

**ACADEMIC COUNCIL**  
**Meeting of May 17, 2011**  
**Mendoza College of Business, Room 161**  
**8:00a.m. – 10:30 a.m.**

**Members present:** John Affleck-Graves, Panos Antsaklis, Robert Bernhard, M. Brian Blake, Seth Brown, Thomas Burish, John Coughlin, O.F.M., Greg Crawford, Darren Davis, Dennis Doordan, Tom Doyle, C.S.C., William Evans, Stephen Fallon, Judy Fox, Mary Frandsen, John Gaski, Robert Goulding, Dennis Jacobs, Peter Kilpatrick, Michael Lykoudis, Kelly Martin, Christine Maziar, Andrew McGauley, John McGreevy, Nell Newton, Susan Ohmer, Hugh Page, Cathy Pieronek, Donald Pope-Davis, Joseph Powers, John Robinson, Jim Seida, Cheri Smith, Greg Sterling, Ann Tenbrunsel

**Members and Observers excused:** Laura Carlson, Umesh Garg, Nasir Ghiaseddin, Chuck Hurley, John Jenkins, C.S.C., A. Graham Lappin, John LoSecco, William Nichols, Julianne Turner, Carolyn Woo

**Members and Observers absent:** C. Earl Carter, Megan Dillhoff, Nick Entrikin, Stuart Greene, Austin Holler, Brian O’Conchubhair, Mike Oliver, Ava Preacher, Warren vonEschenbach, Cynthia Weber

**Observers present:** Kevin Barry, Robert Mundy (for Don Bishop), Dale Nees

**1. Welcome and opening prayer:**

Provost Tom Burish opened the meeting, in the absence of President Jenkins, CSC, welcomed members, and invited Ms. Kelly Martin to deliver the opening prayer.

**2. Approval of minutes:**

The minutes of the March 28, 2011 meeting were unanimously approved.

**3. Salary Equity report:**

Provost Burish reported that each year the Provost’s Office is required to do a salary equity analysis and report that analysis to the Academic Council. Prof. Chris Maziar has performed this task and today distributed a single page digest of this analysis to the Council. There were no findings of inequities. Members were invited to contact Prof. Maziar with any questions they might have on this report.

**4. Proposed Revisions to the Undergraduate Academic Code—Dean Hugh Page:**

In beginning his presentation on revisions to the Undergraduate Academic Code (UAC), Dean Page circulated to members the final updated version of the revisions. He noted that he will not today review every line of the revised code but instead provide an overview of the motivation for and process of revising the code, with illustrative

examples of the changes made by the Undergraduate Studies Committee to improve the code.

Currently there are undergraduate, graduate and professional student codes; there is no Law School code. The previous UAC contained a preamble and 25 hierarchical sections. Prior efforts to expand the UAC occurred by accretion. As circumstances arose, appeals were individually addressed to and handled by the council on an *ad hoc* basis. The last thorough revision occurred three decades ago. This revision represents an effort to streamline the code and to bring existing practice at the college and/or school level into alliance with or consistency to the code.

The process of this recent revision occurred in several stages. The first, during 2007-08, was the approval of a drafting committee by the Office of the Provost. This committee represented input involvement across the campus, including deans, the provost, student affiliations, and the university's general counsel. Circulation of proposed changes, at this stage, was made to the graduate school and Academic Services for Athletics.

Stage two, in 2008-09, brought the proposed changes to the Undergraduate Studies Committee of the Academic Council (USCAC). Here, wordsmithing and vetting occurred, with intense discussion of the vexing policies.

The outcome of the first two stages was feedback on the proposed changes from the Provost's drafting committee to USCAC. There was discussion of the rationale for the proposed structural and cosmetic changes. Selective input from the working deans was secured; several issues were identified as vexing and in need of further input and discussion.

Stage three was a reconfiguration stage, during 2010-2011. It was determined that the UAC represented an asymmetrical representation of policies and procedures at the university level. Most of the code's regulations—86%--are focused on undergraduate academic issues, while significantly fewer — 47-53% — are focused on graduate and professional student academic issues. General agreement was reached that the proposed code needed further trimming, even reformulation, with separate, 'context-specific' codes for graduate and professional students. An initial conversation was had with Dean Sterling of the Graduate School. To achieve these context-specific codes would require the involvement of the schools of Architecture, Business and other units which have or are pondering new masters programs. The general counsel was consulted; Ms. Marianne Corr approved the concept of separate codes.

