

ACADEMIC COUNCIL
MEETING of JANUARY 23, 2008
McKenna Hall Auditorium
3:30 – 5:30 p.m.

Members present: Rev. John Jenkins, C.S.C., Thomas Burish, John Affleck-Graves, Donald Pope-Davis, Dennis Jacobs, Christine Maziar, Robert Bernhard, Anita Allen, Panos Antsaklis, A.J. Bellia, Seth Brown, Steven Buechler, Laura Carlson, James Collins, Mary Rose D'Angelo, Kenneth DeBoer, Stephen Fallon, Judith Fox, Umesh Garg, Nicole Garnett, Nasir Ghiaseddin, Peter Holland, Paul Huber, Michael Jenuwine, Colin Jessop, Peter Kilpatrick, Christine Loza, Michael Lykoudis, Joseph Marino, Stephen Molvarec, Robert Nelson, William Nichols, Thomas Noble, Patricia O'Hara, Hugh Page, Mark Roche, Ann Tenbrunsel, Scott Van Jacob, Jennifer Warlick, John Welle, William Westfall, Jennifer Younger

Members absent: Adam Booher, Emily Cooperstein, Martina Cucchiara, Cornelius Delaney, Gaby Montero, Ram Ramanan

Members excused: Daniel Lapsley, Scott Monroe, Rev. Mark Poorman, C.S.C., Carolyn Woo

Observers present: Kevin Barry, Kathryn Lam, Dale Nees, Harold L. Pace, Brandon Roach

Observers absent: Don Wycliff

Observers excused: Daniel Saracino

Guests: Carol Kaesebier, Vice President and General Counsel and Jill Bodensteiner, Associate Vice President and Senior Counsel, Office of General Counsel. [Both Ms. Kaesebier and Ms. Bodensteiner are members of the Academic Articles Working Group.]

After calling the meeting to order at 3:33 p.m., Fr. Jenkins introduced and welcomed Prof. Kilpatrick, the new Dean of the College of Engineering. Fr. Jenkins indicated that the University is very delighted to have Prof. Kilpatrick join its community. Prof. Kilpatrick then offered the opening prayer.

1. Approval of minutes: Except for a typographic change, the minutes of December 12, 2007 meeting were unanimously passed as presented.

2. Voting on Proposed Changes to Academic Articles:

[On January 14, 2008, the Academic Council held an informational session regarding the proposed changes to the Academic Articles by the Academic Articles Working Group. Members of the Academic Council were informed of and discussed the amendments proposed by the Working Group. They were also encouraged to submit additional amendments to the Working Group in advance of today's meeting. No votes were cast at the informational meeting.]

Fr. Jenkins said that as the Council formally considers the proposed changes to the Academic Articles it will follow Robert's Rules of Order. He reminded members of three main principles:

1) we deal with one thing at a time, 2) everyone has the right to speak, and 3) decisions will be made by majority vote. Fr. Jenkins will call for a vote. If the result is clear by voice vote, he will announce the result. If it is not clear, he will ask for a show of hands. If any member feels that Fr. Jenkins announced a result that is not accurate, he/she can call for a show of hands.

[In advance of the meeting, copies of amendments proposed by Council members were distributed to all Council members.] In order to make the process orderly, Fr. Jenkins proposed that the Council proceed article by article. Fr. Jenkins said that he would entertain a motion to pass the text as it exists in the document which would mean that the article is open for discussion. Any changes to the article can be made by amendments. Fr. Jenkins pointed out that this process is simply to create structure and a baseline for language under consideration and is not to show preference for any particular language proposed. Furthermore, Fr. Jenkins proposed that amendments that were submitted by members in advance of the meeting be considered for each article first. Amendments suggested at the meeting will be typed and projected on a screen so that it is clear to all members what language is being considered. Members should make specific suggestions as to what words to add and what words to delete.

At the end of this session, Fr. Jenkins will call for a motion to clean up the grammar, syntax and elegance of the document without changing its substance. He also informed the Council that after it approves the Articles, they must be further approved by the President and the Board of Trustees. He also notified the membership that, if for any reason there is anything that he feels must be changed, he will consider the vote of the Council and will bring any issue back to the group. He will inform them of any change he is considering and will ask for their input before he makes a decision and puts it before the Board of Trustees for the final approval.

[All Academic Article language documented below is stated as originally proposed by the Working Group, unless otherwise noted. Underlined parts are proposed additions to the language; [bracketed] parts are proposed deletions from it.]

Preamble and Article I

Without amendment, the Preamble and Article I passed unanimously.

