

ACADEMIC SENATE MINUTES
December 4, 2002, 4:00 p.m.
Room 132, DeBartolo Hall
PDF Version

Note 1: Please submit agenda items and cover sheets for the February 5, 2003, Senate meeting to Bege Bowers in the Provost's Office by noon on Friday, January 24, at the latest. Provide both a hard copy and a disk or electronic copy of your report and cover sheet in *Word* or rich text format. A downloadable cover sheet is available at the Academic Senate web site:

<http://cc.yosu.edu/acad-senate/index.html>

Note 2: If you want to read or print the pdf version of these minutes and you don't have *Adobe Acrobat Reader*, you may download the program at the following link:

<http://www.adobe.com/products/acrobat/readstep2.html>

To save paper, use the Acrobat Reader menus or toolbar to print the file, not the menus or toolbar in your web browser.

OVERVIEW: Given the lack of a quorum, the meeting was an informational/discussion meeting only.

Major topics presented/discussed: Ohio Faculty Council report; resolution of appreciation for Jim Morrison; proposed Academic Standards Committee motion that no course designed as intensive may be certified for all three intensive areas (writing, oral communication, critical thinking); appeal to reconsider the Professional Conduct Policy passed at the November 6 Senate meeting.

POLICY CHANGES: None.

ACTIONS: Because of the lack of a quorum, no usual Senate actions could be taken. However, the Senate, with unanimous approval, presented a resolution of appreciation to Jim Morrison for his long service as chair of the Senate (see page 2).

CALL TO ORDER:

Jim Morrison, chair of the Academic Senate, called the "non-meeting" to order at 4:11 p.m., noting the absence of a quorum. He announced that we would proceed with reports and discussion.

MINUTES OF THE PREVIOUS MEETING:

Minutes of the 6 November 2002 meeting are available on the Senate web site at <http://cc.yosu.edu/acad-senate/>. Given the lack of a quorum in December, approval of the November minutes will appear on the February agenda.

SENATE EXECUTIVE COMMITTEE (SEC)/REPORT FROM THE CHAIR: Jim Morrison recognized Tom Shipka to present the Ohio Faculty Council report.

OHIO FACULTY COUNCIL REPORT: Tom Shipka summarized the report that was attached to the agenda for the December 4 Senate meeting at <http://www.cc.ysu.edu/acad-senate/dec02_ofc.htm>.

Shipka concluded by presenting the following resolution of appreciation to Jim Morrison on behalf of the Academic Senate and the Senate Executive Committee:



RESOLUTION OF APPRECIATION FOR DR. JAMES MORRISON

WHEREAS, Dr. James Morrison, Professor of Psychology, has served with distinction as Chair of the Youngstown State University Academic Senate since February 7, 1996, and

WHEREAS, during his tenure as Chair of the Senate, Dr. Morrison has provided calm, fair, and professional leadership, and

WHEREAS, Dr. Morrison's integrity and sense of fair play were instrumental in guiding the Senate through such complex and difficult matters as quarter-to-semester conversion and revision of the general education requirements, and

WHEREAS, Dr. Morrison has faithfully presided over meetings of the Academic Senate Executive Committee and ensured that the Executive Committee met all of its duties under the Senate Charter and Bylaws, and

WHEREAS, Dr. Morrison has worked with various committees of the Academic Senate to assure smooth and timely consideration of issues that come before it, and

WHEREAS, Dr. Morrison has served as a member of numerous University-wide administrative committees and effectively represented the policies and wishes of the Academic Senate, and

WHEREAS, Dr. Morrison has traveled on numerous occasions to Columbus to represent the University and its Academic Senate,

NOW, THEREFORE, BE IT RESOLVED, that the Academic Senate expresses its sincere appreciation to Dr. Morrison for his years of service to the Senate and for his commitment to the welfare of Youngstown State University, and

BE IT FURTHER RESOLVED, that a copy of this resolution shall, upon its adoption, be provided to Dr. Morrison, along with the best wishes of the members of the Academic Senate.

Thomas A. Shipka, Chair Elect
Academic Senate
Youngstown State University
December 4, 2002

The Senate expressed unanimous support for the resolution. [Many thanks to Bob Hogue, Bill Jenkins, Tom Shipka, and members of the Media and Academic Computing staff for drafting and preparing the resolution on behalf of the Senate.]

Morrison said he was “very humbled by this gesture”; he looks forward to sitting in the audience and having the opportunity to speak to issues that come before the Senate in the future.

CHARTER AND BYLAWS COMMITTEE: No report.