The USCAC developed criteria for inclusion of undergraduate policies and procedures into a single authoritative document with the intent to maintain the original *gravitas* of the document. Because the UAC has the power of enforceable regulations, it had absorbed a number of items which did not naturally belong to it but did not have an easily identified better home. For instance, the course numbering system policy had been established in the UAC, under that rationale that it could be found and enforced from that location. These kinds of anomalies needed to be corrected. Three criteria were identified for the revisions. The first criterion for inclusion in the revised code was that it should contain only student related academic policies. The second criterion was that it should contain policies governing degree conferral. And the final criterion was that the regulations contained in the code should be relatively permanent.

Dean Page provided a brief roadmap for the major features of the revised UAC. There are a preamble and six major sections which are organized according to the natural flow of student life. The elements which have been removed as unrelated to the three criteria now need to be located in an appropriately meaningful site.

Dean Page concluded his overview of the new UAC by stressing that the task for today's meeting is to determine global approval of the code. This document has been through many, many revisions and read by many eyes; wordsmithing is not necessary at this stage. Instead, he will present some illustrative examples of the new code, with the intent to move that the council approve the newly revised UAC *in toto*.

Dean Page briefly reviewed the following sections of the new UAC: 1.3 (from the old 7.1); 4.2.3 (from the old 12.2); 6.2.4.1 (from the old 23.2); 2.2.7 (from the old 15.1). These representative sections of the new code illustrate the ways in which the code was streamlined, made consistent, standardized, crafted to be student-oriented and revised for clarity, and in which necessary processes were established and developed through consensus among committee members. The process was collaborative and far-reaching, as well as inclusive of many stakeholder voices. The colleges/schools all had input over each of the stages. The current code has the unanimous endorsement of the USCAC. The new document is an improvement. It is a better document from which future discussions can be launched because it is more consistent and more reflective of current campus practices.

Dean Page noted that the USCAC has begun discussions with the Graduate School about the development of its own code. The plan for the immediate future is to use the stipulations from the old UAC as the governing regulations until such time as the new code is finished and approved by appropriate bodies.

Dean Page thanked all the faculty and staff who have been involved in this lengthy revision process. He presented the document to the council for approval as a whole, and said that if approved, it would be implemented in Fall 2011.

Provost Burish briefly restated the task before the council. Noting that the USCAC has worked for four years, through many rigorous debates, to produce this consensus document, the committee now requests the council pass it as a whole. As such, it would represent a better document from which future debates for refinement can then take place. These debates about specific elements of the revised UAC can begin in the next academic year.

Discussion ensued. Prof. Maziar requested clarification on the status of an academic code for graduate students. Dean Page reiterated that Dean Greg Sterling, Graduate School, is in agreement that a new code should be devised for the graduate and professional students. Immediately, the 47% of the current academic code which deals with graduate and professional students will be the *de facto* body of regulations governing graduate and professional student life until such time as a new code is drafted and approved. Prof. Maziar asked if the council should formalize that decision with a motion to that effect. The Provost agreed.

Prof. Maziar moved that the current academic code continue to apply to graduate and professional students other than those enrolled in the Law School until such time that a new code under development be approved. Dean Nell Newton seconded the motion. The motion was unanimously approved.

Prof. Seth Brown offered a friendly amendment to section 2.2.3. Through discussion among members, it was determined that aspects of 2.2.3 would more appropriately be located under section 4, dealing with progress towards a degree. The council members agreed to charge the USCAC with the task of properly situating in section 4 the requirement for students to complete certain university requirements before the end of the sophomore year.

Prof. Joseph Powers asked about the statement, in section 2.2.7, that graduation is contingent upon a number of requirements including the last semester on the main university campus. He suggested adding 'in residence' on the main university campus. This generated discussion, as the question of residency is the crux of the issue in this regulation. Prof. Cathy Pieronek suggested that this regulation also be moved to section 4 and have the verb 'enrolled' inserted. The friendly amendment was so accepted: 'must be enrolled in the last semester on the university campus.'

Dean Newton noted as a side point that while the UAC refers to the Hoynes Code, there is currently discussion in the Law School to rename that document.

Dean Peter Kilpatrick moved that the revised UAC be accepted with the friendly amendments as proposed. Prof. Ann Tenbrunsel seconded the motion. The motion was unanimously approved.

Provost Burish gave the USCAC the warm thanks of the council for its lengthy hard work.

**5. Proposed Revisions to the Undergraduate Student Academic Code of Honor Handbook—Dean Hugh Page:**

Dean Page introduced the discussion of the revisions to the Academic Code of Honor, noting that it has occurred under the leadership of Associate Provost Dennis Jacobs. The proposed changes have been submitted to USCAC, which has approved them unanimously. He invited Prof. Jacobs to make a presentation to the council of the revised code.