Article II, Academic Officers

Section 1/The Provost

[As part of its proposed revisions to the Academic Articles (circulated in advance of the meeting), the Working Group proposed an amendment to the first paragraph of this section.] Prof. O'Hara proposed an amendment to the first paragraph of this section to revert to the language in the existing articles as follows.

The Council then elects five members from its elected [all tenured] faculty representatives [of the University,] and one member from its [the Academic Council's] student representatives to constitute a committee chaired by the President.

Prof. Brown said that the language proposed by Prof. O'Hara was also suggested by the Faculty Senate. He noted that this change raises the question of who are considered to be the elected faculty representatives of the Academic Council. Historically, it has been interpreted to not

include the representation from the Faculty Senate. He noted that the Faculty Senate proposed language to change that interpretation. Prof. Roche shared his concern about elected untenured faculty representatives being eligible to serve on the search committee. He was particularly cautious about the time commitment and the potential political complexity for an assistant professor. Prof. Brown clarified that he does support the ability to elect untenured faculty to the committee particularly for library and special professional faculty (SPF). He likes the ability to elect from a broader base of faculty.

The amendment was approved.

Sections 3 through 8

In an effort to be clearer and less ambiguous, Prof. Fallon proposed a change of language to the review process for the Vice President of Research and the Deans. Similar language recurs in the first paragraph of sections 3 through 8.

Except in extraordinary circumstances, the appointment is subject to formal review every five years [if the President intends to retain the Dean for longer than one additional year].

Prof. Brown expressed his concerns about the proposed language since “extraordinary circumstances” is not particularly well defined and thus may imply an indefinite amount of time before a review must occur. He admitted that the proposed language is crisper than the language in the current draft from the Working Group, but he would prefer the notation of some limitation such as “review must take place within six years, even in extraordinary circumstances.”

Prof. Garnett added that she originally supported the addition of language limiting the time in which a review must take place. However, she does not see “extraordinary circumstances” as a limiting principle in that a dean could not be retained for an additional year just because someone did not get around to reviewing him/her. She concluded that if there is disagreement about what is considered extraordinary, the Academic Council could act as final arbiter in that decision.

The amendment was approved.

Section 4/Deans of Colleges

In advance of the meeting, Prof. Delaney proposed an amendment to insert language to the first paragraph of this section. The amendment would immediately precede the sentence “Before making any recommendation to the Provost, the committee shall consult with the faculty and students of the College.”

No offer, formal or informal, shall be extended to any candidate for the Deanship until the Provost has provided the faculty of the relevant college with the candidate’s credentials and a full opportunity to react to the candidacy.

Prof. Roche thought the proposal would be disadvantageous because candidates may not be comfortable with having their identity shared publically. Notre Dame often attracts candidates that hold very prominent positions at other universities and these candidates may withdraw from the process if their identity would become known so publically. He said that unlike their public

university peers, an advantage of a private university is that, in most cases, they are not forced to have a public revelation of candidates. He said trust should be placed in the elected members of the committee that they put the candidate through a very rigorous process.

Mr. DeBoer asked why similar language to that proposed by Prof. Delaney already existed in the articles that relate to the Law School and the School of Architecture but not for the colleges. Prof. O'Hara said that she believed that the language related to the Law School was developed in response to American Bar Association (ABA) standards. She said that there is a heavy requirement of faculty consultation and that the faculty's right to elect to a search committee alone is not sufficient to fulfill that requirement. She thought that the Academic Articles Working Group also looked at the language required by the ABA. She suggested that the language related to the School of Architecture is done simply out of parallelism to the Law School.

Prof. Burish shared his support for Prof. Roche's statement. He echoed many of Prof. Roche's sentiments and concluded that the passing of this proposal would restrict the university in its searches.

Prof. D'Angelo expressed her support for the amendment since the proposal only deals with those few candidates in the final stages of the search. She agreed that there is some risk in making these candidates identities public, but that was minimal compared to early stages of the search. She thinks that the proposal deserves serious consideration and she strongly supports it.

The proposal failed by a vote of 11 to 26.

Section 5/Dean of the Law School

Prof. Holland proposed the following amendment in light of the discussion of the Council at its January 14, 2008, informational meeting. He said one of the major grounds for opposing student representation on the committee was the potential underrepresentation of other groups within the Law School. This amendment includes representatives from both the library faculty and of the SPF.

