

**ACADEMIC COUNCIL
THE UNIVERSITY OF NOTRE DAME
MEETING OF JANUARY 17, 2002**

Members Present: Rev. Edward Malloy, C.S.C., Nathan Hatch, Rev. Timothy Scully, C.S.C., John Affleck-Graves, Rev. John Jenkins, C.S.C., Maura Ryan, Jeffrey Kantor, Rev. Mark Poorman, C.S.C., Frank Incropera, Eileen Kolman, Patricia O'Hara, Mark Roche, Carolyn Woo, Jennifer Younger, Jacqueline Brogan, Sonia Gernes, J. Robert Wegs, Joan Aldous, Patricia Blanchette, Susan Blum, Cornelius Delaney, Vittorio Hosle, Umesh Garg, Mitchell Wayne, Joseph Powers, Panos Antsaklis, Edward Conlon, Robert Bretz, Jay Tidmarsh, Dino Marcantonio, Alan Krieger, Kenneth DeBoer, Ava Preacher, Samantha Schmid

Members Excused: Francis Castellino, Melissa Rauch, Teresa Ghilarducci, Ikaros Bigi, Sonja Mapes, Stephanie Arnett

Observers Present: Mary Hendriksen, Dennis K. Moore, Col. Mark Gehri, Harold Pace, Tom Laughner, Julia Dayton

Observers Excused: Dan Saracino

Guests: Prof. Michael Zuckert, Acting Chair, Department of Government and International Studies

Fr. Malloy called the meeting to order at 3:05 p.m. Fr. Jenkins offered a prayer.

1. Minutes of the Meetings of September 17, 2001, and October 16, 2001. The minutes of the meetings of September 17, 2001, and October 16, 2001, were approved without amendment.

2. Name change: Department of Government and International Studies to Department of Political Science. Prof. Hatch introduced the proposal advanced by the Faculty Affairs Committee to change the name of the Department of Government and International Studies to the Department of Political Science.

Prof. Michael Zuckert, Acting Chair of the department, was invited to the meeting to provide the department's reasons for initiating the proposed change. Prof. Zuckert began by referring to his letter of October 26, 2001, to Dean Roche (Attachment A) which states that in voting to recommend the name change, department members recognized that "political science" most accurately captures the way the discipline is defined at the majority of American colleges and universities and in the relevant

professional associations. Prof. Zuckert said a more substantive reason for the change is that “government” is actually only one piece of politics or political science.

Prof. Roche, Dean of the College of Arts and Letters, endorsed the name change. He said that other options were proposed, but “Department of Political Science” received the most support. Prof. Roche said the main objection to the change – that it might signify the adoption of a heavily scientific approach – is addressed in Prof. Zuckert’s letter. As stated there, political science includes “vibrant ‘non-scientific’ fields such as political philosophy, politics and literature, historical and institutional approaches to politics,” and the department has made clear that, whatever its name, “an emphasis on the inclusion of normative, historical and institutional considerations” will remain central to it.

Fr. Malloy asked for a vote on the proposal to change the name of the Department of Government and International Studies to the Department of Political Science. It was approved unanimously.

3. Change to Constitutions of Institutes and Centers. Prof. Hatch read a proposal advanced by unanimous consent of the Executive Committee: “Any constitution of an institute or center that stipulates approval of the Academic Council for changes to the constitution will henceforth be directed to the Provost or appropriate supervisor.” He explained that the proposal arose when, while revising its constitution, members of the Kellogg Institute of International Studies learned that any amendments to it must be sent to the Provost for approval by the Academic Council. Asking for the Council’s approval is not typical, Prof. Hatch said; thus, the Executive Committee wrote this proposal to handle any similar provisions in the constitutions of other centers and institutes.

Prof. Garg commented that it is not clear what the constitutions of the University’s many centers and institutes provide for approval of amendments. He is concerned that some changes to the constitutions might be for the worse, as he believes is the case with one proposed change in the Kellogg Institute’s constitution. Prof. Garg said he hopes that the Provost’s Office will take a good look at any proposed amendments before approving them.

A motion was made to accept the proposal to refer changes in institutes’ and centers’ constitutions to the Provost or appropriate supervisor; Council members voted unanimously to approve it.

4. Change to the “College Councils” Section of the Faculty Handbook. Prof. Roche introduced the recommendation of the Faculty Affairs Committee to delete the following sentence from the 2001-2002 *Faculty Handbook* (Article IV, Section 4, page 37):

The College Council of each undergraduate College consists of the Dean of the College, Associate and Assistant Deans, the Chairpersons of all Departments under the jurisdiction of the College, and elected representatives of the College faculty in a number equal to the number of *ex officio* members.

It would be replaced by the following two sentences:

The College Council of each undergraduate College consists of an equal number of *ex officio* and elected members. The *ex officio* members of each undergraduate College consist of the Dean of the College, Associate and Assistant Deans, the Chairpersons of all departments under the jurisdiction of the College, and any other administrators designated by the respective College Council.

