

ACADEMIC SENATE AGENDA
Wednesday, 5 February 2003, 4:00 P.M.
Room 132 DeBartolo Hall
(PDF Version)

Since we lacked a quorum at the December 4, 2002, meeting and thus could not take formal actions, several of the items on the January agenda are carryovers from the December agenda.

Note: If you want to print or view a PDF file and you don't have *Adobe Acrobat Reader*, you may download the program at the following link:

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1. Call to Order.
 2. Approval of Minutes for 6 November 2002 and 4 December 2002 (see <<http://cc.yosu.edu/acad-senate/minnov02.htm>> and <<http://cc.yosu.edu/acad-senate/mindec02.htm>>).
 3. Senate Executive Committee Report; Report from the Chair; Ohio Faculty Council (OFC) report—see **Attachment 1**.
 4. Report of the Charter and Bylaws Committee.
 5. Report of the Elections and Balloting Committee.
 6. Reports from Other Senate Committees.
 - A. Academic Standards Committee—see **Attachment 2**.
 - B. Academic Programs Committee—see **Attachment 3**.
 - C. Curriculum Committee—see **Attachment 4**.
 - D. Academic Planning
 - E. General Education—see **Attachment 5**.
 - F. Integrated Technologies
 - G. University Outreach
 - H. Library
 - I. Academic Research
 - J. Student Academic Affairs
 - K. Student Academic Grievance
 - L. Honors
 - M. Academic Events
 7. Unfinished Business.
 8. New Business—Appeal to Reconsider the Professional Conduct Policy Passed in November 2002; see **Attachment 6** (the appeal, which is in a separate pdf file at <http://cc.yosu.edu/acad-senate/dec02_appeal.pdf>) and **Attachment 7** (additional appeal documents distributed at or immediately
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after the December Senate meeting and appearing as Attachment 1 to the December minutes at <http://cc.yosu.edu/acad-senate/appeal_docs_12-02.pdf>.). The policy passed in November is in a separate pdf file at <http://cc.yosu.edu/acad-senate/prof_conduct_policy_11-02.pdf>.

9. Adjournment.

Attachment 1: Ohio Faculty Council Report

*Report to the YSU Academic Senate on the Ohio Faculty Council
Minutes of the January 17, 2003, OFC Meeting, by Tom Shipka*

Tom Shipka called the meeting to order at 12:45 p.m. OFC members attending were Jeff Crawford and Lois McGuire from Central State, Vijay Konangi from Cleveland State, Barbara Hipsman from Kent State, Stanley Sawicki from the Medical College of Ohio, James Oris from Miami University, Gary Niehaus from the Northeastern Ohio Universities College of Medicine, Gene Mumy from Ohio State, Hugh Bloemer and Ken Hicks from Ohio University, Julia Spiker and Daniel Sheffer from Akron, Robert Faaborg and Rick Karp from Cincinnati, Harvy Wolff from Toledo, and Tom Shipka from Youngstown State. Guests attending were Jim McCollum, Executive Director of the Inter-University Council, and insurance consultants David Garratt and Mark Kneppel from Mercer Human Resources Consulting.

The minutes of the December meeting, as taken by Ginny Hamilton of Shawnee State, were approved as distributed. Tom Shipka thanked Ginny for compiling the minutes and informed the group that Ginny had sustained a foot injury which prevented her from attending today's meeting.

Tom Shipka distributed a draft of the OFC roster for 2002-2003 and requested that members submit corrections to him before leaving for the day.

David Garratt and Mark Kneppel from Mercer made a presentation on group purchasing. As part of this they distributed a booklet entitled "Group Purchasing Opportunities in Employee Benefits" which they had prepared for the meeting. They reviewed the contents of the booklet. They defined group purchasing as collective purchasing through a single vendor to maximize buying power. They discussed the advantages and disadvantages of group purchasing, the current areas of opportunity for group purchasing in the marketplace, the current multi-campus prescription drug program spearheaded by IUC, with six institutions participating, and related items.

After their presentation, there was a question and answer period during which OFC members summarized their basic health plans on their campuses at the request of the chair, including the extent of employee cost in co-insurance plans. The consultants observed that the cost sharing reported by the OFC members present fell considerably below the average in the private sector (25%).

After a short break around 2:00 p.m., the meeting was devoted to a presentation by Jim McCollum, Executive Director of IUC, followed by a question and answer session. Jim distributed a copy of an IUC "white paper" entitled "A Shared Commitment, A Common Cause: Ohio's Public University Presidents Speak for the Future of the State." The document reflects a consensus of the presidents of the public universities as reflected in testimony to the House Select Com-

mittee on Ohio's System of Higher Education. (A copy of this document is appended to these minutes at <http://cc.ysu.edu/acad-senate/shared_commitment.pdf>.)

