

Fairmont State University Faculty Senate

Minutes

January 15, 2013

303 Education Building

3:00-5:00 p.m.

Attendance: J. Webb-Dempsey (President), M. Abbott, J. Bolyard, C. Edwards, G. Hansen, R. Harvey, D. Hemler, M. Hokom, T. Hutchins, S. Kelley, G. Kirby, D. Kirchoff, D. Long, B. Mild, K. Millen-Penn, J. O'Connor, M. Ryan, B. Sapp, C. Shields, P. Snively, D. Tobin, C. White, B. Weaver (for E. Gailey) J. Yerdon LeJeune.

Visitors: R. Baker, S. Brescoach, T. Brooks, C. Crislip-Tacy, V. Dempsey, G. Fantasia, C. Lavorata, J. Kirby, D. Moroose, C. Nicholson, D. Noone, D. Shields, A. Sidwell, S. Smith, T. Oxley, M. Ranson, M. Rose

I. Motion made by O'Connor to move the reading of the minutes until after the Sick Policy Update. 2nd by Kelley. Motion carried.

II. Sick Policy Update:

Rose – provided background for the purpose of the policy update.

- ✓ She stated that the State has approved Outcomes Based Funding. As a result the president's council meets weekly but doubts that their suggestions will be heard by the state.
- ✓ In addition, Senate Bill 330 states changes in financing and also looks at HR rules and regulations that affect Cindy Curry's responsibilities. That is why the new Faculty Sick leave policy was proposed. The proposed policy comment period has been extended to allow for more time for faculty feedback. The comment period has been extended to 2 weeks before the April BOG meeting.
- ✓ There are many other BOG policies that need to be reviewed (for example: salary, sexual harassment, etc.)
- ✓ The plan now is to collect comments from faculty and Cindy Curry will work with Faculty Senate on a revised policy.
- ✓ Other changes that have been made include the BOG Agenda to be shared with Faculty Senate executive committee before the BOG meetings.
- ✓ President Rose has also stated that she is planning to regularly meet with the Faculty Senate President to ensure there is an open line of communication between faculty and the President's office.

Curry

- ✓ Offered apologies to the group for not asking for more feedback during the process of rewriting the sick leave policy. She indicates that she will solicit more feedback in the future.

- ✓ Purpose for changes was because HR had to comply with FMLA changes and because of Senate Bill 330 pass in March 2011. It will also assist with some worker's compensation requirements.
- ✓ FSU was audited by consultants for HEPC and is preparing a report for each institution that states that HR offices must comply with State and Federal laws.
- ✓ Appreciates faculty's interest in wanting to offer input.

Long – Can you explain Senate Bill 330?

Curry – It discusses the HEPC, BOG and Institutional requirements.

1. Requires a job description for all employees
2. Requires annual performance evaluations – FSU must report the # completed
3. Must report the number of classified and non-classified, number of classified must decrease.
4. Requires job classifications and consistency in job titles.
5. Implementation of new electronic WV resource data system for all state agencies including budgets, transport, etc.

Long – What part of the bill effects the Sick leave Policy?

Curry – The Bill requires us to be audited for compliance with state and federal laws. FMLA explains the responsibility for HR to comply although some of the components are broad.

Tobin – Are the changes able to be mapped to code or is it just too broad statements?

Curry – There is some direct mapping, but some of the changes are from experience.

Tobin – Faculty would like to see the changes mapped to laws on a slide presentation.

Curry – OK

Webb-Dempsey – If Cindy is going to work with the Faculty Welfare Committee, she suggests that Cindy be charged with presenting this map and information to the committee in the first meeting. This information shall then be shared with the senate.

Curry – Asking for a list of suggested changes but expressed that not ALL changes will be made.

Tobin – Explained that faculty just wants to see why the changes are being made.