A committee comprised of four tenured faculty of the Law School elected by its regular faculty, one member of the Law School faculty elected by its library faculty, one member of the Law School special professional faculty elected by the special professional faculty, and one student elected by the students of the Law School shall be established to facilitate either a search or a review.

Prof. Jenuwine is from the Law School and is also the SPF representative. He said this was discussed by the faculty of the Law School. Specifically, Prof. Jenuwine spoke with all the SPFs about how they felt about this language. The SPF's at the Law School feel strongly that they support what the faculty originally presented, which is to not have a student representative, to not have an SPF seat and to not have a library seat. However, if the Law School is forced to have a student seat on the search committee, the SPF's support the language proposed.

Prof. Bellia expressed his concern that the proposed language would give SPFs double voting rights. They could vote for the teaching and research (T&R) representatives. They could also vote for their own representative, which may or may not be a good idea. It would give the Law School T&R faculty half of the spots on the committee and half would go to other constituencies. He said that whether or not that is a good idea, it would be a radical departure from what he understands the constitution of the dean search committees to be in other colleges. He questioned whether this is the appropriate proportional representation, based on the numbers of professional specialists, library faculty, and T&R faculty. He asked whether other constituencies (e.g., alumni groups, Law Advisory Council, etc.), that might have a stake in this process, should be included on the committee and if there is a justified reason not to include those groups. He said that given how this would depart from the procedures that exist for other colleges, the Council should consider making amendments to architecture and other colleges to include SPFs and others on their dean search committees. He said that this is a very complicated amendment and that it would be nearly impossible to have any kind of a full deliberation about each of these important issues at this meeting. He expressed his view that the Dean of the Law School is more akin to a department chair and thus a search committee for that position should be different in terms of student representation.

Prof. Brown moved and the Council supported dividing this amendment to separate the inclusion of a student from the inclusion of the library faculty and SPF.

Part 1: one member of the Law School faculty elected by its library faculty, one member of the Law School special professional faculty elected by the special professional faculty

Part 2: one student elected by the students of the Law School

Prof. Brown and the Council agreed to first discuss Part 2 of the amendment.

Ms. Allen (graduate student representative for professional studies) said that she is in support of the student representative on the dean search committee. She said that she considered this situation and swayed from one side to the other. She personally thanked Prof. O'Hara and Professor Garnett for explaining the student involvement in the dean selection process and the voice that they are given in the Law School. She said that at no point in time did she ever feel that Dean O'Hara had a lack of respect for the professionalism or the ability of her students to participate in the process and to be a valuable addition in the dean selection. She said that Prof. O'Hara took an equally important stance in protecting the interest of the faculty and prospective deans in the Law School in the process. Ms. Allen noted that the Law School and the School of Architecture are currently the only schools at the University that do not have student representation on the dean search committee. She shared the concerns of the Student Bar Association President, Connor O'Brien: many well respected and highly ranked law schools around the country include students in their dean selection process and including a student body representative could further increase the student support of a dean in that school.

Ms. Allen also said that she considered the spirit of the University's mission. In the discussion and context of the mission, it states that the intellectual interchange essential to a university requires and is enriched by the presence of voices of diverse scholars and students. She said that

she does not wish to compare Notre Dame to other law schools, but rather to look at the spirit of the code of the university. The presence of voices of diverse scholars and students make this university second to none. She believes that only positive results would come from creating an opportunity to increase student and faculty involvement with regards to the future of the University. She said that she would appreciate the Council's support in placing a student representative on the dean search committee for the Law School and not for the School of Architecture.

Prof. Roche said that in his experiences with search committees the presence of students, at a departmental level or higher level, has always been advantageous in virtually every respect (including recruiting). He said that Part 2 of the proposal would make the representation on the Law School's search committee symmetrical with the other colleges. He supports the idea of a student member but he will vote against the amendment, unless that student member is elected by the Law School faculty that also elects the faculty members of the committee.

Prof. Garnett said that the Law School faculty feels strongly that they would prefer other methods of consultation besides a student member of the committee, but would encourage stronger language about demanding consultation.

Prof. Lykoudis shared his support for Prof. Garnett's comments. He does not find that the arbitrary symmetry across the University is a very strong argument, considering that law and architecture do have a very different structure than the other colleges. He said that there are many issues of confidentiality and worries about the ability of faculty to feel free to speak out when students are engaged in some very sensitive deliberations. He added that there are many mechanisms for communication between faculty and students and students can be consulted and be part of the process without necessarily having to have representation on the committee. He opposes the proposed amendment.