Jim sketched the history of IUC, dating the organization from 1939, thus preceding OBOR by a quarter century. He described the organizational structure and the various standing committees. He pointed out that the 15 presidents meet monthly at the IUC offices, which are located at 175 S. 3rd Street in the US Bank Building. He explained that IUC gives the presidents a "safe place" to discuss issues, solve problems, and build trust. IUC is supported by dues paid by the 15 member institutions. Although dues are driven by campus size, each president has only one vote. After the presentation there was a question and answer period.

Jim observed in answer to a question about IUC's working relationship to OBOR that IUC is working more closely with OBOR now than at any other time in his seven year tenure as Executive Director and that this is beneficial for both groups and for the cause of public higher education. He also noted that IUC is working now a great deal with the Governor's Office and key legislators on funding issues, including another round of budget cuts.

He said that tuition caps don't work because they function much like price controls and simply drive costs up to the allowable maximum. He cautioned those interested in intra-state tuition reciprocity for employees of the public universities that this is not an ideal time to press the issue at the state level because resources are scarce and the concept of tuition waivers in principle is not popular with many legislators. He opined that an initiative on this front by faculty could have adverse and unintended consequences such as revocation of the existing statute authorizing individual boards of trustees to adopt waivers on individual campuses.

He also explained that IUC, which originally recommended against another higher education commission, is attempting to persuade the Governor's office to formulate several specific issues for the commission to give it focus and to deter it from a fishing expedition. Further, he said that there are no realistic prospects for a change in Ohio's long tradition of support for private higher education. Jim agreed to make an annual visit to OFC and to work cooperatively with OFC in other ways within the framework of IUC policy.

Tom Shipka thanked Jim McCollum on behalf of the OFC. He announced near the end of the meeting that discussion on a possible second general education conference was deferred pending Ginny Hamilton's recovery and that a meeting to discuss the conference, attended by Ginny, Jeff Crawford, Hugh Bloemer, and Dick Arndt of OBOR, would likely occur at the OU campus in Chillicothe prior to the next OFC meeting on February 14.

Tom Shipka also announced that the next meeting is Friday, February 14, 2003, at 12:30 p.m. in the OBOR suite on the 36th floor of the Rhodes Office Tower. Bruce Beeghly, a Regent and member of the Higher Education Funding Commission, will be our guest. A legislator and a representative of the Governor's office may also attend. The meeting adjourned at approximately 3:00 p.m. After the meeting, several members made corrections to the OFC roster before they left.

(Minutes submitted by Tom Shipka.)

**Attachment 2: Academic Standards Committee Report
(Carried Over from December Senate Meeting)**

**COVER SHEET TO BE ATTACHED TO ALL REPORTS SUBMITTED
TO THE ACADEMIC SENATE**

Date November 25, 2002 Report Number (For Senate Use Only) _____

Name of Committee Submitting Report Academic Standards Committee

Committee Status: Appointed Chartered

Names of Committee Members:

Beckett (Chair), Chan, Cobb, Feist-Willis, George, Mosca, Porter, Vendemia, Dobson, McCloud, Mears.

Please write a brief summary of the report the Committee is submitting to the Senate:

The Academic Standards Committee recommends that no course designed as intensive may be certified for all three intensive areas (writing, oral communication, critical thinking).

Do you anticipate making a formal motion relative to the report? **Yes**

 If so, state the motion: **That no course designed as intensive may be certified for all three intensive areas (writing, oral communication, critical thinking).**

If substantive changes in your committee recommendation are made from the floor, would the committee prefer that the matter be sent back to committee for further consideration? **Yes**

Other relevant data:

Signed, Peter Beckett, Chair

Attachment 3: Academic Programs Committee Report

**COVER SHEET TO BE ATTACHED TO ALL REPORTS SUBMITTED
TO THE ACADEMIC SENATE**

Date January 27, 2003 Report Number (For Senate Use Only) _____

Name of Committee Submitting Report Academic Programs Committee

Committee Status: Appointed Chartered

Names of Committee Members:

2002–2003 members are Bernadette Angle, Beverly Gray, Patricia Hoyson, Tammy King, Howard Mettee, Greg Moring, Elvin Shields, Marge Collins (academic advisor), Bege Bowers (*ex officio*), Joseph Mistovich (*ex officio*, Curriculum Committee), Ray Shaffer (chair).

Please write a brief summary of the report the Committee is submitting to the Senate:

At the December 4, 2002, meeting, the committee reviewed and discussed several proposals, some which will come back to the committee for further review. Three proposals were approved for circulation; these proposals are being reported for informational purposes only. See Appendix APRC I, below.