Hansen – WVU's policy is just broad statements and allows these conditions to be handled within the Departments or Colleges. This also takes place at other

institutions, except WVU. Are Federal regulations requiring them to change also, or just our interpretation of the laws guiding our changes?

Curry – WVU got into some trouble for what they did. But our BOG determines what FSU does. There is also another law from 2005 referencing not being paid for sick days, but she will try to find a current interpretation of that law.

Shields – Had read the statute being referenced, does not see where it defines how work is delivered. This is in reference to the statement that faculty can't work at home and can't be paid for working at home.

Curry – That is not what it is supposed to mean. She just does not want HR to be involved in arrangements made between faculty and Deans. It was only intended to ensure compliance with FMLA. For example, if someone had a heart attack and wanted to return to work without a release this would put a liability on the institution.

Shields – 2 concerns: Expressed concern that the proposed policy takes away the discretion for the definition of work and is confused on how FMLA and Short Term disability are related.

Curry – offered example of how classified staff have 2 weeks sick leave, but need 6 weeks. Then they get the sick days and it is also recorded under FMLA. So here, the policy states that after 5 days, it must be reported and allows for coverage. For example, Maternity falls under sick leave.

Shields – But that doesn't mandate a Faculty Sick Policy.

Curry – No, we (the institution) mandate if we have a policy. But it is recommended in the FMLA training manual that we have a policy.

Rose – Wants to clarify that BOG has had an existing policy since '07. This is simply a modified proposed policy that is just out for comment and has not been adopted by the BOG.

Hansen – When working with the Faculty Welfare Committee are you open to modifying the policy to not be held so captive to the details.

Curry – No she is not open having a less captive policy. She would be open to considering dropping the short-term disability.

Hansen – Does our Short-term disability contract offer suggestions on how the policy should be written?

Curry – It offers suggestions on how the institution should write them. She is willing to discuss compromises that are not so open.

Rose – For example, Dean Harvey had a faculty member off for the semester and he/she worked on curriculum redesign and that was acceptable. The policy is not intended to block those avenues.

All Faculty – BUT IT DOES!!

Rose – Understand. That was not the intent! We will fix this.

Curry – Physician can determine restrictions and from there the arrangements can be worked out with the Dean. But her office does not want to be responsible for non-compliance with FMLA or any liability for non-released faculty.

Long- Read the FMLA and understands if someone is ill, but the language of the act states that the employer “MAY”. The act leaves it open for the employer. The problem is that the policy states that even for a “mole removal” one must go through this whole process.

Curry – yes the FMLA leaves it open for institutional interpretation, but now we have a draft to modify. As the policies are modified, the BOG requires that they are presented the mark-ups of the modifications. She stated that she understands that faculty may have issues requiring catastrophic leave, but also understands that the work for faculty is different because of the flexibility of the work. She also understands that faculty do not get accrue sick leave.

Kelley – Expressed a concern for faculty morale if this policy goes forward. With many other factors present, this proposed plan is then just read as a slap in the face and punitive. She felt there was a clear division between 9 month and 12 month contract employees and between the sick leave and FMLA. She expressed that this proposed policy is not written in appreciation of faculty work. Faculty express that they are uncomfortable with having to obtain a “Doctor’s Slip” just to return from a “Cold”. Therefore, she is glad to hear that there will be some consideration for faculty input.

Curry – Expressed apologies for the way the policy was written.

Moroose – Does this all mean that if we have the “flu”, we might have to go on Short Term Disability?

Curry – Faculty are allowed to be off for 14 days.

Ryan – The document states that if one is off work for 6 days, faculty needs “return to work” authorizations. What if someone has to take off work because their kids have the flu? The policy defines the work, but that is not how faculty work is truly defined.

Curry – We can work on modifying that description. The physician will know what the individual is capable of and work does not need to be defined.

Ryan – But the policy does define work and needs to be fixed.

Curry – Willing to review the policy to make modifications and corrections.