ELECTIONS AND BALLOTING COMMITTEE: Louise Aurilio, chair of the committee, submitted a written report noting that Daryl Mincey was elected to a two-year term on the Ohio Faculty Council (OFC). (Tom Shipka, the former elected representative to the OFC and the incoming chair of the Academic Senate, will chair the OFC and serve as YSU’s other representative on the Council.)

ACADEMIC STANDARDS COMMITTEE: Pete Beckett, chair of the committee, gave the context for the proposed motion that was attached to the agenda for the December 4 Senate meeting at <http://www.cc.ysu.edu/acad-senate/dec02_asc.htm>. He noted that the Senate had referred the matter to the ASC in September 2002. Beckett read the proposed motion, which will be presented at the next Senate meeting.

ACADEMIC PROGRAMS COMMITTEE: Ray Shaffer, chair of the committee, sent a report that several proposals are still in the circulation phase.

UNIVERSITY CURRICULUM COMMITTEE, ACADEMIC PLANNING COMMITTEE, GENERAL EDUCATION COMMITTEE (GEC), INTEGRATED TECHNOLOGIES COMMITTEE, UNIVERSITY OUTREACH COMMITTEE, LIBRARY COMMITTEE, ACADEMIC RESEARCH COMMITTEE; STUDENT ACADEMIC AFFAIRS COMMITTEE; STUDENT ACADEMIC GRIEVANCE COMMITTEE; HONORS COMMITTEE, ACADEMIC EVENTS COMMITTEE: No reports.

UNFINISHED BUSINESS: None.

NEW BUSINESS: Appeal to reconsider the Professional Conduct Policy passed at the November 6 Senate meeting. The policy is available at <http://cc.ysu.edu/acad-senate/prof_conduct_policy_11-02.pdf>. The appeal to reconsider is available at <http://cc.ysu.edu/acad-senate/dec02_appeal.pdf>.

Three additional items were made available at the December 4 meeting: a sheet called “Additional Areas of Concern”; a sheet called “Re: Appeal to Reconsider Professional Conduct Policy,” signed by Bill Jenkins and Charles Singler; and a document called “Reply to the Appeal to Reconsider the Professional Conduct Policy,” prepared by Tom Shipka. Following the meeting, Shipka submitted an additional document, titled “December 5, 2002, Comments by Tom Shipka.” These four items, which appear in Attachment 1 to these Senate minutes, are available at <http://cc.ysu.edu/acad-senate/appeal_docs_12-02.pdf>.

ADJOURNMENT: The meeting adjourned at 4:55 p.m.

Attachment 1:

Four Documents Related to the Conduct Policy Passed on November 6, 2002, and to the Appeal to Reconsider It, available at <http://cc.ysu.edu/acad-senate/appeal_docs_12-02.pdf>

Attachment 2:

Attendance Sheet for December 4, 2002 (Scanned Image) is in a separate pdf file at <http://www.cc.ysu.edu/acad-senate/att120402_pdf.pdf>.

Attachment 1 to the December 4, 2002, Senate Minutes

Four Documents Related to the Conduct Policy Passed on November 6, 2002, and to the Appeal to Reconsider It

Document 1:

ADDITIONAL AREAS OF CONCERN

Page 7

IV. (F) 4) a) – there is insufficient guidance given to the committee regarding “relevant penalties or sanctions.” Does it include firing? What are the circumstances under which firing is warranted, and also legally defensible? The term “suspension of privileges” also appears to have no definition. Given the potential for legal remedies being sought by injured parties, the committee needs to operate with greater clarity regarding the application of a punishment.

IV. (F) 4) c) – this provision refers to an appeals process, but does not indicate whether there is a progression of appeals from one’s immediate superior to the chair of the Board of Trustees, nor does it indicate what happens at each appeal level. Language in d) commands that the “relevant administrative superior(s) of the person(s) judged to have been engaged in professional misconduct shall implement the recommendations of the Ethics Committee in regard to penalties or sanctions, if any.” The fact that plural “superior(s)” are permitted suggests that there would be multiple levels of appeal. A question could also be raised as to whether a department chair has sufficient stature within the university to implement the more serious penalties. Finally, we wonder about the appropriateness of having the Chairperson of the Ethics Committee provide the Professional Misconduct Report to so many parties prior to an appeal being heard. Confidentiality should be an utmost concern at all stages of this process.

Document 2:

RE: APPEAL TO RECONSIDER PROFESSIONAL CONDUCT POLICY

IV. Procedures

Section IV, E.3 (pp. 5-6)

“A quorum of members of the Case Investigation Subcommittee shall be present whenever testimony is given. . . .”