Prof. Roche explained that the amendment originated in a committee he chaired on the interrelation of the departments and centers and institutes in the College of Arts and Letters. As part of the committee's deliberations, members weighed whether institute and center directors should be part of the College Council, whether they should be – as is the status quo – only members if they are elected, whether they should be invited guests, or whether changes should be sought in the *Academic Articles* to allow them to be voting members. While the committee chose the middle path – to allow the directors to be invited guests – in the process of their deliberations members realized that other administrators exist who, while neither associate or assistant deans nor chairpersons, are very central to the goals of the College. The Director of the Core Course is a good example. Thus, the College Council for Arts and Letters passed a resolution to amend the *Academic Articles* by allowing it to appoint as *ex officio* members administrators other than deans and chairpersons. (The Council must match any additional *ex officio* members with elected members.) Anticipating that its counterparts in other colleges might wish to do the same, the Council constructed the proposed amendment in general language so that it would apply to all the University's undergraduate College Councils.

Fr. Malloy asked for a vote on the proposed amendment to the *Faculty Handbook* to allow the appointment to College Councils, as *ex officio* members, administrators other than deans and departmental chairpersons. It was approved unanimously.

Fr. Malloy noted that, as with any amendments to the *Academic Articles*, the amendment must be submitted to the Board of Trustees for approval.

5. Joint Committee of the Academic Council and the Faculty Senate (Information Item). Prof. Affleck-Graves reported that the Executive Committee of the Faculty Senate asked the Executive Committee of the Academic Council to join with it in

forming a nine-member committee to examine the possible restructuring of the Faculty Senate. The Executive Committee agreed to the request and elected four of its members to the committee: Profs. John Affleck-Graves, Panos Antsaklis, Neil Delaney, and Sonia Gernes. All four also serve on the Faculty Affairs Subcommittee. The Faculty Senate has appointed four members to the committee as well: Prof. Jacque Brogan, chair of the Faculty Senate, will serve as chair of the joint committee.

6. Health Benefits for Graduate Students. Prof. Tidmarsh, a member of the Graduate Studies Committee, provided background on the committee's recommendation that the University provide serious consideration to providing improved health insurance for graduate students. (Attachment B)

Prof. Tidmarsh explained that last year Prof. Umesh Garg, chair of the Graduate Studies Committee, met with members of the Graduate Student Union to discuss various concerns. Prof. Merz, then dean of the Graduate School, attended the meeting as well. While a number of issues were raised, the graduate students said that their most pressing concern was the lack of adequate health care insurance. In adopting the issue this fall as an agenda item and investigating it further, members of the Graduate Studies Committee determined that the health insurance presently made available to graduate and professional students is inadequate. The current healthcare package provides only limited benefits and often fails to cover expensive medical procedures. Health insurance is unavailable to spouses and children.

Prof. Tidmarsh said that committee members became convinced that improving the health insurance benefits of graduate students is not only a matter of justice for the students, it is an academic issue as well. In the quality of the health insurance it offers, Notre Dame is not competitive with highly regarded graduate programs at other institutions. Thus, it is at something of a disadvantage in attracting the kinds of graduate students it would like to attract. Furthermore, as Prof. Kantor, now dean of the Graduate School and a member of the Graduate Studies Committee, has pointed out in the committee's discussions, there has been some difficulty with graduate students completing programs in a timely fashion because of various health care issues that arise. For example, some students must find extra employment to cover health care expenses that are not covered by the present plan.

Prof. Tidmarsh said that the Graduate Studies Committee drafted a resolution stronger than the resolution presented for Council members' consideration today. It called for action by the University within the next few years to bring its insurance program for graduate students up to the level of those offered by comparable universities. Then, it called on the administration over the next four or five-year period to try to achieve a leadership position with regard to health insurance. The committee's resolution was amended by the Executive Committee to read:

The Academic Council recognizes the need to provide graduate student health care benefits and strongly recommends that as future budget

decisions are made, this issue receive serious consideration both for academic and social justice reasons. We further expect that either when this is realized, or after two years (whichever comes first), a report be made to the Academic Council by the Dean of the Graduate School.

Prof. Tidmarsh said that throughout consideration of the health insurance issue, the committee has worked with Prof. Kantor and Jim Powell, Associate Dean of the Graduate School. Both have been very supportive of the proposal and of the idea of moving first towards a competitive position and then a leadership position with graduate students' health benefits. Given the present financial situation, however, the major issue for the University is the amount of funds it would take to achieve that level of benefits.

Prof. Kantor said he very much welcomes the conversation on graduate student health benefits and the present resolution. They will help to move forward for action a long-standing issue at the University. Prof. Kantor pointed out that graduate students are a unique population. They are neither undergraduates – who are usually covered through their families' health care policies – nor staff, for whom health insurance is understood to be a matter of compensation.