Prof. Brown added his thoughts on the issue of confidentiality. He said that in the discussions in the Faculty Senate and in the committee of the Academic Council when the issue of student representation on search committees was raised there was never any objection or concern about breach of confidentiality on the part of students. He said that the Law School is training their students to respect confidentiality in legal cases and has faith in the students' ability to maintain appropriate confidentiality. He said that he agreed with the Law School that the Council should give deference to the faculty's view; however, the Council also has to make a judgment about them. He pointed out that that is why this provision comes through this body and is not simply deferred to the Law School. He said that clearly, the students of the Law School do not feel that mere consultation is sufficient. When this was discussed in the Faculty Senate, he was not compelled by the argument of the Law School faculty that this would be unduly inhibitory of a frank discussion. Prof. Brown said that it is just a single student (not multiple students) being involved. The students in the Law School are being trained to make professional judgments and the choosing of a dean is a professional judgment. He thinks that the search committees can have a frank professional discussion that is not inhibited by the presence of a student and, indeed, the successful ability of other colleges to carry out their searches suggests that that is the case.

Prof. Jenuwine said that the Law School faculty voted, by an overwhelming majority to not include a student as a member of the committee, but to have student consultation. He said that the opposition he hears is coming from other units who are not going to be as directly impacted.

Prof. Bellia said that the dedication of the Law School faculty to its students is positively unimpeachable and from what he knows, the same applies to the School of Architecture. He said that he chaired the Law School's appointments committee for the last two of three years and that the participation of students in its recruitment and appointment process has been "fulsome, real, engaged and fully appreciated and taken into consideration by the faculty." He added that he cannot imagine that dynamic changing and that he would not want any vote to be cast on this question on the premise that somehow the Law School is disinterested in the student's stake in the dean selection or review process.

Prof. Tenbrunsel added that her experience with students on review committees has been positive. From her knowledge, there have not been any "disasters" on committees including student representatives. She finds the added uniformity and objectivity provided by the student voice as compelling arguments to include student representation on the search committee.

Part 2 of the amendment was approved with a vote of 25 to 17.

Part 1 of the amendment was unanimously defeated.

Prof. Roche proposed an amendment to have the student representative be elected by regular faculty of the Law School as opposed to students of the Law School:

A committee comprised of four tenured faculty of the Law School elected by its regular faculty and one student elected by the regular faculty [students] of the Law School shall be established to facilitate either a search or a review.

Ms. Allen said she felt it was important that the voice being heard is from the majority of the student body itself. Some discussion ensued regarding the composition of the Student Bar Association. Prof. Bellia said that he is in support of the proposed language.

The amendment was approved with a vote of 29 to 10.

Section 10/Directors of University Institutes and Centers

The Working Group suggested the following syntax change that was approved without opposition:

University Institutes are governed by the Guidelines for University Centers and Institutes approved by the Academic Council, which [but] may be supplemented by special statutes for the Institute that [which] are approved by the President upon recommendation of Academic Council.

Having completed voting on those amendments proposed in advance of the meeting, Fr. Jenkins asked members if they had any other amendments to Article II.

Section 4/Deans of Colleges

Prof. Roche proposed the following amendment to the final sentence in Section 4. He said the proposal would release the Provost from the burden of appointing assistant and associate deans. It would also save paperwork for both the Dean and the Provost.

The Dean of a College is assisted in the duties of office by Associate and/or Assistant Deans of the College, who are appointed by the Dean upon approval of the Provost [upon recommendation by the Dean] and who perform such duties and exercise such authority as may be delegated to them by the Dean.

The amendment was unanimously approved.

Section 9/Chairpersons of Departments

At the suggestion of Prof. Garnett and the support of other members, the group unanimously approved that symmetrical language to the last amendment approved (Section 4, above) be applied to the appointment of assistant chairs. However, in those cases, associate and assistant chairs would be appointed by the chair upon approval of the Dean.

Section 6/Dean of the School of Architecture

In the interest of symmetry, Prof. Fallon proposed including a student on the School of Architecture Dean search committee:

A committee comprising four tenured faculty members and one student of the School of Architecture shall be established to facilitate either a search or a review.

Prof. Lykoudis expressed his opposition to the proposed amendment. He explained that the intimacy and size of the school makes having a student on the search committee a potentially awkward situation. He said that the school does not value the student's opinion any less. He thinks the proposal is a well intentioned idea, but that it is not the best way to resolve the issue. He later added that there are several mechanisms in the school in which they engage students and that in the interests of the best course possible, to hire the best people that they can in the school that things should be left in their current state.