Do you anticipate making a formal motion relative to the report? **No**

If so, state the motion:

If substantive changes in your committee recommendation are made from the floor, would the committee prefer that the matter be sent back to committee for further consideration? **Yes**

Other relevant data:

Signed, Ray Shaffer, Chair

APPENDIX APRC I

The following is a list of programs, program changes, and minors approved by the committee that have completed the distribution/circulation process:

Linguistics Minor - (PD#052M-01, new minor)

American Studies Minor - (PD#003M-02, new minor)

American Studies Program - (PD#007P-02, change in existing *American Studies Program* to reflect global and cross-cultural perspectives)

Attachment 4: University Curriculum Committee Report

COVER SHEET TO BE ATTACHED TO ALL REPORTS SUBMITTED TO THE ACADEMIC SENATE

Date January 27, 2003 Report Number (For Senate Use Only) _____

Name of Committee Submitting Report University Curriculum Committee

Committee Status: Appointed Chartered

Names of Committee Members:

J. Mistovich (Chair), D. McDougal, P. Munro, J. Reid, M. Briley, J. Caputto, G. Sturru, D. Morgan, N. Ritchey, T. Fullum (*ex officio*), W. Countryman (*ex officio*), R. Shaffer (chair APC, *ex officio*)

Please write a brief summary of the report the Committee is submitting to the Senate:

The University Curriculum Committee is appending a list of approved courses that have cleared the circulation process without objection; no action is required. See Appendix UCC I, below.

Do you anticipate making a formal motion relative to the report? **No**

If so, state the motion(s):

If substantive changes in your committee recommendation are made from the floor, would the committee prefer that the matter be sent back to committee for further consideration?

Other relevant data:

Joseph J. Mistovich, Chair

APPENDIX UCC I

UNIVERSITY CURRICULUM COMMITTEE APPROVED COURSES

The following courses have been approved by the University Curriculum Committee and have circulated for ten days without objection. They are being appended to the Senate Agenda as a record of approval:

UCC Proposal #	Catalog #	Course Title	Action
054-02	GEOG2603	Human Impacts on Environment	Delete
084-02	ART 4803	Senior Seminar	Change (GER)
093-02	MERCH3730	Social Psychology of Cloth/App.	Change (GER)
096-02	MERCH4879	History of Furnishings and Int.	Change (GER)
103-02	MERCH4880	Merchandising Management	Add (GER)
110-02	POLIT 4801	Senior Research Seminar	Add (GER)
130-02	COUNS 1588	Exploring Leadership	Add
153-02	GEOG3703	Human Impacts on Environment	Add (GER)
161-02	CIS 4810	Special Topics	Change
162-02	INFOT 4895	Special Topics	Change
163-02	CSCI 5895	Special Topics	Change
001-03	ECEGR 4811	Senior Laboratory	Change
002-03	ECEGR 4803	Linear Control Systems	Change
003-03	EUT 1500	Electrical Fundamentals	Change
005-03	CHEGR 3786L	Transport Phenomena Lab 2	Delete

006-03	ECON 2650	Environmental Econ and Policy	Delete
007-03	ECON 2630	Principles 2: Macroeconomics	Change
008-03	ECON 2610	Principles 1: Microeconomics	Change
009-03	PSYCH 4891H	Honors Thesis	Change
010-03	GEOLOGY 5802	Sedimentology and Stratigraphy	Change
015-03	MATH 4830	Foundations of Geometry	Change
016-03	MATH 5832	Euclidian Transformations	Change
017-03	COMST 4800	Students in Free Enterprise II	Delete
018-03	COMST 2600	Students in Free Enterprise I	Delete
019-03	COMST 3740	Special Topics	Delete
020-03	COMST 4855	Interpersonal Comm. Thry & Prc.	Change
021-03	COMST 5852	Group Comm. Thry & Prc.	Change

Attachment 5: General Education Committee Report

COVER SHEET TO BE ATTACHED TO ALL REPORTS SUBMITTED TO THE ACADEMIC SENATE

Date January 24, 2003 Report Number (For Senate Use Only) _____

Name of Committee Submitting Report General Education Committee

Committee Status: (elected chartered, appointed chartered, ad hoc, etc.) Elected Appointed

Names of Committee Members **Young, Mosca, Kasuganti, Castronovo, Sweeney, Munro, Gergits, Lovelace-Cameron, Riley, Tessier, Crist, Jenkins (Chair)**

Please write a brief summary of the report the Committee is submitting to the Senate:

The GEC is appending a list of certified courses that have cleared the circulation process without objection. See Appendix GEC I, below.