Prof. Kantor said that in coming to a resolution of the issue, there are two matters to consider: the amount of funding needed to provide the desired health insurance coverage and the extent of the coverage. The programs in place now do not appear to meet the needs of the students. The University has worked very hard to moderate the cost of the current health insurance package, but that may have come at some compromise in the quality of the programs offered. When considering the issue of improved health care benefits, the University must also determine which graduate students are eligible for them. There are many graduate students with fellowships in programs in the Colleges of Arts and Letters, Science, and Engineering, but there are also self-paying students in those programs and in the Law School who give the question of subsidizing health care a different character. These questions will be explored in some depth this spring so that the full implications of the committee's proposal can be studied. To date, the committee has worked with Student Affairs, Student Health Services, and Human Resources, all of which bring a good deal of expertise to the issue.

Prof. Kantor continued that when Notre Dame looks at other highly ranked graduate schools, approximately 75% offer some sort of subsidization of health benefits. Of those offering the benefits, the standard level of contribution by the institution is an amount equal to about 75% of its cost.

Prof. Kantor concluded by reiterating that the issue of improved health benefits for graduate students is a cash issue and, thus, one the University must take on over time. This year is a tight budget year. Among its other goals, administrators of the graduate program must strive to keep expenses competitive. It cannot backtrack on

that. Another goal of the Graduate School is ensuring that graduate students' stipends are about 75% of those at peer institutions. In addition, the Graduate School has commitments to existing programs. Thus, the issue of improved health insurance for graduate students must compete with the school's other goals.

Ms. Dayton, the Academic Council's graduate observer, said that it is the opinion of most graduate students that present health insurance coverage is less than satisfactory. The resolution put forward today demonstrates to this segment of the University that administrators are paying attention to their concerns.

Prof. Ryan said that the last sentence of the resolution is unclear. What did the committee intend by it?

Prof. Garg responded by saying that the committee expects the issue of improved health benefits for graduate students to be resolved within the next two years; however, if for some reason it is not, the Academic Council is to hear from the dean of the Graduate School where the University stands on the issue.

Prof. Kantor said he would be happy to report on whatever outcome there is in two years, no matter where the issue stands.

Prof. Aldous said that health care for graduate students is an old issue. It came up at least five years ago in the Graduate Studies Committee. Graduate students, particularly those with families, feel very strongly about the lack of good benefits. Providing adequate health care coverage to these students and their families is a statement of what the institution is about. If Notre Dame is about taking care of families, then it should act accordingly. The Council should move ahead and act on the issue itself, not merely vote to have a report on the status of the issue if it is not resolved.

Prof. Garg agreed that the issue has been discussed for many years. The problem, he said, is that the Academic Council is not authorized to make budgetary decisions. Thus, the resolution was given its present wording to indicate that the Council recognizes the importance of better health care coverage – both for the benefit of graduate students and the University – and is willing to put its weight behind advocating it. If the Council chooses, it could reduce the expected action time to one year.

Prof. Roche said he was one of the members of the Executive Committee who argued for different language than that presented by the committee, primarily because the Executive Committee was being asked to make a decision in a vacuum. There were no figures provided on what improved health care coverage for graduate students would cost, and he is not in favor of approving resolutions without knowing what costs they would require the University to incur. Second, the Executive Committee was not given figures allowing it to see where the University stands in relation to its peers.

Third, and most importantly, he is absolutely opposed to making *ad hoc* budgetary decisions. Competing demands for funds should all be examined at the appropriate time, ranked, and assigned priorities. While improved health care benefits for graduate students is an item that should be high on the charts, decision makers need to know what they are choosing *not* to fund if they do choose to expand health care benefits for graduate students. Thus, the wording of the present resolution is more a decision about process than a decision on the subject itself.

Prof. Aldous said she would be surprised if the necessary data are not available. The committee had the data five years ago; surely, only updating is necessary now.

Prof. Kantor said while relevant data exist, unfortunately, specific costs figures were not communicated as part of the resolution.

Prof. Garg said while what is a “reasonable” policy is a matter of opinion, a single insurance policy would most likely cost about \$750 a year per student. If the University chooses the benchmark figure of funding 75% of the cost, that would mean a \$500 subsidy per student per year. Given that there are about 1,400 graduate students, nearly 1,600 if professional students are included, the total amount the University would incur for the target health insurance benefits is \$800,000 or less a year. To look at it another way, the amount would represent about 50 stipends a year.

Prof. Kantor said that for a variety of reasons he does not want to go too far with the budget discussion. To speak to Prof. Roche’s point about relative priorities, as he has said, the Graduate School already has a number of goals in place – for example, to remain competitive, it is absolutely vital for it to maintain the level of its stipends. The issue of health care benefits is one more piece of the whole budget package. It would be a mistake to look at any one of these items without the others. It is a question of how the University can put resources together to build the most effective graduate program it can and of how the Graduate School can continue to make progress on many fronts.

Prof. Gernes suggested that the Council amend the resolution to read: “We further expect that either when action is taken or after two years, whichever comes first, a report be made.” That would clear up the ambiguity Prof. Ryan pointed out, as well as adding a little more push to the proposal by making clear that the Council expects administrators to take action on the issue rather than only give it serious consideration.

Prof. Tidmarsh offered what he said was a different version of the same idea: “We further expect that either when a competitive health insurance package is realized, or after two years, whichever comes first, a report will come forth.”