Prof. Jacobs began by reminding members that the University Code of Honor Committee is a university stipulated committee, composed of equal numbers of faculty and students, which meets regularly to consider all aspects of the honor code. The code has accumulated numerous *ad hoc* revisions over time. The last major revision took place six years ago. The significant change made at that time was the inclusion of a new process by which a student, agreeing that a violation has occurred, can work with the faculty member to determine a mutually agreed upon appropriate sanction, which thus avoids the hearing process. More than 90% of cases are now handled under this process.

The current revision process has produced a set of amendments from the committee which were shaped, in part, in consultation with the Faculty Senate (which had passed three resolutions concerning the Honor Code) and the Faculty Board on Athletics. The committee also met with the general counsel as well as received the approval of USCAC. The changes are for the most part cosmetic and transparent.

Prof. Jacobs reviewed the five substantive changes recommended by the Honor Code Committee.

The first change regards the current language, which states that a reporting student's anonymity will not be protected at a hearing for an honor code violation. This has been revised to state that 'anonymity will be preserved.' Prof. Jacobs noted that of the 100 honesty cases handled each year, only one or two are student-reported instances. Through discussion with students, it is clear that the issue of anonymity is significant for them. He stressed that in section IV.D.1, it is clearly stated that an allegation cannot move forward unless it is a specific and credible allegation. This protects against the anonymous phone call type of allegation. Measures which can be taken to protect the

anonymity of the reporting student may include telephonic or electronic participation by the witness during the hearing. This insures that all involved can address the witness while still preserving anonymity.

The second change is the nullification pathway, part of the new procedure added to the code six years ago. A report of the agreement made between the student and faculty concerning appropriate sanctions is filed by student and faculty member. The Associate Provost, currently Prof. Jacobs, reviews that document. Under the current code, if there is an irregularity, the only course of action is to nullify the report and force the case to move forward to a hearing. Under the revision, the Associate Provost can point out the irregularity to the filers, who have the opportunity to review and correct that irregularity, if they so choose, and refile the report. This permits the goal of avoiding the hearing process.

The third change involves the recusal clause. In the instance of a second honesty hearing for an individual, because of a second violation, the process mandates that the case be treated as if it were an isolated case. This is to insure no bias for any participants involved in a hearing. The proposed changes determine measures by which anyone involved in the hearing can recuse himself/herself to insure that the hearing is in front of unbiased participants. He noted that should a student choose to disclose the instance of a previous violation at the hearing (which might be done to extract some sympathy from the hearing committee), the committee is not required to recuse itself.

The fourth change is the establishment of a standard of evidence clause, as there had not previously been a standard. Some hearing committees have asked for this standard. While the hearing board is not a court of law, it was acknowledged that a definition of this term would be useful. The committee studied a number of honor codes at peer institutions before selecting this standard: the evidence is convincing, meaning that it is far more reasonable that the violation did occur than that it did not.

The fifth change involves the determination to inform key personnel of the occurrence of a student's first violation. The current regulation establishes complete confidentiality. The documents concerning a report are kept in the Associate Provost's office under lock and key; no one is informed of a violation. However, feedback gathered from concerned parties strongly suggests that such a procedure neglects to capitalize on a teachable moment for the student. In addition, there is no opportunity for the student to discuss with a campus-based person s/he trusts the issues that led to the violation. The revision devises a notification process by which each violation is confidentially revealed to three persons: the student's college dean, the appropriate academic advisor, and the student's rector. The committee debated the inclusion of the

rector. In the end, the majority of members voted for inclusion of the rector because it is impossible to determine conclusively for all students which of these figures might be the most trusted confidante. It was decided to include three to provide a full range of options for each case.

Members were invited to discuss the proposed changes. Prof. Maziar noted that the document seems to apply primarily to acts connected to undergraduate course work. However, undergraduates are increasingly involved in research, running the risk of potential research misconduct. She asked what standing this document has in governing that kind of violation, and, additionally, a violation incurred in a non-credit bearing context. Further, given this kind of potential situation, would it be appropriate to add to the code a referral to the code of the Office of Research, to insure that students are aware that that code also governs their behavior. Prof. Jacobs said the intention is to have the code apply in any and all academic situations. Prof. Maziar asked if that includes policy violations, such as the IRB policy. Prof. Jacobs stated that compliance issues would be a separate concern. Rather, the code covers deceptive or dishonest behavior. He invited Office of Research members, Prof. Bob Bernhard and Prof. Darren Davis, to offer their perspectives. Prof. Bernhard noted that it is his belief undergraduate students are under-informed about the various codes which govern their behavior. He would support the suggestion of including a reference to the research code of conduct in the honor code.