Do you anticipate making a formal motion relative to the report? No

If so, state the motion:

If substantive changes in your committee recommendation are made from the floor, would the committee prefer that the matter be sent back to committee for further consideration?

Other relevant data: _____

Signed William D. Jenkins
Chair

APPENDIX GEC I**CERTIFIED GENERAL EDUCATION COURSES**

The following courses have been certified and circulated for ten days without objection. They are being appended to the Senate Agenda as an indication of their certification as general education courses. For a complete list of certified courses, see the General Education Website at <http://www.cc.ysu.edu/ger/>.

Writing Intensive

990429 – FRNCH 3715, Conversation and Composition

990434 – ENGL 3748, Screenwriting

Oral Communication Intensive

990430 – ECON 4810, Managerial Economics

990432 – FRNCH 3715, Conversation and Composition

990433 – GEOG 3703, Human Impacts on the Environment

Critical Thinking Intensive

990427 – SPED 2631, Interventions Strategies With Special Needs Children

**Attachments 6 and 7: Documents Related to an Appeal to Reconsider
the Professional Conduct Policy Passed in November 2002**

The Professional Conduct Policy passed in November is in a separate pdf file at <http://cc.yasu.edu/acad-senate/prof_conduct_policy_11-02.pdf>.

The appeal to reconsider the policy is in a separate pdf file at <http://cc.yasu.edu/acad-senate/dec02_appeal.pdf>.

Additional documents distributed at or immediately following the December 2002 Senate meeting appeared in Attachment 1 to the December minutes; the documents are available in a separate pdf file at <http://cc.yasu.edu/acad-senate/appeal_docs_12-02.pdf.pdf>.

APPEAL TO RECONSIDER PROFESSIONAL CONDUCT POLICY

At its November 6th meeting, the Academic Senate passed a Professional Conduct Policy without extensive debate or an opportunity for all who had concerns to express themselves. It was very disappointing that a motion to cut off debate passed after only twenty minutes of discussion on one area of a nine-page document. Those unable to address the issues presented wish to convey to the members of the Academic Senate the belief that the document possesses many flaws that still need attention before the Senate passes a new policy regarding professional conduct. There are serious questions that need to be addressed, and we propose to seek a reconsideration of the policy on the Senate floor. We ask your support, and encourage you to read the policy that was included in last month's Senate agenda on the Website (see http://cc.yosu.edu/acad-senate/prof_conduct_policy_11-02.pdf).

Given that this new policy could affect the careers of faculty, staff, and administrators, and give rise to many lawsuits, it is important that the Academic Senate at least consider removal of flaws discussed below:

II. (C) Section II provides definitions of a variety of offenses. Subsection (C) defines plagiarism as “representing the works of another person, including their words, ideas, or methods, as one’s own in a **public** forum or medium.” Since this is the only definition of plagiarism offered in that section, it precludes the finding of an offense of plagiarism in a “closed or private forum or communications,” as provided for in the second paragraph.

This section will designate for the first time that plagiarism can apply to oral communication at this university. For the most part, the accusation of the offense of plagiarism has been directed at written offenses, not oral, in most academic institutions, and until recently here at YSU. Speeches, either to the public or a community group, or lectures within the classroom, have traditionally not required footnoting or citation of another’s ideas that are paraphrased by the speaker. Two reasons for this practice are that the audience makes an assumption that the speaker has gathered a variety of ideas from extensive reading and also that it prefers not to listen to a citation of sources. The practice, however, of using another person’s words without attribution in a public speech is not condoned by most academics. Faculty need to be aware that, with passage of the present document, they will have to cite sources for the ideas they paraphrase in class unless the ideas are considered general knowledge.

In the second paragraph the new policy adds official meetings of administrative committees to the list of closed or private forums or communications. It seems unusual to expect that an administrative committee meeting would require documentation of where one’s ideas came from. Moreover, why are administrative committees singled out? If plagiarism can occur there, then why are not all official meetings of any committees, including those of the Academic Senate, covered?

In subsection (i) the wording that “such use is of a self-interested nature or is for purposes other than educational missions” is very vague and does not target the professional and personal gains sought by the offender.

Finally, there is no definition of what is meant by “communications” in the second paragraph. Without any apparent restrictions other than “limited to their members,” this provision could apply to e-mail, minutes of meetings, memos sent to committee members, conversations held during or after a meeting, etc. It does not appear sensible to enforce this policy in all of these areas.