Prof. Gernes agreed to accept Prof. Tidmarsh’s version, which Fr. Malloy said could be accepted as a friendly amendment.

Prof. Antsaklis asked if any support existed for reducing the timetable to one year.

Prof. Kantor replied that the budget for next year has already been completed. As a budget item, the earliest that the health care coverage issue can be considered is Fall 2002, which would mean implementation in Fall 2003.

Fr. Malloy asked for a vote on the motion, as amended, to recommend that the issue of health care benefits for graduate students receive serious consideration and that the Council receive a report on the subject either when a competitive health insurance package is realized or after two years, whichever comes first. It passed unanimously.

7. Excused Absences for Undergraduate Opportunities. Prof. Roche said that the Undergraduate Studies Committee received a resolution from the Student Senate Academic Affairs Committee that it discussed in committee and eventually wrote into the proposal included in the minutes as Attachment C. He explained that the origin of the request is that graduating seniors often must travel away from campus for interviews, whether for a fellowship opportunity or employment, and some have had extraordinarily different experiences with faculty members because of those absences. Some faculty ask for verification of the interviews and allow a reasonable number of absences. Others do not require any documentation and are willing to excuse a number of absences for this purpose. Still others, even with documentation, will not approve absences related to interviews and exercise their right to adjust grades if students miss above the number of allowed absences.

Prof. Roche said the committee discussed a number of strategies to address the issue. One was to give a particular number of excused "interview absences" to students, which was what the original resolution proposed. The committee decided, however, that prescribing a set number of excused absences was too difficult a task. Members also discussed requiring students to provide the faculty member with a certain amount of advance notice of the absence, but they decided this was problematical as well, because call-backs for interviews frequently occur in a very short time-frame. In the end, the committee decided simply to ask for: (1) good judgment on the part of students to plan for interviews as appropriately as possible; (2) faculty members to outline their absence policies, and (3) establishment of a mediator, the dean of each college, to handle those situations students and professors could not resolve on their own. Prof. Roche added that committee members considered proposing that Student Affairs, which deals with other excused absences, fill the role of mediator; however, because absence from class for interviews is an academic matter, members decided that role would be filled more appropriately by the deans' offices. The proposal received unanimous support in committee.

Prof. O'Hara, Dean of the Law School, asked that the Council insert the word "undergraduate" into lines 1 and 4 of the resolution, so that it reads: "The University recognizes the importance of preparing *undergraduate* students for life beyond the University. . ." and ". . . faculty members take into account the crucial importance of interviews for *undergraduate* students . . ." She wants it to be clear that the Law School would not be bound by the proposed policy.

Prof. Roche agreed to accept Prof. O'Hara's amendment.

Prof. Incropera, Dean of the School of Engineering, said he was surprised that the issue has come as far as a resolution. In Engineering, students are often away from class for two or three days for interviews, yet he has never encountered a situation in which the faculty member and the student could not resolve issues surrounding the absence themselves. Is a resolution actually necessary?

Prof. Roche said he believes that it is. In submitting their proposal, the students said that "a number of students" have suffered grade reductions for absences in connection with interviews.

Prof. Affleck-Graves agreed that issues exist surrounding students' absences from class for interviews. When he was department chair, a student asked him to intervene after being penalized half-a-letter grade for missing class to attend an interview. Although Prof. Affleck-Graves spoke to the instructor, he indicated that he would not change the grade – and the student was left without a mechanism for appeal.

Prof. Preacher said she knows of Arts and Letters students who suffered a grade reduction to attend medical school interviews.

Prof. Incropera said, given his colleagues' assessment of the matter, he would ask for only one change. Rather than designating the dean to act as mediator, could the Council assign that role to the chair of the student's department?

Prof. Roche said, in practice, the matter would most likely fall to the assistant deans, who have experience in such matters and more knowledge of students' records. The use of the word "dean" is merely to conform to language that is standard in the *Academic Articles*. He does not expect deans to personally mediate any conflicts.

Prof. Incropera responded that he does not have an assistant dean – only a very overloaded associate dean responsible for academic programs. Yet, because the issue does not seem to arise in the College of Engineering, he will not object.

Prof. Powers said he has expressed to Prof. Roche his concerns with the ambiguous wording of the resolution. A faculty member may very well have one idea of what is a "reasonable number" of absences and a student another. While the resolution establishes the dean as a mediator, his or her intervention may come too late

in the process. Thus, he would urge more clarification and quantification.

Prof. Preacher answered that such an approach was discussed in committee, but because of the nearly infinite variety of individual standards and situations, members were reluctant to specify an exact number of absences. The point of the resolution is that the deans' offices can now help when there is intractability. The resolution is not intended to adjudicate the entire matter by specifying a certain number of excused absences for interviews.

Fr. Jenkins said he disagrees with Prof. Powers that the resolution fails to help either students or faculty. If it is adopted, when there is a stand-off between an instructor and a student because of an absence related to an interview, the college's dean can resolve the matter. While the resolution does not tell the deans what precise standard to apply, it is presumed that conflicts will be resolved by application of common sense.