Prof. Maziar noted that she is not clear on who is responsible for undergraduate research honor violations; it is important to be clear since sanctions are involved. Prof. Bernhard recommended that a subsection be added to section 4 which deals with research misconduct, covering education, student responsibility, and the adjudication process. He would also recommend that the Office of Research code be applied to research honesty violations. He noted that the anonymity rules could still apply. Prof. Jacobs asked if the adjudication process differs from the one detailed in the Honor Code document. It was determined that the Research Office and the Honor Code committee will work together to determine the interaction between the Research Office code and the Undergraduate Student Honor Code. Provost Burish said the proposed paragraph can then be brought back to the council for discussion and approval.

Dean Kilpatrick said this highlights his main question: how does the university go about informing and re-informing students of the regulations for appropriate academic behavior. He noted that the dissemination and discussion of the key elements of the honor code are nearly as important as the drafting of said document.

Prof. Jacobs said that implementation of the code is a separate focus of the committee. The main tool used to inform students and faculty of the regulations of the Honor Code

is a pamphlet which is given to every student. In addition, each student is required to register in an online quizzing environment, where s/he is faced with eight different cases that mirror scenarios from real life. In each case, the student is required to make a judgment as to the violation committed and to provide reasoning to explain her/ his choice. The student must move through the quizzing situation successfully, and upon successful completion of the activity, electronically sign a pledge to uphold the honor code. No student can receive his/her final class schedule until this process is completed successfully.

Prof. Jacobs noted that the university also heavily relies on faculty in the classroom setting to provide education on the standards for honesty in the academic environment. This is expected to be contextually based for the discipline.

Prof. Judy Fox, noting that, as mentioned, the Faculty Senate has passed three resolutions concerning the honor code, reported that the committee had recommended departments have honor code meetings with majors to present the code and discuss the discipline-specific concerns connected with the honor code. Prof. Jacobs said that he would urge departments, as a matter of recommendation, to take a more significant role in this education function. He mentioned that the Faculty Honor Code Officer is making the rounds of departments to remind them of the opportunities for departmental engagement.

Prof. Jim Seida noted that the document, in part, attempts to protect the identity of a reporting student during the hearing process. He asked if it is possible to protect the student's identity after a hearing. Prof. Jacobs said the committee cannot guarantee anonymity. But, as the language indicates, it can 'preserve anonymity.' The case file is closed as soon as the case is heard; it is immediately sealed. There are no minutes from the hearings. And because the documentation is sealed, there is no likelihood of identity being revealed from the documents.

Members discussed the standard of evidence. There was much disagreement about and dissatisfaction with the language of the revision. The standard says that 'it is far more reasonable;' members were concerned that 'far more' is a vague term. There was concern that it would be difficult to establish consistency across hearing committees. Mr. Jacobs noted that it is hard to be quantitative on this scale. The term 'more' reasonable did not encourage a strong enough level of persuasion. The standard was shaped by consultation with other institutions' honor codes. Dean Newton discussed the standards used in legal proceedings. She offered that 'clear and convincing' is the more typical lawyerly phrase. Prof. Jacobs suggested that 'far more reasonable' in essence 'unpacks' the term of art.

Prof. Panos Antsaklis asked if the preservation of anonymity for the witness jeopardized the rights of the accused student. Prof. Jacobs noted that there are always other forms of corroboration—of a second witness or physical evidence. He reminded members that each case is handled on a case by case basis. Dean Newton wondered how many of the 100 cases each year ‘fall out’ because of the issue of anonymity. Prof. Jacobs reminded members that the issue of protecting anonymity generally means that student witnesses never even bring an allegation forward. The current code clearly states that a reporting student will be required to testify if a case goes to a hearing; feedback from students indicates this impels most students not to come forward with an allegation.

Prof. Stephen Fallon expressed his belief that the ND Honor Code does not work and that under the circumstances, it should be abolished. He said that students all sign a pledge that they will not tolerate academic dishonesty, yet all formal and informal data indicate that academic dishonesty is widely tolerated at ND. Prof. Fallon’s experience with other institutions’ honor codes suggests that the most successful honor codes are fully run by students. The heavy emphasis on anonymity is an indirect indicator that the students do not want to be attached to this honor code. If the students do not embrace the code, Prof. Fallon expressed pessimism about the future of the code. Prof. Jacobs said the Honor Code Committee is composed of equal numbers of students and faculty, indicating student involvement. The code is not created or administered ‘from the top down,’ but rather as a collaborative effort. He noted that a survey of the community did indicate that each group — faculty and students — looked to the other group to take a bigger role. Prof. Fallon asked if benchmarking has been done to tabulate how many institutions implement honor codes that are student run. Prof. Jacobs said the revisions to the code were supported by study of other codes. He also noted that an expert from Rutgers University was asked to evaluate ND’s honor code. He has made a life’s work of studying honor codes. There are a variety of forms for honor codes, from a single sanction code (whereby any violation at all results in expulsion) to modified codes of various types to no code in place at all. The type of code chosen by each institution reflects in part the culture of a campus at a given point in time. The expert advised that the ND code was well suited to the time and the place; it was ‘the right way to go.’ He noted that he does not have data on the number of codes which are student run.