Unidentified – A faculty member had to take time off because of a disease resulting in death in the family. Does this mean this must now be reported even though the classes were covered?

Curry – No, arrangements were made and worked out. HR does not want to get involved.

Millen-Penn – Why do we even have a policy? Do other institutions?

Curry – They should. The BOG works with the President to determine what is needed. Colleen Roberts is beginning Phased Retirement and will be working on a “Leave” handbook.

Unidentified – What about faculty that have the flu? Doctor releases them, but flu is contagious and policy says I should stay home until better. Does faculty still have to get a release?

Curry – the 5 days off rule comes out of HEPC rules and lawsuits related to these rules.

Hokum – Faculty impression on the policy is that everything has worsened and as written is very offensive. For example, faculty can't be paid for work not done, but faculty often don't get paid for the extra work done. The faculty need a concrete reason why the changes are being made. Not just because of interpretation.

Curry – Expressed apologies for the misunderstanding. Her role as HR is to protect the employee and the institution.

Kelley – Does it save the institution money when faculty help each other? Faculty rarely abuses the opportunity. Faculty sees the policy as the institution trying to “block” these abuses assuming that all faculty abuse this.

Harvey – Academic Affairs also expresses concern. Will the Deans be offered an opportunity to provide feedback?

Curry – Yes, the Deans and Chairs will be involved. She has great appreciation for the work of the faculty and will rewrite the policy as to not insult faculty.

Webb-Dempsey – Thanks to Dr. Rose and Cindy for coming to the meeting to speak with faculty and for pulling the policy back for comments. Faculty is also encouraged to voice their opinions on the survey that is still open for feedback.

III. Reading and approval of minutes of December 2012 meeting – Kelley moved to accept and Harvey seconded. Motion carried. (O'Connor indicated slight typographical corrections needed)

IV. Announcements / Information / Discussion

- **BOG representative** – Mild reported:
 - Next regularly scheduled BOG Meeting is scheduled for February 21, 2013.
 - Sick leave policy has been moved to the April meeting agenda
 - Last meeting discussion continued on campus construction projects
 - Auditors offered good feedback on the institution
 - Minutes from December meeting are available online for anyone interested.
 - Harvey suggested that the BOG streamline all policies in the future

- **ACF representative** – Kelley reported:
 - ACF – next meeting is at the end of the month
 - ACF has offered a flyer for the Great Teacher Seminar this summer. FSU is permitted to send one representative. She encourages faculty to share the information.

- **Student Government** – No student representation available.

V. Old Business

Curriculum Proposals -

12-13-16 BA in Communication Arts

12-13-19 Changes to four Journalism courses

(Both approved for 1st reading at December meeting)

Motion to approve both proposals as a package for second reading made by Harvey, 2nd Sapp. Motion passed for second reading.

VI. New Business

Curriculum Proposals –

- **Curriculum Proposal – 12-13-18** (BA in Studio Art)
 - O'Connor motion to accept for 1st reading. Kelley 2nd the motion.
 - O'Connor offered suggestions
 - p. 3&7, "Track hours" needs removed
 - p. 7, Major electives, based on the selected area of study
 - Long, p. 13 Art Studio Track , Art Electives may want to clarify

- Motion Passed.
 - Proposal sent back to the committee for amendments suggested above before 2nd reading.
- **Curriculum Proposal – 12-13-25** (Liberal Arts, Behavioral Sciences)
 - Long motion to approve for 1st reading. Sapp 2nd. Motion Passed.
 - Long motion to suspend the rules for time before 2nd reading. O'Connor 2nd. Motion Passed.
 - Long motion to approve for 2nd reading. Kelley 2nd the motion. Motion passed.
- **Curriculum Proposal – 12-13-26** (BS Chemistry)
 - O'Connor motion to approve for 1st reading. Long 2nd. Motion Passed.
 - Long motion to suspend the rules for time before 2nd reading. O'Connor 2nd. Motion Passed.
 - Long motion to approve for 2nd reading. O'Connor 2nd the motion. Motion passed.