We will move to amend the language of IV, E.3 to read:

“At least 75% of the membership of the Case Investigation Subcommittee shall be present whenever testimony is given by parties relevant to an investigation, and a vote in the affirmative by at least 75% of the members of the subcommittee shall be needed to recommend to the Ethics Committee that the allegations are substantiated.”

Comments:

1. The policy language does not provide a basis of what determines a recommendation to the Ethics Committee. The language does not, for example, define that a simple majority is needed for any recommendation.
2. The investigation subcommittee should be required to have a substantial majority to recommend that allegations are supported. This is the first body that is supposed to conduct a thorough investigation, is relatively small (maximum of 5), and potentially provides considerable influence on the Ethics Committee’s final decision.

W. Jenkins
C. Singler

Document 3:

REPLY TO THE APPEAL TO RECONSIDER THE PROFESSIONAL CONDUCT POLICY

(Prepared by Tom Shipka, a member of the Senate Ad Hoc Ethics Committee)
December 4, 2002

1. Claim

There has been insufficient opportunity for Senate discussion of the policy and only one area was discussed before debate was closed. As a result, important rights and interests of faculty and staff could be harmed by this policy leading to lawsuits.

Reply

1. There has been discussion of many parts of the policy at several Senate meetings and many revisions in the policy were made based upon these discussions.
2. The Senate-approved policy has been developed by an *ad hoc* committee including several current and former faculty union leaders who have a long history of advocacy of faculty and staff rights and interests, and it is far-fetched to believe that they would suddenly and carelessly put such rights and interests in jeopardy. Also, a number of vocal supporters of the policy in the Senate are union leaders.
3. The Senate-approved policy is not the final policy. The Senate-approved policy will be submitted to a Review Committee appointed by President Sweet to finalize the policy for presentation to the Board of Trustees. The Review Committee, which will include the outgoing and incoming chair of the Senate, among others, will consult with legal counsel, YSU OEA, YSU APAS, various members of the administration and other interested parties in finalizing the policy. The Review Committee may need to make revisions in the policy to accommodate the various groups and recommend changes in existing Board policies touching on professional conduct to assure that Board policies are coherent.
4. Drs. Jenkins and Singler should forward their suggested changes to the President's Review Committee. The incoming chair of the Senate will urge the Review Committee to consider all of them and will urge adoption of #2 and #11.
5. A motion to close debate was made in the last Senate meeting because the hour was late and a quorum almost certainly would have been lost if discussion had continued, postponing indefinitely Senate action on the proposed policy. Indeed, given what seemed like a long list of relatively minor complaints about the proposed policy, the Senate discussion could have taken literally several more months of meetings. Some sixteen months had already been expended in the development of the policy.
6. The Senate *Ad Hoc* Ethics Committee has solicited suggestions from Senators and others for roughly a year and, with the exception of language dealing with plagiarism, the two Senators calling for reconsideration offered none. In the case of plagiarism, changes were made and the Senator requesting these changes assured the chair of the committee that he was satisfied with them.
7. The Senate-approved policy is subject to further review by campus unions prior to presentation to the Board of Trustees for approval. Surely these organizations

will scrutinize the policy to assure that it does not violate faculty and staff legal or professional rights and interests.

8. There can be no guarantee that a lawsuit over this policy will never be filed. Everyone has a legal right to file a lawsuit. Presumably the courts would expect faculty and staff to exhaust internal remedies before filing a suit. The policy provides for an appeal after a finding of misconduct by the Ethics Committee. Also, unionized employees would have access to their negotiated grievance process.

2. Claim

There is an inconsistency in the definition of plagiarism in that reference is made in one place to a “public forum” and in another place to a “closed or private forum.”

Reply

This is a feature of the policy that resulted from one of the Senators insisting that no clear distinction between public and private meetings of classes and committees could be made. The current language was presented to this Senator last May, approved by him, and never objected to at any time thereafter until the past few days. Nevertheless, the claim has some merit, and the President’s Review Committee will be encouraged by the incoming Senate chair to change “in a public forum or medium” to “in a public or private forum or medium,” as suggested.

3. Claim

The policy will require faculty to acknowledge sources used in classroom lectures and talks on and off campus.

Reply

This is a scare tactic. In II.C.i-iv the policy includes the “fair use” standards in the Federal Copyright Act (Title 17, Section 107) and requires the faculty simply to comply with the law. This law explicitly applies to use of copyrighted work “for purposes such as criticism, comment, news reporting, teaching, scholarship or research.” Under the fair use standards, generally speaking, use of sources in a classroom or talk that serves an educational mission is not subject to a claim of plagiarism.