Prof. Fallon noted that sad irony that while the students sign the pledge, ‘many of them’ are violating the code. Prof. Jacobs emphasized that the code asks them to ‘take responsible action.’ He reminded members that this action might run through a series of options from a candid conversation with a roommate about his/her actions, to a conversation with a faculty member that opens his/her eyes to a situation. So informed, the faculty member might become the initiator to move a case forward into formal proceedings. These kinds of responsible actions are invisible and unaccounted for.

Dean Sterling noted that the document does not present much ethical framework for the code. There is merely a minimal acknowledgment reminding students that to be part of a corporate body is not only to share in the responsibility to enforce, but also that each of our actions is a reflection on the larger body. He indicated that the educational function is lacking in this document. Prof. Jacobs agreed that this is an important function, and he referred members to the Student Guide of the Honor Code which talks in much more detail about the ethos of ND and the ethical responsibilities of each community member. He stressed that the document offered today is a policy document primarily. This document is read by students in a situation of adjudication. It does not represent an effective educational vehicle. That is the function of the Student Guide; that guide will be revised after the revision of the code is finalized. That revision will offer another opportunity to revisit the educational effectiveness. He noted that he would take this comment as a friendly recommendation for that revision.

Prof. Brown asked if confidentiality should be stressed in the paragraph which states that the violation will be disclosed to the dean, advisor and rector. Prof. Jacobs said that the letter sent to the involved parties will indicate confidentiality; it will also stress the purpose of disclosure is to afford the student access to the support and assistance of a trusted confidante to learn from and process this unfortunate experience.

Prof. Fallon, identifying himself as a member of the Faculty Board on Athletics, reported that the FBA has a strong sense that informing coaches of first violations would be beneficial to students; this conclusion was reached in part through input from student-athletes. The FBA has reported to the AC that it strongly supports including coaches, as leading mentors for student-athletes, among those officials informed of a violation. Prof. Jacobs noted that his committee recognized coaches as playing a significant role in student-athletes' lives; they also recognized advisors from the Academic Services office playing a significant role. The advisor has a specific role in helping manage the academic aspects of the student-athlete's life. The committee declined to include coaches because of the concern that coaches might impose additional sanctions on a student-athlete violator, which would move the incident into a different, non-academic realm.

Dean McGreevy responded to Prof. Fallon's observation, noting that it presents a sobering picture of the honesty culture at ND. He noted, however, that the revision to the honor code represents significant progress from where ND was a decade ago, when the code was merely nominal and students were unaware of its existence and had no role in shaping it. While peer institutions may represent future models for our development, still, the Honor Committee is to be congratulated for the progress which has been made.

Prof. John Coughlin, OFM, seconded this observation. He returned to the question of protecting anonymity, mentioning that students all deserve the 'Magna Carta' protection; that is, the accused deserves to know the motivation of the accuser. Dean Newton reiterated support for the use of 'clear and convincing' evidence as a standard because it is a functional term of art with extensive case law to provide explication of meaning. Prof. Jacobs noted that when the committee considered this term, its meaning was unfamiliar to all members. Further, there was no support to include the term as a secondary support to the standard chosen. Prof. Fox suggested that the term of art would have more standing outside the university; Prof. Jacobs reported that the general counsel approved the chosen term. Provost Burish clarified that the suggestion is to add two words—and convincing—to the phrase 'far more clear;' Mr. Jacobs agreed to take that suggestion as a friendly amendment to the document.

Prof. Powers returned the discussion to the question of preserving anonymity. Prof. Jacobs clarified the investigation process in the instance of an alleged violation. The lead investigator meets with all witnesses, which provides an opportunity to identify motivations. The context of the hearing also offers a chance for motivation to be questioned. Prof. Jacobs is concerned about allowing the hearing committee the opportunity to apply the standard of evidence. It is certainly the culture at ND that students do not come forward to report alleged violations, and this problem needs to be addressed. Preservation of anonymity has been requested by the students. However, it can be excised from the revised code, and the procedure can revert to the former process.