II. E.2 and E.3 “. . . the Case Investigation Subcommittee, consisting of three (3) to five (5) tenured faculty, administrators, or professional staff . . .” “The Case Investigation Subcommittee shall investigate . . .taking testimony . . . examination of all pertinent evidence . . .” “A quorum of members of the Case Investigation Subcommittee shall be present whenever testimony is given . . .”

These sections set the number of members at 3, 4 or 5 for the Case Investigation Subcommittee (CIS) and also call for a quorum for the taking of testimony. Because the taking of testimony occurs before a quorum of the subcommittee, anomalies may arise in the following circumstances:

1. CIS of three -- two people hear testimony but the two cannot agree, so the person not present at the testimony decides the case.
2. CIS of five -- three as a quorum to hear testimony and make a recommendation, and two of those three needed to support the allegation and report to the Ethics Committee. Hence, this is a vote of two of five regarding the allegation and, as such, constitutes a minority vote.
3. CIS of Four – three as a quorum to hear testimony and make a recommendation, and two of those three needed to support the allegation and report to the Ethics Committee. This is a vote of two of four regarding the allegation, and, as such, is not a simple majority.

The Case Investigation Subcommittee should be held to rigorous standards in making its decision to support an allegation of misconduct, and their subsequent recommendation to the full Ethics Committee. We will move to require a 75% majority of the full CIS membership to support allegation(s) of misconduct. Hence: if a committee of 3 members, all three are needed; if a committee of 4, three votes needed; if a committee of 5, four votes needed.

IV (E) 3 “If the investigation includes taking testimony from the complainant and/or others as deemed appropriate, the person(s) against whom the allegation has been made shall not be present, but may designate a representative who shall be present and who shall have rights of discovery and cross-examination.”

This language does not permit the accused to hear or to challenge the testimony of the complainant, but does permit the designation of a representative with such powers.

This provision violates the principle of American justice that allows the accused to challenge the accuser. Those who make such charges have a responsibility to stand behind their allegations and to answer all questions, including those from the accused. We will move to affirm the right of the accused to be present for all testimony.

IV (G) 1 obligates the Chair of the Ethics Committee to notify relevant regulatory or funding agencies during the investigation if certain conditions exist. It does not indicate who is to determine that the conditions exist nor who is to be notified, but implies that this responsibility falls to the Chair. However, it is very unlikely that the Chair of the committee shall have the expertise, or the training, to recognize that:

- a. an immediate health hazard exists
- b. there is immediate need to protect funds or equipment
- c. there is an immediate need to protect the interests of the accuser, the accused, or the investigators
- d. publicity is imminent
- e. criminal violation is possible or probable.

If any of these conditions is suspected or anticipated to exist, it should be the responsibility of the Chair to notify the appropriate university official in a timely fashion. It is the University's responsibility to protect itself and its members.

IV (G) 2 (a) "When, on the basis of an inquiry, it is determined that an investigation is warranted, the Chairperson shall notify the relevant Federal or other legal funding agency in writing ... that an investigation is being commenced."

This provision requires the Chair of the Ethics Committee to notify before an official investigation has been conducted. This action occurs after an allegation has been made and it has been determined that an investigation is in order. It occurs, however, before any finding of wrongdoing by the Investigation Subcommittee or by the Ethics Committee. To notify agencies or other parties before any determination of misconduct has occurred could be immensely damaging to one's professional career, and is inappropriate and misdirected.

Note further, that the existing language requiring notification that an investigation is under way does not require notifying the agencies that the allegation has been dismissed. Under Article F.5 (p.8) (Unsubstantiated Allegation) "If . . . the Ethics Committee agree that the allegation has not been substantiated, then any party notified about the possibility of misconduct or the need to conduct an investigation may be informed of that finding in writing." Thus, notification is not a requirement.

IV. Procedures -- throughout this section of the document there is language to the effect that "a simple majority consisting of at least seven (7) of its members" is empowered to take various actions. Members of the Ad Hoc Ethics Committee seem to agree that this wording implies that seven of the twelve members of the Ethics Committee must vote on various actions. Others have construed this language to allow a majority (4) of a quorum

(7 members) to initiate action. There should be some language that all could agree on that more clearly stipulates that voting shall require a majority of the full committee and not leave room for the interpretation that the voting requires only a majority of those present once a quorum (7 of 12) has been met.

AMENDMENTS

- 1) II, Article C (p.2) We will move to change the language to read:
“Plagiarism’ means representing the work of another person, including their words, ideas, or methods, as one’s own in published written works, or their words as one’s own in public or private forums or mediums.”