4. Claim

The policy will require participants in administrative meetings to acknowledge sources.

Reply

The policy adopts the fair use standards in the Federal Copyright Act (II.C.i-iv) and requires participants in administrative meetings simply to comply with the law. Under

the fair use standards, it is very, very unlikely that a claim of plagiarism could be advanced against a participant.

5. Claim

The standard for a determination of plagiarism in II.C.i is “vague” and the particular types of prohibited self-interested use should be identified in the policy.

Reply

II.C.i is one of the fair use standards in the Federal Copyright Law. Vague or not, it’s the law. It’s impossible to list every type of self-interested use of sources. Discretion should be left to the Ethics Committee in judging these matters.

6. Claim

The policy can be interpreted to apply to e-mail, memos, and conversations among committee members.

Reply

Plagiarism in such cases would have to be shown to be substantial, primarily self-interested, and not serving the mission of the committee. The copyright law severely restricts the grounds for a finding of plagiarism in all exchanges among committee members. Further, the policy has additional explicit restrictions curtailing a finding of plagiarism in many other communications (see page 2, “In no case shall a finding of plagiarism...”).

7. Claim

There are problems in the determination of a quorum in the Case Investigation Subcommittee (CIS) such that, theoretically, a member could vote on a case even though he/she was not present on a day when information was gathered or testimony taken.

Reply

1. The CIS will keep records of its investigation, including transcripts of formal testimony, which all members will have access to, so that even if a member misses a meeting, the information gathered is still available for his/her perusal.
2. The CIS is a fact-finding entity which provides a report and recommendations to the Ethics Committee. The Ethics Committee is the determinative body. If a person charged with misconduct, or his/her representative, believes that a member of the CIS made a recommendation without full knowledge of the relevant information about the case due to absence or any other reason, then the person charged or the representative or both would surely advance this claim to the Ethics Committee prior to their decision on the case.

3. The issue of a quorum in the CIS can be discussed and resolved by the President's Review Committee.

8. Claim

Justice requires that the person accused of professional misconduct should be entitled to be present at the gathering of all information by the CIS.

Reply

This point again mistakes the fact-finding CIS for the determinative Ethics Committee. There is no parallel legal requirement that a person under suspicion be present during investigative interviews. The policy entitles the person accused to select a representative who is entitled to be present when information is gathered by the CIS. The representative of the accused has the rights of discovery and cross-examination. Both the person accused and his/her representative have access to transcripts of testimony. The exclusion of the accused during the investigation was done to guard against intimidation of the complainant or a witness by the accused in the investigation of certain cases. Moreover, it is against federal law for a complainant to have contact with the accused during the investigation of some whistle-blowing cases. Nevertheless, the issue of the presence of the accused whenever testimony is taken can be discussed further by the President's Review Committee.

9. Claim

The chair of the Ethics Committee is unlikely to have the expertise necessary to make certain determinations requiring notification of federal or other authorities as required in IV.G.1.

Reply

This requirement currently applies to the Dean of the Graduate School under existing Board policy. One would think that the Chair of the Ethics Committee, in consultation with other appropriate university employees (e.g., Director of Environmental and Occupational Health and Safety), can perform the same task.

10. Claim

The Chair of the Ethics Committee should not notify federal authorities of an investigation until a finding of misconduct has been made.

Reply

Current Board policy and federal regulations governing grants require such notification. Currently the Dean of the Graduate School is required to give such notification.

11. Claim

Actions of the Ethics Committee should require a minimum of seven votes.

Reply

This was agreed to previously and incorporated into the policy. Editorial changes can be made by the President's Review Committee to clarify the seven vote minimum requirement even further.

Document 4:

DECEMBER 5, 2002, COMMENTS BY TOM SHIPKA

[These comments were submitted for the minutes, following the meeting on December 4.]

Comment on "Additional Areas of Concern" [see page 1, above]:

At the Senate meeting on December 4, Drs. Jenkins and Singler circulated a second document entitled "Additional Areas of Concern." I wish to comment on their point that yet another flaw that they find in the Senate-approved Professional Conduct Policy is that the policy provides "insufficient guidance" to the Ethics Committee as to penalties that it may recommend. This flaw, they say, implies that the Ethics Committee might even recommend a penalty as severe as "firing" in a given case.