Dean Kilpatrick concurred that a key intent of this code is to permit and encourage students to take ownership of the culture of honesty and the process of enforcing it. Will preservation of anonymity aid or hinder that intent? Members discussed this concept, with reference to models at other institutions. Prof. Jacobs said that preservation of anonymity arguably might mimic real life conditions which encourage citizens to act for the better of the community. Prof. Tenbrunsel, responding to Prof. Fallon, noted that formal systems such as a code can only go so far in changing behavior. Research shows they are nine times less successful in terms of peers' behavior. Therefore, there needs to be a reinforcing informal norm that will allow the formal code to make its impact, to inculcate the norm that it is 'cool' to reject dishonesty. Rev. Thomas Doyle, CSC, expressed his appreciation that the code recognizes the role played by social codes in conjunction with academic codes by including the rector among those to be identified about a violation. He would also like to offer a friendly amendment to include the Vice President of Student Affairs among those notified. Student Affairs often has knowledge of students in crisis which is unknown by other entities; notification of that office would enable personnel to act appropriately in special cases.

Prof. Maziar asked if there are other disciplinary practices on campus which permit evidence to be introduced anonymously. Members discussed this issue; no information is available at the moment about other practices. Dean Newton expressed her concern about this issue, as one of fundamental fairness. She suggested a two year experiment with a hard look at this one issue. Provost Burish clarified that the investigation and hearing process does not permit anonymity from the investigators; instead, it is being suggested that the reporting student's anonymity be preserved from the alleged violator only. Prof. Jacobs confirmed that description.

Prof. John Robinson offered a motion: in the relevant section, IV.D.4, on page 8, the last three lines should be replaced by the material in the box (on that page) for the purpose of calling the question on this particular point. Dean Newton seconded the motion. Prof. Jacobs clarified that the proposed motion is to strike the sentence and return to the original language of the code. A vote was taken; the motion was defeated.

The motion was made to approve the revisions to the Academic Honor Code Handbook with the friendly amendment of the addition of 'clear and convincing.' The motion was seconded and approved.

**6. Proposed Revisions to the Academic Articles—Professor Ann Tenbrunsel:**

Prof. Ann Tenbrunsel reported to the council on the proposed revisions to the Academic Articles. She briefly described the process. The Faculty Affairs (FA) Committee of the Academic Council is responsible for reviewing proposed changes to the Articles as well as making proposals for revisions. The committee reviewed all proposals. Feedback was sought from the Deans' council and the College councils, and then the FA committee reworked them, before sending the document to the general counsel for review. In almost all cases, changes were approved unanimously or very nearly unanimously. Many changes are superficial, including name changes, etc. Some changes are designed to reflect current campus practice; others are designed to encourage participation.

Prof. Tenbrunsel reviewed a series of revisions, providing brief explanations of the rationale for change; votes of approval were taken. The revisions to the Academic Articles, Article IV, Section 3 (#1-9 below) and Section 4 (#10 below), that were reviewed and approved are as follows:

1. Subsection D: Core Curriculum Committee--approved
2. Subsection E: Graduate Council—approved
3. Subsection G: University Committee on Libraries—approved
4. Subsection H: University Council for Academic Technologies—approved
5. Subsection I: University Committee on Internationalization—approved
6. Subsection J: University Committee on Admissions, Scholarships, and Financial Aid—approved

7. Subsection L: University Committee on Women Faculty and Students—approved
8. Subsection M: Provost's Advisory Committee—approved

Prof. Tenbrunsel provided explication of the changes being proposed to the Provost's Advisory Committee (PAC). The proposed changes are motivated by two linked ideas: the notion of broad-based participation and the intent to increase transparency. It is felt that, as more faculty have an opportunity to participate in the deliberations of the PAC, 'the black box is reduced a bit,' and transparency and awareness are beneficially increased. To meet these linked goals, term limits have been added to this subsection of the Academic Articles. The proposed change is as follows: a member can serve one term, with a five year gap, after which s/he can again serve one term. This change does not pertain to any current member of PAC; it will go into effect with the elections of Spring 2012.

Prof. Fallon, who opposes this change, suggested that no individual should be ineligible to run, especially if s/he is serving well and is the preferred choice of colleagues. Prof. Tenbrunsel mentioned the notion of power which comes with incumbency. It has been reported that faculty refrain from running if a faculty member chooses to retain a seat; this is seen as a bar to service. Prof. Fallon noted that the concept of incumbency would be more pressing if, like Congress, there was power to be distributed through the position on the PAC. Prof. Coughlin, noting that he voted in favor of this revision as a member of the committee, reported that a number of Law School colleagues have expressed concern about this change. The argument advanced is that it takes several years to get accustomed to how the PAC works, so limiting membership to one term gives ex officio members an advantage in the system over those who are elected. Provost Burish offered the perspective that in his tenure as Provost, there has never been a disagreement between elected and ex officio members over the decision to be made about a case before the PAC.

Dean Newton supported the increase of transparency that would result from this change. Prof. Davis agreed that transparency would be beneficially increased. Prof. Dennis Doordan supported the notion that faculty should be permitted to choose freely their representatives, especially as an expression of confidence in that member. He noted that shying from running against an incumbent is an unpersuasive reason; members have to be able 'to take the heat' on the PAC.