VII. Open Forum

Sick Policy Discussion (Continued for Senate Action)

Harvey reported that the School of Business voted unanimously to reject the proposed sick policy.

Motion made by Harvey: Faculty Senate asks that the Sick Policy be removed and rewritten from scratch. 2nd by C. White.

Discussion:

In discussions, it was suggested that the BOG consider a new Policy format which all policies are only approximately 2-3 sentences long and then the institution can have procedures written to implement each policy.

Rose - Will ask the President's Council and HEPC if this would be acceptable.

Long – Concerned that the policies go out for public comment and approved, but the procedures wouldn't follow this process. Therefore, any procedure could be developed without input and have a negative effect.

Rose – These will go hand-in-hand. It will be the first of its kind.

Webb-Dempsey – Suggests that we also have public forums throughout the process.

Kelley – If we reject or suspend the policy, what are the ramifications?

White – From the discussions in Social Sciences meeting, faculty want it suspended.

O'Connor – If faculty wants to send a strong message, we should reject the policy.

Mild – The policy only passed for a first reading at the BOG, it has just been sent out for public comment.

Roof – Rejecting the policy can also say that faculty doesn't like the revision.

Harvey – do we modify the motion to say that Faculty Senate rejects the revisions to BOG Policy 38 and take no further actions on the current policy?

Kelley – Can we just make a second motion that policy 38 is removed?

Motion revised by Harvey: To reject the proposed revisions to policy 38. 2nd by White.

Hansen: does not think Senate should reject the revisions.

Motion passed: 2 Nays, Majority passed.

Motion by White: Faculty Senate recommends to the BOG that policy 38 be rescinded. 2nd O'Connor.

Discussion:

Harvey – Suggests that we just fix what is in place, because we still need something in place to comply with federal law.

Kelley – Federal Law allows for interpretation by the institution

Long – No other institution has a policy like this. She reviewed Marshall's policy and it is not written in this manner. Faculty consists of professionals that cover for each other. This does not allow for that.

Webb-Dempsey – Other institutions have a process in place, but leave it more open and is not as restricted.

Long – FLMA states to adopt what is considered to be more beneficial to employees and this policy is not more beneficial to the employees.

Roof – Does not feel that we should rescind the policy because then there will not be a policy in place if the current one is removed.

Tobin – Law states that we need to have something in place.

Long – Curry's comment stating the she will "work with faculty" but will not make all request changes. This raises concern that the main issues faculty are stating may not be addressed.

Harvey – suggests that something be left in place, but they need to restart from scratch writing a new policy.

Motion to rescind the current policy withdrawn: by C. White. Agreed upon by J. O'Connor.

Webb-Dempsey – How do faculty want to proceed?

Lavorata – Suggests that additional faculty, perhaps with legal experience, participate in the process with the Welfare Committee.

Harvey – Suggests that an HR professor also assist with the process.

Motion: Welfare committee is charged with working with HR to craft a new policy 38 with the addition of the faculty resources suggested by senate. Motion made by G. Hansen. 2nd J. O'Connor.

Discussion:

Webb-Dempsey – will work with Sam to offer names of faculty to assist in the process (i.e. Shields and Harvey)

Hansen – The Welfare committee asked HR last year if assistance was needed to review the policy. HR indicated that at the time it was not necessary to get faculty input because it was premature.

Motion Passed: Unanimously

VIII. Meeting adjourned 4:54 pm Tuesday, January 15, 2013.

Next Meeting: 13 February 2013

Rm. 303 ED
3:00-5:00 p.m.

**If you have items for the agenda please send your request to the President of the Senate by Tuesday morning, one week prior to the next Senate meeting, for consideration at the Executive Committee Meeting.*

Respectfully submitted by Mit Abbott, Faculty Senate Secretary

13 February 2013