Ms. Schmid commented that the students who will ask their dean to intervene will be conscientious students who have incurred their absences legitimately – not students who have piled up absences for various unexcused reasons, such as sleeping in.

Prof. Powers said he is still curious as to what a dean might deem a reasonable number of absences.

Prof. Preacher said that question was considered in committee, primarily because members discussed whether a student's absences for interviews should be combined with absences for other reasons when considering a particular instructor's allotted number of excused absences. Generally, members seemed to consider that three absences is a reasonable number. Beyond that, there are likely to be differences of opinion.

Prof. Incropera asked whether it is the norm to take attendance in class.

Prof. Garg answered that many high-level courses seniors take do have attendance requirements.

Fr. Malloy said it is a University standard for each faculty member to announce his or her expectations of attendance at the first class. Anecdotally, he hears that some professors have no standards of attendance; thus, in a large class that may mean only half the students might attend a given class. While he does not particularly like that situation, it conforms to the standard.

Prof. Brogan said in the English department, faculty members are discussing changing the Capstone course to a junior-level seminar. Many graduating seniors are, mentally at least, already gone – besides the fact that they may be physically absent for

interviews. Nonetheless, as it stands now, many of the senior-level seminars are quite small and attendance is critical. She is stunned, however, to hear that missing class for interviews has been a problem for students. Whenever a senior has informed her of an upcoming absence due to an interview, she has extended her best wishes and has never experienced any abuse of her attendance requirement. The potential for abuse seems to be in the University's larger classes, where attendance is already more iffy. She agrees that it is a good idea to establish the deans' office as a place to resolve conflicts between students and instructors.

Fr. Malloy called for a vote on the Undergraduate Studies Committee's resolution concerning excused absences for postgraduate opportunities. It was approved by a voice vote, in which there were two "nays."

8. Academic Code of Honor Handbook.

- I. Introduction**
- II. Pledge to Abide by the Honor Code**
- III. The University Committee on the Academic Code of Honor**
- IV. Student and Faculty Responsibilities Under the Academic Code of Honor**
- V. Honesty Committees**
- VI. Procedures**

Fr. Jenkins said that as all who have served on the Academic Council for more than a few years know, revising the University's Honor Code has been a lengthy process. The present attempt began last year, when he was asked to head up the subcommittee of the Undergraduate Studies Committee charged with making the revisions. Profs. Woo and Blantz provided much assistance to him at that early stage. When this year's Undergraduate Studies Committee inherited the task, members examined problems with the current Honor Code, drafted revisions, and took the revisions to various bodies – including Student Government, Honor Code chairs, deans, members of the Provost's Office, and University Counsel – for their reactions, which were then incorporated into the revisions. That long process has culminated in the document presented to the Council today (Attachment C).

Fr. Jenkins asked for the comments of Academic Council members on the proposed revisions.

Prof. Hosle said that he was a bit surprised by the draft's enumeration of the duties of a student who believes that another student has breached the Honor Code. Section IV(A)(4) provides that a student who witnesses a violation or has reason to believe that a violation occurred "may use discretion to choose among several possible courses of action. These possible actions include . . ." The draft then lists several possibilities – for example, urging the student who violated the Code to report himself or

herself, or speaking to the instructor of the course, or submitting a written report of the allegation to a member of the appropriate Honesty Committee. Because the proposed revision says that “possible actions *include*. . .” does that mean that there are other options for the student who witnesses or suspects a violation, including the option of doing nothing?

Fr. Jenkins responded that under this Code, the answer is, “no.” The ideal of the proposed revisions is the same as the many versions of the Honor Code that have preceded it: Students are to take responsibility for their fellow students living up to the Code’s principles of integrity. That is the hope. It may not be true in practice because there are not many students who report fellow students, but it is the ideal.

Prof. Hosle then asked that as a professor, if he discovers dishonesty by one student and knowledge of the dishonesty by another student – who chose *not* to take one of the courses of action set forth in Section IV(A)(4) – is he obliged to take action against *both* students?

Fr. Jenkins said, of necessity, there are ambiguities in the Code. He does not want to put faculty members in the position of taking action against students who witness a violation by a fellow student or believe that one has been committed but fail to report it. He does not know of a case in which a student has been brought before an Honesty Committee for failing to report another student’s violation, and he doubts that anyone at the University wants that to occur. Yet, the ideal is that any student who witnesses a violation of the Code by another student or believes that one has occurred would take appropriate action.

After noting that he has been involved in discussions of the Honor Code for more than nineteen years, Fr. Malloy said an integral expectation of the codes of ethics adopted by the various professions is not only that each member of the group personally pledges to live by the principles of integrity the code articulates, but he or she pledges to hold others accountable to them as well. Each member has a vested interest and a moral responsibility in how *others* act, not merely in his or her own actions. The question then is how one exercises that responsibility. The history of behavior under professional codes reveals that many alternatives have emerged over time. The most obvious is for the witness to confront the perpetrator individually. Another is to join with others in confronting him – a course of action for which there are Biblical examples. A third alternative is to make provision for others to discover the misconduct, especially when it has been persistent.