Dean McGreevy said the revisions proposed point to the fundamental issue of the quality of the decisions made, which will be materially improved by involving more faculty peers in the process. He disagreed that this talented faculty would find the ramp-up onerous. He welcomes the opportunity to share knowledge about the processes of the PAC with others in his college; better processes and better outcomes will be the result.

Prof. Susan Ohmer supported Dean McGreevy's remarks. She noted that the PAC is one of the few committees with no term limits; given the scrutiny and concern about the committee, this is an appropriate change. Prof. Brown noted that he was at first concerned about the issue of a power balance on the PAC. Feedback among colleagues indicates that the ramp-up is not prohibitively steep, and incumbency does not exercise too much power. The quality of the arguments is the ruling power, and the inclusion of a broader array of members will increase the quality of arguments and impact perception about the function of the PAC. Prof. Brown expressed concern, however, about the perception that the PAC has historically lacked representative numbers of minority and women members. He would ask the committee and council to give consideration to this concern.

Dean Sterling stressed that transparency concerns relate to the process of the PAC, not the specific decisions being made. Disclosure and discussion about process would be helpful to the campus community. He supports the revision as a way to add different voices to the discussions, enriching perspective and increasing buy-in from faculty.

Prof. Antsaklis asked if it is common to limit terms to one; he suggested two two-year terms and then a gap of non-service. This would broaden participation. Prof. Jim Seida, a member of the committee, said the committee had discussed and rejected that the term limits be as follows: two three-year terms followed by a five year gap.

Prof. Fallon made the motion that the term limit be two three-year terms followed by a five year gap. The motion was seconded and a vote was taken. The motion failed.

Prof. Fallon returned to the discussion of transparency. He noted that in his college, meetings are regularly scheduled and information shared with faculty about processes. He inquired about how many members do indeed serve for more than a few years; he questioned whether the small gain in transparency is compensating for or justifies the loss of faculty freedom to vote for the member of their choice. Prof. Tenbrunsel did not have these data; she noted that one

issue is the *perception* of non-transparency as much as any actual lack of transparency.

Members voted to approve the originally-proposed revision. The motion was approved by a majority.

9. Subsection K: Faculty Board on Athletics—approved

Prof. Tenbrunsel explained the rationale of the proposed revisions. She noted that she serves on Faculty Board on Athletics (FBA), as do several council members present today. She noted that the discussion of term limits for PAC introduced the question of whether or not term limits should be imposed on other committee memberships. Faculty feedback indicates that more faculty would like the opportunity to serve on FBA, an important committee which reports directly to President Jenkins, CSC.

The proposed change is to limit service to two consecutive or nonconsecutive terms in an eight year period, followed by a five year gap (the language is justified by the disjunction between college terms and the election cycle).

Prof. Antsaklis asked about the rationale of two terms. Prof. Tenbrunsel said that it is believed that service to this committee requires expertise which is acquired over the longer period of service. She noted that the Academic Council eliminated term limits for the Chair of FBA several years ago. Various members objected to the contention that the ramp-up to expertise is steep. Others offered arguments to the contrary. Dean Page noted that the quantity of information and the specialization of the language represent a significant challenge for members and others voluntarily involved with the Department of Athletics.

Prof. Maziar, noting that an *ex officio* member might be a faculty member also, suggested the language be modified to read 'with the exception of those serving in *ex officio* capacity.'

Prof. Coughlin offered the observations of Prof. Tricia Bellia, chair of FBA and Law School professor. He reported that Prof. Bellia believes the current term limitation is working well and need not be changed. The Board is 'not enthusiastic' about these changes. Rev. Doyle, *ex officio* member of FBA, noted that a difference between the PAC and the FBA is that the PAC is staffed with and led by officials deeply familiar with the topic under discussion, whereas FBA is staffed with and run by amateurs. He noted that staff from the Department of Athletics are *ex officio* members of FBA. The complexity of NCAA regulations

and the importance of a thorough understanding of the complex and enormous body of information have determined his opposition to the proposed change.

Prof. Coughlin noted that it is possible that built-in gaps in term limits might negatively impact minority and female membership. Prof. Brown said that since the proposed changes apply to both elected and appointed members, which was not so with the PAC, increasing turnover on the FBA might address imbalances.