We will also move to change the language to read:
“Within closed or private forums, including official meetings of classes, determination of plagiarism shall be based upon considerations of:...”
- 2) IV, Article E.3 (p.6) We will move to change the language to read:
“has been made may be present, or may designate a representative to be present and who . . .”
- 3) IV, Article G.1 (p. 8) (Other Notifications)
We will move to amend Article G.1 to state:

If the Ethics Committee believes at any time that any of the following conditions exist:

- a.
- b.
- c.
- d.
- e.

,then, the Chairperson shall notify the University’s attorney that such conditions may exist.”

Article G.2.a (p. 9) (Other Notifications)

We will move that notification to agencies and others shall occur only after a finding of misconduct by the Ethics Committee. We will move to rewrite G.2.a to read:

“When a finding of misconduct has been made by the Ethics Committee, the Chairperson shall notify the relevant Federal or other legal funding agency in writing.”

- 4) IV, Article D.1 (p.5) “The Ethics Committee shall determine by vote of a simple majority consisting of at least seven (7) of its members as to . . .”
Article F.1 (p. 6) “The Ethics Committee shall vote to determine by simple majority consisting of at least seven (7) of its members . . .”
Article F.4a (p.7) “If a simple majority consisting of at least seven (7) of the members of the Ethics Committee . . .”
Article F.4a (p.7) “The committee shall, also by vote of a simple majority consisting of at least seven (7) members
Article F.4b (p.7) “If no simple majority consisting of at least seven (7) of Committee members . . . shall report that result.”
Article F.5a (p.8) “If a simple majority consisting of at least seven (7) members of the Ethics Committee agree that the allegation has not been substantiated . . .”

We will move to amend the language of the Articles noted above to read:

Article D.1 (p. 5) “**The Ethics Committee shall require at least seven (7) votes in the affirmative to determine . . . investigation subcommittee is appropriate.**”

Article F.1 (p.6) “**The Ethics Committee shall require at least seven (7) votes in the affirmative to determine . . . allegation of misconduct is substantiated...**”

Article F.4a (p.7) “**If at least seven (7) members of the Ethics Committee agree that the allegation has been substantiated . . .**”

Article F.4a (p.7) “**The Committee shall, also by the affirmative vote of at least seven (7) of its members, . . . make recommendation(s) concerning relevant penalties or sanctions . . .**”

Article F.4b (p.7) “**If at least seven (7) members of the Committee do not agree upon any penalty or sanction, then the Chairperson shall report that result.**”

Article F.5a (p.8) “**If at least six (6) members of the Ethics Committee agree that the allegation has not been substantiated . . .**”

- 5) In the preamble (p.1) “The faculty and administration of the University affirm and honor the presentation, growth, and flourishing of these values throughout all their activities, including budgeting and funding, employment and selection, promotion and tenure, teaching and learning, scientific and administrative research, and other professional endeavors.

We will move to replace “**throughout all their activities,**” with **throughout all their professional activities**” and to delete “**scientific and administrative.**”

Comments:

1. It should be clear that the conduct policy refers to the professional activities related to employment by YSU, and not to other activities (for example, personal).
2. Research is research, whether it is related to the arts, to business, to education, etc., or to science and administration. The values affirmed and honored in this document apply to all.

William D. Jenkins

Charles R. Singler

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

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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.

A Shared Commitment, A Common Cause

Ohio's Public University Presidents Speak for the Future of the State

A White Paper directed to the
House Select Committee on Ohio's System of Higher Education

In summer and fall 2002, in eight regional hearings before the House Select Committee on Ohio's System of Higher Education, we, the presidents of Ohio's public universities, welcomed the opportunity to describe achievements, challenges, and opportunities specific to our institutions. Some of us also offered views as to the special contributions that our particular universities make. Yet more important was our opportunity to set forth a shared vision of a critical statewide dilemma and of public higher education's vital role in addressing that dilemma. This brief summary, based on the many points of agreement in our testimony, offers an outline of that vision. We trust that it will prove useful as Ohio confronts an obligation to reverse its decline and to create a more promising future for its citizens.*

A State in Decline

- Forty years ago, Ohio ranked fifth in the nation in terms of *per capita* income. Now, Ohioans earn well *below* the national average, and the decline is continuing.
- Smokestack industry closings have expanded the ranks of the unemployed and put an end to the expectation of rewarding careers by those with only high school diplomas.
- An exodus of corporate centers and manufacturing facilities has reduced Ohio's tax base, swelled unemployment, forced a corresponding out-of-state migration of relocated Ohioans, and tarnished the state's reputation for competitiveness and entrepreneurship.
- Recent declines in tax revenues have forced sharp reductions in state services.