The reason honor codes have emerged in higher education, Fr. Malloy continued, is that students are preparing themselves during these years for participation in various social frameworks, such as the professions, in which they will be responsible for their own conduct and the conduct of others. Student honor codes are not intended to create a kind of Fascist state or an atmosphere of suspicion. The intent of an honor code is to set forth possible responses to significant misdeeds or a lack of responsibility

on the part of a member of the community who has agreed to abide by certain principles. He realizes that all evidence points to the fact that people are reluctant to speak out about someone else. That is true even in the most rarefied professional circles. But, in the absence of that expectation of responsibility, there is not an honor code.

Prof. Hosle said another question regarding responsibilities under the Code arises when a professor receives a student paper he or she suspects to have been plagiarized, undertakes some work on the Internet to find the possible source, yet finds nothing. Still, suspicions remain. Is there any office or person at the University faculty members could call on for help in such a situation?

Fr. Jenkins replied that there are services to which the University can subscribe – and it most likely will – that perform searches on the Internet for the sources of papers believed to be plagiarized. The problem is that a student will most likely change the paper enough to make the search extremely difficult.

Prof. Brogan said in English classes it is very easy for a student to plagiarize by taking parts of various articles or books and weaving them together. Perhaps once every three years, a student has turned in a paper she knows to be plagiarized, but she is unable to track down the source or sources. When this has occurred, she has gone into the classroom and announced that, “The papers are graded, but I’m not giving them back because one of you has plagiarized. I can’t imagine the amount of stress you’re feeling” – so much so that you have plagiarized – “but you have exactly one hour to get to my office to explain the extenuating circumstances that provoked this behavior.” In every instance, the student has come to her office and confessed.

Prof. Hosle asked Prof. Brogan if she then reported the incident to the Honesty Committee.

Prof. Brogan said she has not. She has worked with the student and had a serious talk with him or her about how plagiarism can lead to dismissal from the University. She has tried not to “simply squish them as bugs.” In every case, she said, the students have known their guilt and have been remorseful.

Returning to Prof. Hosle’s question about the option of a fellow student “doing nothing” when he or she suspects or witnesses another student’s dishonesty, Fr. Malloy reiterated that the option of doing nothing undermines the credibility of the system, even though it may be a choice that some, even the majority of people, make.

Prof. Marcantonio said the word “may” in Section IV(A)(4) is a bit ambiguous. The language is “. . . the student *may* use discretion to choose among several possible courses of action.” That seems to suggest that doing nothing *is* a possibility.

Prof. DeBoer said the word “must” in the first paragraph of Section IV(4) takes precedence – “If aware of a likely Academic Code of Honor violation, a student *must* take responsible action . . .”

Prof. Delaney said that if the Council wants to make clear the ideal Fr. Malloy has articulated, the words “They are” could be substituted for the phrase “These possible actions include . . .” followed by the listing of subsections (a) through (d).

Fr. Jenkins discouraged the amendment. The Honor Code, he said, does two things. First, it is a statement of ideals and moral suasion, evidenced by Section II, the Pledge to Abide by the Honor Code:

The undergraduate students of the University of Notre Dame, united in a spirit of mutual trust and fellowship, mindful of the values of a true education and the challenge posed by the world, agree to accept the responsibilities for honorable conduct in all academic activities, to assist one another in maintaining and promoting personal integrity, and to abide by the principles and procedures in the Academic Code of Honor.

At the same time, however, the Code is a document that sets forth the procedures to follow when an instance of dishonesty is suspected or discovered. He does not want to put the University in a situation in which it must prosecute every student who may have known about a case of cheating. If the Council removes the ambiguity, it would do so. On the other hand, Fr. Jenkins said, he does not want to add a subsection saying, essentially, that students who witness cheating can do nothing. That undermines the principles of the Code.

Ms. Schmid said the present wording does make clear that a student who witnesses or suspects dishonesty must take some sort of action. Students should be able to determine what constitutes a responsible action. The subsections in IV(A)(4) list several possible options, but there are others. For instance, the action Prof. Brogan took when she suspected dishonesty by a student was a responsible course of action, although it is not one listed in the Code. Likewise, options that do not need to be listed exist for students who witness another student’s dishonesty; however, the Code is clear that some sort of action *must* be taken.

Col. Gehri pointed out that the code of honor for the Air Force Academy contains a phrase that cadets will not “tolerate anyone amongst us” who does engage in dishonesty. The Academy has spent thirty years working to make that phrase more ambiguous because it does not always allow for decisions made from the heart. Based on that experience, he supports this wording. It allows for some ambiguity, but as Fr. Malloy has pointed out, without something similar to a no-toleration clause, there is no honor code.

Prof. Garg said just as with students who witness dishonesty, the Code *requires* faculty members who know of a student's dishonesty to report it to the departmental Honesty Committee. There is no option to accept whatever extenuating circumstances the student offers and to excuse him or her. As he understands the Code, the actions Prof. Brogan described are not an option for faculty.