Prof. Fallon, a member of the FBA, stated that since there are no term limits for *ex officio* members, administration could appoint an *ex officio* member who serves for a lengthy number of years, while faculty are prevented from voting for the member of their choice by term limitations; this would be disastrous. In practice, voted members bring in the value of their perspectives, such as minority or female. This proposal would make it more difficult to retain minorities to the Board. He noted that the Board publishes its minutes, as a source of public information. He stated that Chair Bellia is opposed to the proposed change because of the concern that more power will be concentrated in the hands of the chair and the *ex officio* members. In examining 11 years of service data, Prof. Bellia found that average length of membership is 4.6 years of accumulated service. These data do not support the rationale offered for this change. Prof. Fallon also reported that, due to election cycles, a five year gap is in reality a six year hiatus, while the current gap of one year is in actuality a three year hiatus. He reiterated that the proposed change negatively impacts faculty freedom to vote for the members of their choice; the reasons offered for the change are not compelling.

Prof. Davis suggested that the difference between this proposed change and that of the PAC is that faculty have expressed a desire to serve on the FBA. Because it is advantageous to serve on the FBA, faculty members' ability to attain membership is impacted; this is not so for the PAC. Prof. Antsaklis dismissed the argument that a steep learning curve for the FBA should determine membership; he noted that such a rationale would debar everyone from serving on the Academic Council. He stated that all committees have access to experts to assist in deliberations. Prof. Tenbrunsel again offered that the body of knowledge which is the focus of the FBA is more complex than many would think.

Dean Newton suggested that the question of perks for the FBA membership be separated from the discussion of term limitations. Prof. Fallon reported that Chair Bellia supports a limitation on perks for service. Dean Page commented on one perk: travel. He noted that traveling with teams offers faculty and

administrators the opportunity to see firsthand the challenges student-athletes face in balancing the demands of classroom and field; he has felt deep admiration and respect for what these young people accomplish. If this perk were eliminated, consideration must be given to other ways to inform the FBA members of this aspect of the experience. Prof. Pope-Davis reported that, in the past, the FBA members have been assigned as liaisons to teams, which insures a significant level of relationship with student-athletes. He distinguished this perk from those such as free tickets to sporting events. Provost Burish noted that this question is outside of today's purview.

Prof. Powers offered agreement with Prof. Antsaklis; he would support a term limitation of one term of service.

The proposed revisions were voted on by members, and the revisions were approved by a majority of members.

#### 10. Section IV: College Councils—approved

Prof. Tenbrunsel noted that functions have been added to the tasks of the College Councils. Instead of requiring the Academic Council to approve non-degree granting programs, that function is forwarded to the Provost. The Academic Council will still approve changes to degree programs, which will be forwarded to them from College Councils.

Dean Sterling requested that the language clearly state this function is limited to undergraduate programs. Graduate degree programs need the approval of the Graduate Council. Prof. Tenbrunsel agreed to add 'undergraduate' to the sentence. Members discussed whether the language in section E clearly establishes the procedure for graduate programs. Provost Burish suggested that, since the discussion focused on language rather than content, Dean Sterling and Prof. Tenbrunsel be charged to work on the language to be inserted to clarify this point, that the function being revised pertains only and specifically to undergraduate programs. Prof. Jacobs supported the suggestion that the language be added to the Academic Articles for the Graduate Council and then be referred to in this section. He noted, too, that the section of the Academic Articles which describes the functions of the Academic Council reads 'programs of study' which is broad and inclusive. He offered the friendly amendment to insert the phrase 'degree granting programs' here to be consistent. This amendment was accepted by the committee.

Mr. Kevin Barry asked about the ability to create supplementary majors and

minors. It was agreed that these are not degree granting programs and are under the purview of the Academic Council. Provost Burish noted that this revision will prevent the Academic Council from having to approve decisions such as a department's request to eliminate two classes from its curriculum. Rev. Doyle asked if the creation of a center need come to Academic Council. Prof. Tenbrunsel acknowledged that the committee could not reach agreement on this section, as there are a set of inconsistencies which will need to be dealt with by the committee in the next academic year.

Mr. A. J. McGauley stated that he is uncomfortable with the idea that colleges are able to create and eliminate programs without the approval of the Academic Council.

Capt. Dale Nees asked if it is assumed that the councils are shared between colleges when there is a shared program; is a collaborative effort assumed. Provost Burish said that language is inserted elsewhere that says any degree program that requires courses in other colleges must have the approval of that college; such a requirement cannot be created without the agreement of the other college to offer such a course.

The revisions were approved by a majority of members.

The Provost thanked members for their attention to today's important decisions. He thanked all the presenters and their committees for their devotion to the tasks assigned them. He thanked members for a great year, and wished them a terrific summer.

The meeting was adjourned.

*ADDENDUM: Fr. John Jenkins approved the revisions to the Undergraduate Academic Code, the Undergraduate Student Academic Code of Honor Handbook, and Article IV, Sections 3 and 4 of the Academic Articles on June 6, 2011.*