*In setting forth this consensus, we acknowledge welcome indicators of support. Higher education received a critical reprieve from further budget reductions in spring 2002. Qualified flexibility allowed for tuition and fee policies has assisted our efforts to sustain educational quality despite the reductions we have faced. Expansion of the Eminent Scholars program will provide additional catalysts for research. The Third Frontier initiative offers the promise of increased productivity statewide in fields critical to economic development.

A New Economic Landscape

- While the first generation after World War II witnessed steady and substantial increases in income among families of all education backgrounds, for the past 30 years, income gains have largely been limited to families with a college education. On average, families with high school diplomas or less education have actually lost income relative to inflation over the past 30 years. Those with some college or an associate's degree have barely held their own or made slight gains. Only those with baccalaureate degrees have enjoyed on average substantial gains in income, with the largest gains reserved for those with advanced degrees.
- This increasing connection between education attainment and family incomes reflects a fundamental change in our economy. Economic success today requires organizations that can use science, technology, and creative management to develop new products and services and to provide old products and services in newer, more effective, and less costly ways.
- In a recent study of the U.S. economy, the Milken Institute found that prosperous metropolitan areas had special strength in high technology goods and services. They were characterized by populations with high levels of baccalaureate degree attainment and strong university research centers. In that study, no metropolitan area in Ohio ranked in the top fifty in the country in its measure of high tech strength.

A Solution at Hand: Higher Education and the State Economy

- In today's knowledge economy, higher education degree attainment correlates closely not only with individual prosperity, but also with broader measures of societal health such as lowered dependency on government assistance, better access to health care, less involvement with the criminal justice system, and a stronger dedication to the public good.
- The return on state investment in higher education is significant. By one measure, for every dollar Ohio invests in higher education, graduates with bachelor's degrees will return to taxpayers about \$1.84--just in additional tax revenues! By another measure, for every dollar an *individual* bachelor's degree recipient has received in direct state support, he or she will return \$5.80 in lifetime income taxes.
- Higher education and an educated workforce (technical through graduate level) should encourage corporate relocation to Ohio.
- University-centered research leads to discoveries that support economic growth and produce new jobs and give rise to spin-off enterprises that directly contribute to economic diversification, statewide competitiveness, and employment opportunities.

A Solution Deferred: The Plight of Ohio's Citizens

- Notwithstanding compelling examples of states that have fueled their economies through investment in public higher education, Ohio continues to *disinvest*. Twenty years ago, state support represented approximately 60% of a university's total general funds budget; in FY 2003, state support provides only about 40%.
- Although its metropolitan high-tech economies demand a highly educated workforce, Ohio falls well below the national average in the percentage of its citizens with baccalaureate or higher degrees: 21.1% compared with 24.4%, for a deficit of approximately 250,000 citizens. This statistic has a direct bearing on the quality of life for all of Ohioans.
- With a declining per capita income (relative to the national average), Ohio citizens must pay a far greater percentage of public university costs than families in most other states. Regrettably, Ohio deserves its failing grade for college affordability.
- Despite the demonstrated connection between productive research and economic development, Ohio trails in sponsored research by more than 25% below the national average for sponsored research *per capita*.

Ohio's Public Universities: Responding by Doing More With Less

- Despite sharp budget reductions, Ohio's public universities have reallocated strained resources in response to emerging needs, discontinued programs no longer in demand, achieved greater efficiency through inter-university partnerships, and sought more effective academic and administrative structures.
- Ohio's public universities have successfully called on private supporters and those within their own academic communities to provide critical assistance.
- Scrutiny of academic services and sponsorships for duplication, falling demand, and relevance to mission has led to significant savings.

The Limits of Resourcefulness

- In responding to over \$240 million in cuts to higher education's FY 2002 and FY 2003 state appropriations, universities have depleted reserves, reduced support for travel, undertaken joint purchasing agreements, and implemented wide-ranging cost containment efforts. But this disciplined approach to the containment of costs can no longer keep pace with inflationary pressures.
- Despite a shared determination to protect students, universities have had to make sacrifices in program quality and, hence, in the opportunities they can offer.

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- The obligation to maintain essential services and to avoid crippling reductions in academic program effectiveness have necessitated increases in tuition and fees that stand at odds with a shared commitment to access. There are clear limits to what students and their families are able to pay, resulting in a further reduction in access to baccalaureate education.
- Some proposed "solutions" would make matters worse. For example, proposals that lessen support for graduate programs would accelerate Ohio's brain drain, discourage recruitment of exceptional faculty, reduce diversity on campus, increase instructional costs, impair the preparation of future faculty, erode the quality of research programs - especially in the physical sciences, mathematics, engineering and medicine - and thus their capacity to attract federal support, and create disincentives to the pursuit of Third Frontier initiatives. Similarly, caps on tuition would deprive universities of a critical means of maintaining sound programs of instruction and research.