Fr. Jenkins said the situation Prof. Brogan described led to a great pedagogical moment. The student who confessed to her probably learned a good deal from their talk. Her response was a reasonable one for which the Code must leave room. On the other hand, the University does not want faculty members to ignore the Honor Code. As he has said, it is impossible for the Code to outline and account for all circumstances. Provision for the use of discretion on the part of students and faculty must be a part of the Code.

Prof. Marcantonio asked whether it is true that faculty are bound to report students' dishonesty.

Fr. Jenkins said that it is. He pointed to Section IV(B)(4)(c).

Returning to the subject of students' responsibilities under the Code, Prof. Preacher spoke in favor of Prof. Delaney's suggestion to replace the phrase "These possible actions include. . ." with "They are," followed by a listing. The option to do nothing always exists, regardless of what the document says and whether or not administrators and faculty approve. If a student decides not to come forward, no one will ever know; however, it is important to tell students the possibilities for action when they are considering coming forward. In her experience, when a student picks up a copy of the Code, it is generally because they *do* want to come forward. They are seeking guidance on their options.

Prof. Preacher continued that a problem she has experienced that can occur in situations such as Prof. Brogan described is that a student will come to her and say: "My teacher just accused me of plagiarism. I can't go back to that classroom. I want to drop that class right now." This situation presents the deans' offices with a real problem. If a professor has accused a student of plagiarism, the matter should go to an Honesty Committee for adjudication because if a student has violated the Code, he or she cannot drop the course. They must take an "F." While the approach Prof. Brogan described is very humane, it leaves administrators with real problems – ones that walk through her door every single day.

Prof. Brogan asked to clarify her description of the instances in which she has not reported plagiarism to an Honesty Committee. These are not cases in which she has *accused* a student of plagiarism. Instead, she has made a general statement to the class that she knows plagiarism has occurred and the perpetrator has one hour to come forward. A student does, in fact, confess and they have a very serious talk. In the situation she has described, the student has never tried to drop the class. In most

cases, it has been a First Year student who always made straight “A’s” in high school but is now taking Calculus, Physics, and other demanding courses and suddenly receiving “C’s.” The student is experiencing extreme anxiety and distress.

Prof. Brogan said she would never *accuse* a student of plagiarism without proof. That is an entirely different matter. While she has initiated Honesty Code proceedings against students in the past, this situation is different. She is describing a case in which she strongly suspects dishonesty but cannot produce direct evidence of it. Thus, she appeals to the class for the guilty student to come forward, and they do. That is not an accusation.

Fr. Malloy said that the question of proof is the distinguishing factor between the two cases.

Prof. Gernes spoke in favor of retaining in the Code some ambiguity for what constitutes a possible response on the part of faculty to a student’s dishonesty. In her experience, students who plagiarize are in a precarious emotional state, even going so far as threatening or attempting suicide. Prof. Gernes said she has not reported these students. Instead, as has Prof. Brogan, she has worked with them by calling them into her office for a serious discussion, insisting that they seek psychological help and requiring that they provide her with verification that they are doing so. She wants some ambiguity to remain in the Code so that such a response is possible. There are dangers in moving too far in the other direction and requiring certain prescribed responses.

Prof. Garg responded that, according to the Code, faculty members do not have the option of talking to a student and requiring him or her to seek psychological help. The Code says that faculty members *must* take one of the actions described in Section IV(B)(4)(c).

Prof. Woo, Dean of the Mendoza College of Business, said the issue of faculty having a choice of reporting students’ dishonesty is of great concern to her. Faculty members do not have a choice in reporting known dishonesty. It is very critical that faculty members follow the procedures for reporting dishonesty outlined in the Code. The discretion and flexibility of faculty members lies in the recommendations they might make to the Honesty Committee about the severity of a penalty.

Prof. Woo continued that the Code involves a whole training and communication process across colleges. Now, there are too many inconsistencies. The reason for having a department and a college-level committee is to impose some consistency in action.

Returning to the subject of students reporting fellow students’ violations, Prof. O’Hara said that the language of the draft does accomplish what the committee intended. Changing “These possible actions include. . .” to “They are . . .” would defeat

the purpose. The key sentence is in the first paragraph of Section 4: “If aware of a likely Academic Code of Honor violation, a student must take responsible action.” Then, the purpose of the third paragraph is to provide an instruction manual for students of various actions they could take. The correct word to use is “include,” for students’ actions should not be limited to subsections (a) through (d). These subsections list the actions one would normally expect a student to take. However, for example, if a student went to a professor other than the instructor of the course to discuss what he or she witnessed, one would not want the charged student to be able to claim that because the witness did not go to the instructor of the course, no case could be brought against him. By being inclusive, the existing language does exactly what the committee intends.