Mr. DeBoer said that he supported the idea of student participation and the need for symmetry. However in this case, since the students of the college did not express their interest in being included in the search committee, he is not inclined to ask the School of Architecture to do things differently.

Ms. Allen said that she asked the Student Bar Association President to seek out any feeling within the School of Architecture. She said that there were no outcries for student inclusion on the search committee; no student came forward from the School of Architecture asking for this change.

The proposal was defeated.

Prof. Roche asked Prof. Lykoudis if, similar to the Law School and for accreditation reasons, the Provost is required to consult with the School of Architecture faculty and share the credentials of final candidates in the appointment of the Dean. He said if not required, he thinks it is to the University's advantage to delete the passage that requires consultation. Prof. Lykoudis said that that has never been an issue with the accreditation board.

Prof. Roche then proposed deleting the following sentences, which was approved with a vote of 25 to 9:

[Before making any recommendation to the Provost, the committee shall consult with the faculty and the students of the School of Architecture. In appointment cases, the Provost consults with the faculty of the School of Architecture concerning the candidates recommended by the committee. No offer, formal or informal, shall be extended to any candidate for the deanship until the Provost has provided the faculty with that candidate's credentials and a full opportunity to react to that candidacy.]

Section 4/Deans of Colleges

Prof. Antsaklis wanted the Council to consider the need for consistency in the appointment of the Deans of colleges and school. He noted that in Section 4 that the first sentence states, "The Dean of a College is appointed by the President, with the concurrence of the committee provided for in this section." However in the Sections 5 through 8 (sections related to the Deans of schools, First Year of Studies, and Graduate School) the corresponding sentence reads: "The Dean [of the respective college/school] is appointed by the President. He asked if there was a particular reason why this inconsistency exists.

Fr. Jenkins said that he did not know the answer to that question. Prof. Antsaklis said that he would prefer to add the additional clause in Section 4 to the other sections, but that he wanted to hear what other people said.

Prof. Affleck-Graves moved to strike the wording "with the concurrence of the committee provided for in this section" in Section 4. Prof. Burish concurred with Prof. Affleck-Graves' suggestion. He said he thinks, similar to other situations (such as promotion and tenure appointments), eventually someone must make a decision. The language as currently stated could result in a standoff between the President and the committee and no appointment would be made. He added that he thinks it is a mistake to include that language in the article.

The amendment was approved.

Section 6/Dean of the School of Architecture

Because the section did not include language describing how the four faculty members of the search committee come about, Prof. Garg proposed the following addition to the first paragraph:

A committee comprising four tenured faculty members elected by the regular faculty of the School of Architecture shall be established to facilitate either a search or a review.

The amendment was approved.

Section 5/Dean of the Law School

Prof. Fox provided some background information on her proposal regarding the number of people on the Dean search committee. She said that in the past the number of regular faculty members on the committee was changed to ensure that there was not an even number of people on the committee. Since, at this meeting, the Council approved including a student on the search committee, there is now an even number of voting members on the search committee. Prof. Fox proposed the following change:

The Provost may appoint to the committee two [one] additional members from the regular faculty of the University in order to ensure that a broad range of views and perspectives is represented on the committee.

The amendment was unanimously approved.

Section 11/Director of University Libraries

Dr. Younger, consistent with two previously approved amendments, suggested the following two changes:

The director of University Libraries is appointed by the President [with the concurrence of the committee provided for in this section].

Except in extraordinary circumstances, the appointment is subject to formal review every five years [if the President intends to retain the director for longer than one additional year].

Both amendments were accepted without opposition.

Section 10/ Directors of University Institutes and Centers

Prof. Garnett proposed amending the first and second paragraphs of this section:

Directors of such organizations are appointed in a manner consistent with the Guidelines for University Centers and Institutes approved by the Provost or his designee [Academic Council].

University Institutes are governed by the Guidelines for University Centers and Institutes approved by the Academic Council, which [but] may be supplemented by special statutes for the Institute that [which] are approved by the Provost or his/her designee [President upon recommendation of the Academic Council].

Prof. Fox said that she does not agree with the proposal since she thinks this will mean that the Guidelines for University Centers and Institutes would never have to come before the Academic Council. Prof. Brown concurred with Prof. Fox in regard to the first part for the amendment. However, he thinks that the approval by the Provost for supplemental statutes is appropriate. As the proposal currently stands, he would oppose it.