Planting the Seeds of Sustained Success

- Ohio must listen to its citizens and invest in its *human* capital by making it possible for *many more* of its citizens to earn baccalaureate and graduate degrees.*
- Ohio's public universities must share a commitment to make more visible their emphasis on student learning, must continue to seek economies and efficiencies that promote affordability, and must expand access to life-long learning.
- In framing its recovery strategy, Ohio should (a) build a statewide commitment to educational attainment and economic prosperity, (b) select appropriate benchmarks for support of its public higher education system, (c) document the investment required to achieve that benchmark, and (d) commit to a budget strategy that will provide this investment.

Those who question whether Ohioans view higher education as a compelling priority may be asking the *wrong* questions. A realistic measure of support is likely to appear in response to the following:

- Do you want your child (or your neighbor's child) to have a job in which the annual salary is \$52,200 a year (bachelor's degree) or \$30,400 a year (high school diploma)?
- Do you want the option of attending a quality public institution of higher education not too far from home?
- Do you want to be able to pay for the cost of attending that university without incurring substantial long-term debt?
- Do you want Ohio's children to be able to live in Ohio pursuing careers that offer personal satisfaction and a high quality of life?
- Do you want access to additional training and education to advance your own career?

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- The development of such a strategy must be guided by the principle that Ohio's people should represent the first priority for state support, and that education (preschool through doctoral) is the highest need within that top priority.

Some Important Next Steps

- In pursuit of a recovery strategy, state leaders and public colleges and universities should work together to maintain access to an affordable, quality college education. Today a typical Ohio undergraduate pays one half and the state pays the other half of a college education. Over the next five biennial budgets, the state should strive to reach the point where the student pays one third and the state provides support for two thirds of a college education through a series of strategic investments in the *State Share of Instruction*.
- The Challenge programs, *Access* (getting more students to come to college), *Success* (retaining and graduating greater numbers of college students), *Jobs* (improving the jobs- and workforce-ready skills of Ohioans) and *Research* (rewarding research productivity and promoting the commercial development of university-based research) merit strong continuing support. These programs fill gaps that are otherwise difficult to accommodate within the State Share of Instruction core formula. These interdependent programs, together with the State Share of Instruction core formula, support the ladder that leads to increased numbers of Ohioans realizing a higher education and to a more competitive and economically developed state.
- The economic development potential of Research Challenge funding should be expanded with strategic investments in *Eminent Scholars* (in engineering, advanced materials, mathematics, and science), *OhioLINK* (the state's world-class electronic library program) and the *Ohio Learning Network*, connecting these complementary programs to the state's broader Third Frontier strategy.
- The Ohio Instructional Grant, the state's need-based student financial aid program, merits strong support. Long-term efforts are needed to remedy OIG shortcomings in the treatment of independent students with dependent children and to harmonize OIG's methodology for determining eligibility with the Effective Family Contribution methodology used in awarding federal need-based student aid.
- A dialogue with state political leaders should be initiated to examine the question of whether or not it is in the best interest of the people of Ohio to find a dedicated revenue source for additional higher education investments and, if determined, what conditions and outcomes could the state reasonably expect to receive in return on its additional investment.

A Final Word

All of the state's most highly respected newspapers effectively summarized the points above in a call for action. "This is an opportune time to use Ohio's higher education apparatus to help restore the state's business luster. Nothing less than Ohio's future is riding on it" said The *Cleveland Plain Dealer* on September 10, 2000. Three months later to the day, on December 10, 2000, The *Columbus Dispatch* concluded, "There's only one way to write a happy conclusion for higher education and all the economic promise it holds in Ohio. Legislators are going to have to give these schools the flexibility and support they need to succeed." An October 6, 2002 *Akron Beacon Journal* editorial cites "the correlation between a strong system of...higher education...and a state's economic health." The editorial notes that "Unfortunately, Ohio is losing ground on higher education and losing the edge in job creation and retention in the new technology-based economy."

Ohio awaits the leadership its potential deserves. The time for that leadership is now. As Ohio's public university presidents, we stand ready to help policy leaders chart a course to recovery and prosperity.

* This White Paper was shaped from testimony provided before the House Select Committee on Ohio's System of Higher Education. Twelve IUC campuses testified at one of the eight regional hearings. These campuses included University of Akron, Bowling Green State University, Central State University, University of Cincinnati, Cleveland State University, Kent State University, Miami University, Ohio State University, Shawnee State University, University of Toledo, Wright State University and Youngstown State University. In most cases, the university president provided campus testimony. Testimony was also offered by the Inter-University Council's executive director.