

Faculty Senate Minutes

August 26, 2016

Lynn Library, Room 207

Members Present	LaVon Barrett, Jodi Lindseth, Nancy Forrest, Emily Gilbert, Courtney Milleson, Bob Gustin, Alan Kee, Reem Witherspoon, Tara Meraz, Scott Rankin, Donna Cleere, Marcia Julian, Brant Davis, Nichol Dolby
Members Absent	Deborah Harding, Brian Jacob,
Guests	Russell Lowery-Hart, Rita Wilson, Alan Kee, Reem Witherspoon, Jeanette Nelson, Mark Rowh, Paul Bratcher, Pam George, Mandi Wheeler, Brian Farmer, Trent O’Neal, Bill Netherton, Frank Sobey, Penelope Davies

Topics	Discussion/Information	Actions/Decisions Recommendations/Timelines
Call to Order	President Nancy Forrest called the meeting to order at 2:02 p.m.	
Approval of Minutes	May 6 minutes were approved by consensus via email.	
President’s Report	<p>Specially called meeting of Faculty Senate to address a special concern that was brought to us by a group of faculty regarding Tenure and Board Policy of Separation of Employment. This will be the only topic that is discussed at this meeting. Anything else that needs to be brought up can be brought up at our regularly scheduled meeting on September 2.</p> <p>According to Faculty Senate rules, only Senators or guests who have been invited to provide information to Senate are allowed to speak.</p>	
Special Guest Report	<p>Dr. Russell Lowery-Hart, President:</p> <p>First off, let me state that tenure is still an important</p>	

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part of the college. There are currently no efforts to disband it. AC having tenure is really rare for a community college. We will need to prepare a definition of tenure and a case for it together [faculty and administration] because it has value.

There is a long case law of what tenure means (from Supreme Court on down): guaranteed rights and due process. Yet it has an assumed definition of guaranteed employment. We all have to work together to get a definition that is clear for us all. We have to agree on what tenure means or we are going to continue to be in conflict. We need a clear definition, clear policies (specifically wording), and a clarification of the benefit that tenure brings to a college campus.

Regarding the current [tenure] policy:

The two faculty members went through the process, the process worked and both tenured faculty members are in classified positions at the College. It wasn't fair to the two employees in question, but it's also not fair to our faculty who are overloaded.

Pam and Trent didn't do anything wrong. Nursing had to go down to 60 hours, which removed nutrition from the curriculum. That meant Nutrition went from 42 sections down to 1. AC submitted Phys Ed to our Core several times and it was rejected every time. That's nothing that anyone asked for. It was a State decision.

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In September 2015, when they were let go, there were no positions available; we were worried about having to get rid of positions. At the time, we had just heard (with 2 hours left in the State session) that we were receiving a 3.5 million cut when no prediction had us losing more than 1 million.

Higher Ed is the last thing discussed in the state legislature; community colleges are the last in the higher education discussion. AC was cut by percentage and actual, because we lost "hold harmless". "Hold Harmless" is money that the state sets aside for schools who have lost enrollment. The state legislature tinkered with formula for "hold harmless." By 32 students, we didn't lose enough to receive this extra aid.

At that time we had asked for a 5% reduction in budget, which we had all turned in....and then we got hit with 3.5 million loss before that. Because our Board, President, etc. had never been through this before, Russell started calling other schools to see what to do. There were 3 things that stood out in how to proceed. We didn't want to proceed with cutting the staff, or pitting people against others in their department, so we went the way we thought was the least possible harm.

We didn't raise tuition because in 2007 when we had a Bond election, we told the community that our tax rate wouldn't go above a certain percentage. The state also

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has a limit and we don't want to get the point where we are at the cap rate.

The process that we laid out, even though it created more fear than it needed to, I think it worked. If you look at the positions that AC has lost in the past, it has been almost always faculty. This time, we only lost 3 faculty lines. The business office, on the other hand, lost 37 positions.

Academic Affairs are where we educate, and generate the income. All the other departments are here to support Academic Affairs.

We only lost 3 faculty lines because we couldn't afford to be down 26x5 [26 faculty; 5 sections per faculty member] sections a semester. We are here to teach the students; that's what we are here for.

The budget problems that put us in this position, we have survived effectively. We are a year or two ahead of all the other colleges in TX. They are only now doing retirement incentives, reduction in force, etc. Even UC Berkeley, Harvard, and Princeton are going through some of these processes. We have managed ours so we won't be in this position again. We are stronger than we have ever been. Enrollment is up and we saved money. Due to the new VPBA we are clearer in how we are spending our money and what we are spending it on.

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Now we have to work with the Board as to the nature of the contradictory policy. The Arbitration committee met with me [Dr. Lowery-Hart] after their presentation to the Board to discuss the recommendation. Everyone wanted to make sure that the two employees had positions at the College.

Senator Question: Why was the administration not more transparent while going through this process?

Direct Response from Dr. Lowery-Hart: "If I could do it over again, I would have communicated more from September to December. But I could not legally say anything publically that promoted or encouraged people to either take the buyout or not take the buyout." Because there were lawyers involved, it was perceived if anyone had said anything it could have been seen as trying to sway someone, etc.

"I also didn't talk because I didn't want to look people in the eye and tell them 'it's okay, don't worry', because I didn't know if it would be. My mistake was that I clamed up instead of giving updates on the process. Gossip then got in the way of actual conversation."

Senator Question: What potential do these members have in their new positions?

Dr. Lowery-Hart: We removed the "two years in this position before they can search for another position"

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from the policy. The entire policy is very contradictory and we need to work on it so as to never find ourselves in this position again.