Prof. Burish said that he had no objection to what Prof. Fox and Prof. Brown said. He thinks it would be fine for the Academic Council to approve the guidelines. Prof. Burish added that he has some concern about centers that are within a department. He would rather designate the chair of the department or the dean to deal with guidelines for that particular center, rather than always bringing them before the Academic Council. He agrees with what seemed to be the sentiment of the Council, that it is unworkable to have the Academic Council run the operations of every center and institute.

There was a motion to divide the amendment as follows:

Part 1: Directors of such organizations are appointed in a manner consistent with the Guidelines for University Centers and Institutes approved by the Provost or his designee [Academic Council].

Part 2: University Institutes are governed by the Guidelines for University Centers and Institutes approved by the Academic Council, which [but] may be supplemented by special statutes for the Institute that [which] are approved by the Provost or his/her designee [President upon recommendation of the Academic Council].

The Council then voted on both parts: Part 1 failed, Part 2 succeeded.

Article III, The Faculty

Section 3/Faculty Qualifications and Periods of Service

Subsection (a) Teaching and Research Faculty

Prof. Roche proposed an amendment to the last paragraph of the subsection. He explained that there are times that an endowed chair gift is very restricted. It will not always be the case that the person in the very specialized area has a level of distinction above the other full professors, but the University will not want to deny the gift. He continued by saying that the University wants to build, even in niche areas and in that sense an endowed chair is more a funding mechanism than an opportunity for distinction. He said that this change in language provides more flexibility.

[The] Holders of endowed chairs at the [this] rank of full professor are normally expected to exhibit a level of [should have achieved] distinction in research above that expected of full professors and excellence in teaching and service [as a scholar and teacher].

The amendment was unanimously approved.

Subsection (c) Library Faculty

Dr. Younger suggested a change to the first paragraph. She recommended the deletion below because library faculty are generally appointed on a calendar year basis, not on an academic year basis.

An appointment as assistant librarian may be made for a period of one [academic] year.

The amendment was unanimously approved.

Subsection (d) Special Professional Faculty (SPF)

Prof. Fox proposed language to make a passage in the second paragraph of the subsection more clear. She said her proposal did not change the intent of the provision. She explained that this change would clarify the fact that if people have multiple one-year contracts that they will be given six months notice if their services are terminated.

If the University chooses to terminate the services of the assistant professional specialist at the end of an initial one-year contract period, the University will give three months' notice of such termination; subsequently, if the University chooses to terminate the services of an assistant professional specialist at the end of a consecutive one-year contract, the University will give six months' notice of such termination. [For contracts longer than one year, the University will give six months notice termination.]

Prof. Roche said that this does require that decisions on reappointment be made with only a one semester set of teacher course evaluations (TCEs) since the last appointment was made. The department, the Dean's Office, and the Provost's Office, essentially, would have to make a decision before TCEs are in for the fall. He said that five months notice of termination would allow SPFs to compete for the positions that are not T&R oriented. Most interviews take place in December for T&R positions, but usually searches are a little bit later for non-permanent positions. He said that he thinks five months would give a little bit more time to make decisions. The recommendations could then be due in January and the decision could be made known by the end of January or the first of February.

Prof. Fox added that the amendment deals with people who have had previous one-year contracts. The hiring schedule that Prof. Roche mentioned may apply to Arts and Letters but that it does not apply to all SPFs. Different schools and colleges have different hiring schedules.

The amendment was approved unanimously.

Subsection (d) Special Professional Faculty

Ms. Kaesebier provided background information on suggested amendment, saying that the text distributed to the Council was sent in error. The amendment to the final paragraph of the section as approved and proposed by the Working Group:

A member of the special professional faculty with at least six years of full-time service with the University who is notified that his or her contract will not be renewed may request a terminal-year contract.

Ms. Kaesebier is suggesting that that amendment replace what was originally distributed to the Council:

A member of the special professional faculty with at least six years of full-time service with the University who is notified that his or her contract will not be renewed is entitled, upon request, to a terminal-year contract.

Prof. Brown asked if adding the terms “except under exceptional circumstances,” could satisfy the same goals. Ms. Kaesebier said, though she did not want to speak for the entire Working Group, she believes their thinking was that there are circumstances such as in the case of the emeriti faculty where there have been difficulties and it would not be appropriate for the person to stay for another year. She said that if that circumstance is considered extraordinary, she would find Prof. Brown’s amendment acceptable.

Prof. Burish gave a hypothetical situation to consider: an SPF member, whose total responsibility is teaching, has become an ineffective teacher and has two or three semesters of ineffective teaching. He asked if that is considered an extraordinary circumstance and if the University is obliged to have that person teach another year if that were the reason the contract was not renewed.

