can decide how to approach this issue in the future when prioritizing changes to the Faculty Code.

Discussion ensued regarding procedures to make changes to smaller, non-controversial issues in the Faculty Code. Chapter 22.61.a (Advisory Committee on Faculty Code and Regulations) was used as an example. This is a scope issue when identifying who and what body can make the necessary changes. Some of the responsibilities already fall under the responsibility of Rebecca Deardorff but FCFA may want to review these changes as well. Discussion ensued regarding FCFA's role in rules changes and Deardorff's relationship with FCFA, the Senate's Office and the advisory committee under SEC. Changes within the UW policy directory result from many different processes including executive orders,

administrative policy changes, state WAC changes and many others. Changes to the Faculty Code are done by faculty, but not all changes need to come from FCFA.

A statement was raised suggesting that the code cops should be approached before making changes. Discussion ensued. It would be good to get insight from the code cops in determining which issues are housekeeping changes and which require a legislative process.

The list provided by Killien will be distributed to FCFA members for a brief discussion at the next council meeting. In addition to Killien's list of proposed changes the email will also include draft mark-up language for the minor changes that can be quickly approved.

Discussion moved to improving the method in which documents are distributed to councilmembers. It was suggested to create a shared platform to store documents in anticipation of the many code changes that will be taking place over the academic year. One suggestion was using Catalyst to upload documents for councilmembers to use. The council will look more into developing a method to share documents as a group.

Killien will pass along the proposed changes to Rebecca Deardorff and the code cops and will report back to FCFA about the feedback she receives. Additionally, Killien will distribute the list of minor code changes for FCFA to review prior to its next meeting.

## **5) Academic Freedom**

### *Class A Legislation Drafted by SEC*

At its last meeting SEC created a task force to revamp the language of the legislation introduced by FCFA. A copy of the most recent SEC version was provided to the council for review. Past-chair Gail Stygall is on this task force and has been assisting in the rewriting of the legislation. Killien explained that this is just an update and the legislation is now out of the hands of FCFA. Killien suggested that any objections to this version should be addressed at the upcoming SEC meeting.

### *Update on Garcetti v. Ceballos*

Lea Vaughn provided an update of the developments in Garcetti v. Ceballos. FCFA had a presentation on this case last year and reflects the Supreme Court's latest statement on free speech by public employees. The findings cut a wide swath in restricting free speech, but the main issue is that the courts will not touch academic freedom.

The case involves a colleague from Washington State University and is factually complicated because the faculty member maintains his own publishing company. This makes it difficult for the courts to determine the capacity the faculty member was presenting his documents; whether they were private or as a member of the WSU faculty. An important note is that the presiding judge, William Fletcher, wrote the opinion. It so happens that Fletcher is a faculty member and associate dean of the law school and understands how work is done by faculty.

The details of the case involve the faculty member writing about the reorganization of the Communications school and merging together faculty members of two independent schools. Instead of submitting his opinion to the committee tasked with the reorganization, he sent it directly to the offices

of the provost and president. The faculty member is arguing that he can do so in the capacity as an independent publisher, however he included these efforts in his annual faculty review. WSU in turn treated his communications to be within his official capacity as a faculty member. In District Court the university asked for summary judgment which found in favor of the university. When the decision was appealed the 9<sup>th</sup> Circuit Court found that the professor's communication was in the official capacity as a faculty member.

The big issue is determining whether teaching and academic writing falls within the realm of free speech. The court's ruling is interesting because it carved out an exception for academic freedom which is broadly defined. The implications of the ruling appear that the courts will now be looking at the content and distribution of the communication to determine if the speech falls within the definition of public concern or is a private grievance.

A question was raised asking if SEC's language on academic freedom conflicts with this recent ruling. The basic language is fine since it was significantly cleaned up from before. It was suggested that the SEC task force review this ruling prior to the upcoming SEC meeting.

## 6) Adjourn

The meeting was adjourned by Chair Watts at 11:05 a.m.

---

*Minutes by Grayson Court, Faculty Council Support Analyst. gcourt@uw.edu*

**Present:**           **Faculty:** Watts (Chair), Adam, Janes, Vaughn  
                          **President's Designee:** Cameron  
                          **Ex-Officio Reps:** Zanotto  
                          **Guests:** Marcia Killien (Secretary of the Faculty)

**Absent:**           **Faculty:** Buck, Johnson, Landis, O'Brien, Stygall  
                          **Ex-Officio Reps:**

FACULTY CODE UPDATES: by TYPE  
2013-14

Exhibit A

	A	B	C	D	E	F	G
1	<b>CHAPTER</b>		<b>SECTION</b>		<b>NOTES</b>		<b>TYPE</b>
2	21		21.32.B.		Allow voting rights for faculty on leave		Class A: minor
3	22		22.41		Add Senate chair as voting member of Senate		Class A: minor
4	22		22.41		Add Secretary of the Faculty as exofficio w/o vote		Class A: minor
5	22		22.45.A.		Change date by which senator apportionment is made		Class A: minor
6	22		22.61.B.		Code Cops: role of chair/counsel; length of terms		Class A: minor
7	22		22.62.B.		SEC: add Deputy Leg Rep, exofficio w/o vote		Class A: minor
8	22		22.91		SCPB: student members. Revision needed?		Class A: minor
9	24		24.34.B.12		Add acting lecturer status		Class A: minor
10	24		24.50		Conflict of Interest: add "household member"?		Class A: minor
11	28		28.35.C.		Time limit: add ombud as informal resolution		Class A: minor
12							
13	24		24.55		Salary Policy		Class A: rewrite
14	24		24.70		Salary Policy		Class A: rewrite
15	24		24.71.D		Salary Policy		Class A: rewrite
16	26		all		RCEP		Class A: rewrite
17							
18	21		21.32.A. & B.		Status of voting rights for Retired/Emeritus faculty		Class A: substantive
19	22		22.41		Add SCPB chair as voting member of Senate		Class A: substantive
20	22		22.42.D.		Senate seats vacated by absence: who decides?		Class A: substantive
21	22		22.72/73/74		Procedures for Class B: revise and clarify		Class A: substantive
22	25		25.71.D		Standard of Conduct/related to Salary Policy		Class A: substantive/rewrite
23							
24	24		Footnote		Class C footnote on COI status		FCFA opinion
25	24		24.41		Lecturer appointments, part time duration		FCFA opinion
26							
27	21		21.32.B.		Voting rights for other categories of faculty		Housekeeping
28	22		22.41		Reorganize format of content of Senate membership		Housekeeping
29	22		22.61.A.		Code Cops: remove role performed by Rules Coord.		Housekeeping
30	22		22.71.B.		Class B clarification		Housekeeping
31	22		22.81		Where can minutes "be examined"?		Housekeeping
32	28		28.41.A.5.		Typos		Housekeeping
33	29		29.31				Housekeeping

FACULTY CODE UPDATES: by TYPE

2013-14

	A	B	C	D	E	F	G
34	13		13.31.B.		Remove & update reference to "Handbook"		Housekeeping
35	13		13.31.C.		Remove & update reference to "Handbook"		Housekeeping
36	21		21.52.		Transmit notices to (add: 'voting') faculty		Housekeeping ?
37							
38	27		NONE		Not at this time		none
39	28		28.33.B.		Panel chair: term		Not at this time
40	28		28.33.B.		Student members		Not at this time
41	28		28.36.		Procedure to appeal Adj. chair ruling		Not at this time
42	28		28.37		Challenge to panel chair		Not at this time
43	23				?????		
44							
45	<b>Other</b>				e-voting		
46					lecturers		
47					Footnotes/class C		