Arbitration Committee:

Mark Rowh, Dean of Health Sciences

Jeanette Nelson, Budget Manager

Rita Wilson, Enrollment Services

Alan Kee, Psychology

Reem Witherspoon, former Senate President,

Mathematics instructor

AC has never had to do this before.

The committee members were asked to serve. This was like a hearing; the committee didn't say anything they just observed. Then they were given the policy to make their recommendation. The committee spent a month on studying the policy.

The DMBA policy, the very first paragraph itself, is conflicting. Sometimes things are left up to interpretation by the reader. In house council (lawyer – Mark White) has taken this policy out to other lawyers and all of them say this is contradictory.

Dr. Alan Kee: "To quote the policy, 'Tenure is NOT binding on the Board when a state of exigency is there

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or imminent. {...} administration will explore all reasonable alternatives.’” Those two sentences are conflicting right off the bat. It took a long time to unpack it.

[\[See policy here, on the Board of Regents website\]](#)

The policy is lengthy, conflicting, and that’s how we came to our recommendation. We were all compelled to make the recommendation that Pam and Trent stay with the College.

Senator Question: Where was the confusion?

Mark: The confusion lay in exigency or ‘imminent of exigency’ and when that decision was made.

Senator Question: Who gets to decide when an exigency is happening or is imminent?

Answer: The Board of Regents. In a Board meeting, they did declare that there a state of exigency was imminent, although not in those exact words. The administration was charged with looking at personnel and everything else in order to not threaten the life of the college.

[\[See Board minutes here; bottom of page 4 specifically\]](#)

Rita: The committee discussed imminence A LOT, but that was not the full point of confusion. It was the

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wording of the policy itself. It is not direct on what; it is NOT measureable.

Reem: If we want tenure to continue we have to have some kind of measurement. It's not fair to faculty, nor to administration to be working off a policy that they don't fully understand or can't fully agree upon. It shouldn't be left to interpretation.

Senator Question: Who defines the measurements?

Committee: Maybe that is something that Senate could bring to the faculty.

Senator Comment: The policy creates an "us and them" situation - from the very first sentence.

Senator Question: How did the committee feel about the outcome in regards to the policy as written?

Mark: Our recommendation was for Pam and Trent to stay at the college, based on a policy that wasn't well written. We weren't able to look at history; there is no documentation. We were unanimous; it was a result that we came to due to OUR interpretation of the policy. We had to take a single angle to interpret it. We are interpreting "may" as a must. But the administration had the leeway to interpret at "must".

Rita: It was a heartbreaking process. We knew all of this

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extra information [about Nursing decreasing the hours, Physical Education not accepted as curriculum] but we couldn't use it. We had to stick only to the policy. It was one of the hardest things I have ever had to do.

When they handed in their recommendation, Dr. Lowery-Hart called them into his office and wanted them to explain their recommendation. His [Dr. LH] problem with the recommendation was that all it said was that this [DMBA] policy is confusing, this whole situation is confusing, just find a way to make it work. The recommendation said to stay at the College; it didn't say to put them back in the classroom.

Committee: Yep, that's pretty much what we said.

Dr. Lowery-Hart: If I had taken this to the Board and said we are going to put these two positions back into the budget, after the budget process we had, after they saw people who have extreme overloads leave, it would have put tenure at risk. I worked hard to ensure that the Board would not take a vote on tenure; that they would let the College figure it out.

The policy confuses what the right thing is. We tried to do right by them. Pam and Trent have retained their Base Pay in their new positions, even though all those around them make way less money.

Pam and Trent are classified, but they retain the right to

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the tenure due process. If another faculty position comes open that they have the qualifications for then we can follow the process. This also allows for their TCCTA lawyer to be paid.

Senator comment: AC is bad at documentation. All the work is done, but it's not documented. Lack of documentation put Pam, Trent, and the College at Risk.

Dr. Lowery-Hart: The results of the process are what we need to look at: what did all this culminate into? It culminated in us looking at the policy and realizing it needs to be rewritten to be clearer. This process pointed out that we have contradictions everywhere. There are contradictions in the Board Policy manual. We have contradictions between the board policy and the faculty handbook.

The Board has established a Board Policy committee of Board members to single out and tell the college what policy to work on.

The DMBA is a Board Policy. Senate can make recommendations to the Board regarding the policy. They are ultimately in charge. It wasn't just about Pam and Trent. It was about every faculty member.

Senator Question: Will there be other former employees that this affects?

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	<p>Dr. Lowery-Hart: No.</p> <p>Closing remarks -</p> <p>Reem: There are a lot of good faculty at AC, and we have something very precious that we want to keep. Our recommendation is for us as a faculty. Even if everyone doesn't want to go through the tenure process, we have to keep it open for those that want to.</p> <p>Mark: Make sure the policy is SO solid because it needs to be. And they aren't going to keep passing recommendations that are not solid.</p> <p>Russell: I would hope that the Senate would work on a proposal that we can all present together to the Board. My hope and goal is that we work really hard to get clarity into a policy that we never have to use again.</p>	
<p>New Business</p>	<p>Motion (Courtney Milleson) to establish a committee to make recommendations to rewrite Board policy of Separation of Employment.</p> <p>Motion passes. Committee should consist of: 5 members, all Senators, three of which are tenured. Membership will be announced at the September 2 meeting.</p>	<p>Emily will contact Mark White to get an electronic copy of the Committee Recommendations (and transcripts if available) to put in the Senate Notebook folder on Google Drive.</p> <p>Committee Chair will ask Robin Malone & Arbitration Committee members to serve as advisors to the Policy committee.</p>

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Recorder: Emily Gilbert, Senate Secretary – Instructor, Library