Prof. Brown responded by saying that the term ‘extraordinary circumstances’ requires someone to interpret it and presumably, that would be whoever is responsible for appointing them. The reason he prefers this language is that it better conveys the notion that in general, SPFs should be able to expect a terminal-year contract. It is not an absolute guarantee, but, Prof. Brown continued, it is a clearer statement than simply saying that they may request it and furthermore it connotes what is considered typical procedure.

Ms. Kaesebier suggested that “...is normally entitled to...” could replace the language “...except under exceptional circumstances.” Prof. Barry shared his support for either Prof. Brown or Ms. Kaesebier’s language since they both convey a sense of the way that the University typically conducts business. Prof. Brown then formally amended his proposal to read as follows:

A member of the special professional faculty with at least six years of full-time service with the University who is notified that his or her contract will not be renewed is normally entitled, upon request, to a terminal-year contract.

Prof. Roche said that he understands the spirit of the change, but has some concerns because some circumstance could arise where an SPF in Arts and Letters (who typically teaches a four/four course load) may be retained for an additional year because there is insufficient time to find a replacement. The language proposed may, in a sense, keep the SPF in that position for two years beyond when the college had concerns. Furthermore, T&R faculty receive only a one year notice, which he feels is fair to give people time to look for another position and it is in conformity with AUP guidelines. He said he was somewhat inclined to think through another option for the amendment such as, “...has the

right to have a request for a terminal-year contract reviewed at all levels, including the Provost office.” He added that he was a little bit weary about interpretations of what is “normal” and what is “not normal.” He would be opposed to the current proposal and would be prepared to recommend alternative language, if it fails.

Mr. DeBoer and Prof. Jenuwine voiced their support for the current amendment.

Prof. Jacobs wanted to separate the terminal-year contract for T&R versus SPF in terms of timing. A T&R faculty member who is denied tenure will learn about that, typically, the last week of April or the first week of May. Their contract would expire June 30, and so they would have about two months notice if there was no terminal year. That creates a 14 month situation since it would be untenable not to allow that terminal year. On the other hand, SPFs are given six months advance notice. He wanted to separate these two issues in terms of equity.

Prof. Antsaklis said he understands Prof. Roche’s point, however, he thinks that it is more applicable for people who have not already been at the university for six years and thus have had multiple opportunities to be reviewed.

The amendment was approved.

Section 4/Procedure for Appointment, Reappointment, Promotion and Tenure

Prof. Roche explained that he thinks that an endowed chair position is different than an endowed director or endowed dean position and thus should be viewed differently. He said that there is a very elaborate process for endowed chairs, including CAP, the chairperson, etc., whereas endowed directors and endowed deans go through a search committee. His proposed amendment is to isolate administrative appointments that would have a different selection process.

To provide clarification and at Prof. Antsaklis’ suggestion, Prof. Maziar suggested a “friendly amendment” to make the exception language in the subsection more clear. Below is the amendment as proposed by Prof. Roche and including Prof. Maziar’s amendment.

[Holders of endowed chairs at the full professor level are expected to exhibit a level of distinction in research above that normally expected of full professors and excellence in teaching and service.] Appointments to endowed chairs at the full professor level shall be made in a manner consistent with the procedures set forth in this subsection except that this subsection does not apply to endowed chairs that are held coincidentally with an associated administrative appointment.

The amendment was unanimously approved.

Section 6/Allegations Involving Academic Freedom, Personal Bias, Procedural Error, or Sex Discrimination

Subsection (b) By a member of the research faculty, library faculty, or special professional faculty

The next recommendation regarded the appeals process. Ms. Kaesebier reminded the Council that the Working Group is looking at the entire appeals process again and that the following proposal relates to one narrow amendment made by the Working Group, but does not encompass all the changes to the entire process.

Prof. Barry explained that he suggested this change because the original language proposed by the Working Group said March first was the deadline for an appeal to be filed in writing to the Provost. However, that deadline may in fact be before an SPF would necessarily be notified that he/she was not going to be reappointed. Therefore, Prof. Barry suggested language that simply states a period of time after the faculty member is notified and thus would apply in all cases.

The following language was moved by the floor:

If a member of the research faculty, library faculty, or special professional faculty alleges that a decision against reappointment or promotion of that faculty member violates academic freedom or is due to personal bias or procedural error, the faculty member notifies the Provost in writing within 20 University business days of the date the faculty member is notified of the decision [before March 1 of the year of the decision].

The amendment was unanimously approved.