In the first place the penalty should fit the offense. The Ethics Committee should have the discretion to recommend a wide range of possible penalties proportionate to the gravity of the misconduct. In the second place an offense in a given case could be so serious that the Ethics Committee does indeed recommend dismissal as an appropriate penalty. Dismissal for cause, though infrequent, is a fixture on this campus and others. (For instance, see the provisions in the *Agreement between YSU and YSU OEA* on "Termination for Cause.") Suppose that it was confirmed that a person traded grades for sex over an extended period, or that a person forged transcripts and letters of reference to convince a search committee that he/she had a Ph.D. when, in fact, the person did not. It is not foolish or irresponsible for the Ethics Committee to consider a recommendation of dismissal in such cases.

Arts and Sciences

Departmental (2002-04)

At Large
 BH Robert Hogue
 WJ William Jenkins
 MG Daryl Mincey
 JM James C. Morrison
 MP Martha Pallante
 DP David Porter
 TS Thomas A. Shipka
 CS Charles Singler
 FT Tess Tessier
 ST Stephanie Tingley

AKC Chester Cooper, Biology
 WB William Buckler, Geography
 IC Iole Checcone, For. Lang.
 JK Jane Kestner, Psychology
 TL Thomas Leary, History
 BR Rochelle Ruffer, Economics
 EC Michael Crescimanno, Physics & Ast.

Departmental (2001-03)
 ___ Vacant, CSIS
 ___ Howard Mettee, Chemistry
 RS Rick Shale, English
 BS Ray Beiersdorfer, Geol. & Envir. Sci.
 ___ Nate Ritchey, Mathematics
 SP Gabriel Palmer-Fernandez, Phil/Rel.
 ___ Keith Lepak, Pol./Soc. Sci.
 ___ Qi Jiang, Soc./Anthropology

Business Administration

At Large (Cont'd)

At Large
 LF Louis Falk
 ___ Inez Heal
 ___ Ram Kasuganti

___ Clem Psenicka
 ___ Jane Reid

Departmental
 ___ David Law, Accounting/Finance
 ___ Tom Rakestraw, Management
 ___ Bart Kittle, Marketing

Education

At Large (Cont'd)

At Large
 MB Margaret Briley
 JC JoLynn Carney
 ___ Susan deBlois

___ Ken Miller
 AS Nancy Sweeney

Departmental
 ___ Dora Bailey, Teacher Ed.
 ___ Vacant, Counseling
 ___ Vacant, EAR&F

Engineering and Technology

Departmental (2002-04)

At Large
 RM Robert A. McCoy
 SR Salvatore R. Pansino
 JC James C. Zupanic

DK David G. Kurtanich, Technology
 JM Philip C. Munro, Electrical/Computer
 SBS Elvin B. Shields, Mechanical/Industrial & Systems

Departmental (Cont'd)
 KMP Douglas M. Price, Civil/Environ. & Chemical

Fine and Performing Arts

At Large (Cont'd)

At Large
 ___ Laura Buch
 ___ Frank Castronovo
 ___ Darla Funk

JM John Murphy
 ___ Susan Russo
 ___ Vacant

Departmental
 ___ Stephanie Smith, Art
 ___ Dennis Henneman, Comm. & Th.
 ___ Vacant, Music

Health and Human Services

Departmental (2002-04)

At Large
 LA Louise Aurilio
 TK Tammy King
 JN Jack Neville
 MS Mohammed Shayesteh
 TH Thelma Silver

EC Carol Mikanowicz, Health Prof.
 RW Richard Walker, HPES
 EC Jean Hassell, Human Ecol.

Departmental (2001-03)
 ___ Christian Onwudiwe, Crim. Jus.
 DF Dorcas Fitzgerald, Nursing
 ___ Joseph Mosca, Social Work
 NL Nancy Landgraff, Physical Therapy

Administration

___ Cynthia E. Anderson
 TA Tony Atwater
 RB Robert Bolla
 KB Bege K. Bowers

MCC Margaret Collins
 ___ William H. Countryman
 ___ Phil Ginnett
 EC Cynthia Hirtzel
 EC Peter J. Kasvinsky
 ___ Betty Jo Licata
 ___ George E. McCloud
 VM Virginia L. Mears

___ Terry Ondreyka
 ___ Janice W. Schnell
 ___ John J. Yemma

Students

School/College

At Large
 BA Bradley Adair
 SK Shivani Jindal
 ___ Neilendu Kundu
 ___ Kush Patel
 GS George Shu

JM Jaime Miller, A&S
 TRC T. R. Corey, Ed.
 ___ Kinga Orban, E&T
 ___ Darin Munnell, FPA
 ___ Ryan McNicholas, BCHHS
 ___ Brian Pisor, WCBA

School/College (Cont'd)
 ___ Enyinda Onunwor, Grad. School

Other
 JP Jeffrey Parks, Pres.
 DE Emily Eckman, VP
 ___ Daniel Procopio, 2nd VP