Section 9/Contracts for Services

Prof. Garnett recommended reverting the language in this section to the status quo. She and the Working Group agreed that members of the Academic Council raised some very good questions about how the current language governing letters of appointment and subsequent contracts might raise legal problems in the future. The Working Group felt it needed to take a better look at the contract provision in light of the concerns that were raised in the last meeting. Prof. Garnett moved that the contracts for services provision essentially revert back (with a couple of small changes) to the current Academic Articles language.

The agreement for faculty services between the University and a member of the faculty is stated in a written contract or letter of appointment. Nothing in a contract or letter of appointment regarding an untenured appointment implies an undertaking by the University to reappoint that member of the faculty. [A faculty member's initial contract or letter of appointment and these Academic Articles, which are incorporated therein, shall constitute the entire agreement between the parties with respect to the faculty member's initial appointment to the University. Thereafter, amendments to the initial contract or letter of appointment must be in writing and approved by the Provost and/or Dean or their respective designees.

Should any provision of the faculty member's contract or appointment letter, or the Academic Articles, be declared illegal or invalid by any court of competent jurisdiction, the validity of the remaining parts, terms or provisions are not affected, and the illegal or invalid part, term or provision is deemed not to be a part of the contract, appointment letter, or Academic Articles.]

The amendment was unanimously approved.

Section 1/Membership

Subsection (d) Special Professional Faculty

At the Academic Articles informational meeting held on January 14, 2008, there was discussion regarding the titles of SPF. Prof. Jessop asked about the status of that discussion since he did not see any revisions or proposals to that language during the current meeting. Mr. DeBoer added that he spoke with some SPFs and they conveyed a sense that the title 'lecturer' has a connotation of "part-time" or "non-regular" faculty status. He said he supports the use of working titles but would like to have further consideration given to the exact titles included in the articles.

Ms. Kaesebier informed the Council that it is the intent of the Working Group to revisit this issue.

Prof. Collins said that he spoke with SPFs in Film, Television and Theatre and they said none of the current titles proposed by the Working Group would in any way describe their work or responsibilities. He suggested the title "practicing artist crafts" be added to the list. He asked if the Working Group was willing to take suggestions on the titles. Prof. Pope-Davis said that the Working Groups is open to suggestions and will continue to look at the entire SPF section.

Prof. Jessop supports the use of working titles but was concerned that the titles appropriately reflect the nuances in each department. Currently, the titles must be approved by the Provost alone and Prof. Jessop thinks that it may be difficult for the Provost to conceive of the nuances of every division and their respective appropriate titles. He proposed amending the provision to include approvals by the departmental CAP and the college or school's Dean.

Prof. Burish shared his opposition to Prof. Jessop's proposal. He said that the proposed language could result in a standoff and no decision would be reached if any one of those three parties objected. He said that someone should make the decision. He said that he, as Provost, does not necessarily have to make the final decision, but that someone should have that responsibility in case there are split or different perspectives. Prof. Maziar offered a "friendly amendment" to Prof. Jessop's proposal: "...and with the recommendation of the department CAP, College Dean and the approval of the Provost." Prof. Burish indicated his agreement. Fr. Jenkins said that without objection Prof. Maziar's amendment would be included. Prof. Fox objected because she worried that SPFs that are associated with institutes and do not have a departmental affiliation may be cut out of this provision.

Prof. Antsaklis suggested a revision: "...and with the recommendation of the academic unit or academic department and the approval of the Provost."

Discussion continued among members as to who should approve the change of titles: departmental CAP, chair, college dean and/or Provost. Discussion was also raised regarding the generic or specific nature of the titles. Some argued that the titles should be generic and thus more flexible in encompassing new areas not previously considered. With consideration of the

language proposed by other members, Prof. Roche proposed the revision below to be added as the final paragraph in Article III, Section 1, Subsection (d):

In cases initiated by an academic department, if the chairperson approves such designation after consultation with the department, the chairperson sends a written recommendation to the Dean. If the Dean approves the designation, he or she sends a written recommendation to the Provost, who renders the final decision. In cases initiated by the director of a University Institute or any other academic organization authorized by the Provost to appoint special professional faculty, if the director approves such designation, the director sends a written recommendation to the Provost. The Provost renders the final decision after consultation with the appropriate academic department(s) or school(s).

Discussion continued and eventually Prof. Burish suggested, given its complexity, that the matter be deferred back to the Working Group. The non-debatable motion was passed and the matter was deferred to the Working Group.

Fr. Jenkins adjourned the meeting at 5:40 p.m.