As to the possible actions of faculty, Prof. O’Hara said that there are multiple levels of discretion available for instructors. The faculty member can first have a conversation with the student to determine whether dishonesty occurred. If there is still a reason to suspect dishonesty, the faculty member has an obligation to bring it forward. This Code establishes a new procedure, however, by which the chair of the Honesty Committee can make a preliminary determination not to take the case forward. Thus, there are many opportunities to exercise discretion. In this, it seems far superior to the existing code.

Furthermore, Prof. O’Hara continued, as Fr. Jenkins and his committee realized, the more and more technical a Code becomes, the more possibility created for procedural defects because someone did not “dot the i or cross the t.” The proposed language is quite balanced in according fairness to the charged student but providing sufficient flexibility to make the Code work.

Prof. Blanchette said she does not see in the Code the ambiguity that would allow the kind of sympathetic counseling approach Profs. Brogan and Gernes have described. Section IV(B)(4) of the Code says very clearly that a faculty member aware of a situation in which dishonest behavior may have occurred “must” take one of the following actions – submit a formal report to the Honesty Committee, or discuss the situation with the student suspected of violating the Code and, if the suspicion remains, report it to the Honesty Committee. That means that faculty members who think the Code has been violated cannot take matters into their own hands, even if they strongly believe that is the right thing to do. If Council members believe that the kind of sympathetic counseling approach described can, at times, be the proper course of action, they should rewrite the Code.

Prof. Brogan agreed. Reporting a student who is experiencing an emotional breakdown to an Honesty Committee might represent the fission point for the student and not what is best for him or her. The situations she has described are entirely different than cases of flagrant cheating – that is, cases in which the student knows exactly what he or she is doing. Prof. Brogan said she is willing for anyone to take her up on charges for not reporting plagiarism in all instances. She will continue to treat

students she feels are at an emotional breaking point in the way she has described. These students do *not* cheat again. Exercising her prerogative to deal with instances of plagiarism in the way she feels is best for the student is an important part of being a professor. If that means the Council must rewrite the Code, then it should do so.

Prof. Wegs said there are people on the Honesty Committee of the History Department who have an amazing facility for finding sources and papers on the Internet. At times, he has known when reading a paper that it is not written by the student, but he is unable to pinpoint the source. The best course of action in that case and one he will continue to follow is to turn the matter over to the Honesty Committee.

Fr. Malloy commented that every legal code ever written must be interpreted in concrete and specific ways. Those who have responsibility to oversee the whole activity do not need to make judgments about whether people are doing their job or not. The debate between following the letter of the law or the spirit of the law has endured throughout the ages. The goal of the Honor Code is to have a policy that is reasonable, has widespread support, sets forth a certain level of expectations, and is adjudicated fairly. All this is difficult to achieve which is why the draft before the Council today is Draft 17 of the revisions.

Prof. Marcantonio asked if the Code allows the various Honesty Committees to perform “acts of mercy.”

Several members said that it did.

Prof. Marcantonio then said he presumes that can be done in total privacy so that a student in severe emotional distress would not be pushed over the edge.

Fr. Malloy commented that there is a huge concern today about record keeping and privacy matters associated with it. Whenever a student is caught plagiarizing, the parents – often even before the student – envision the derailment of their child’s entire future career track, which heightens the emotions involved. The dishonesty is no longer just one incident; it is rather a whole life is ruined. The injection of that heightened emotionality into Honor Code proceedings makes it very difficult for the Honesty Committees to function consistently; yet, consistency from college to college and department to department is extremely important.

Returning to the issue of faculty discretion in dealing with a student’s dishonesty, Prof. Affleck-Graves said that, at first, he believed it would be most appropriate to give faculty members the same “out” given to students by adding a sentence to the Code that a faculty member aware of dishonesty must act responsibly and doing so “includes” various actions. However, the reason he has changed his mind is the argument advanced by Prof. Preacher that it is important to protect students in Honesty Code matters. When an instructor takes an arbitrary action, even though he or she might think it fair, the student has no recourse. As the proposed Code is written, the

instructor can make a recommendation to the Honesty Committee on how to deal with the infraction or ask if he or she can handle the matter in a certain way. While Council members could continue to discuss precise wording of specific provisions, the point of the document is to convey the spirit of how the University community should act when confronting instances of dishonesty. The Code should convey the expectation that faculty will report a violation or a suspicion of one.

Prof. Incropera asked about Article VI(C)(9), which states that after hearing evidence and deliberating, the Honesty Committee should decide by majority vote whether the evidence supports a finding of an Honesty Code violation. Given the seriousness of a finding of dishonesty, he would much prefer to see a unanimous vote. If the ruling is only a majority decision, that suggests that the evidence has not been completely conclusive.

Prof. O'Hara said her experience in the Law School has been that, even in the most flagrant cases of cheating, it is very difficult for an Honesty Committee to achieve unanimity.

Prof. Incropera said the three issues he has adjudicated since coming to Notre Dame have all had unanimous votes on the part of the Honesty Committee. In one case, however, he questioned the final judgment of the committee.

Prof. Powers agreed with Prof. O'Hara that there is often a great reluctance on the part of one or two Honesty Committee members to follow through with a finding of dishonesty. He, too, has found this to be true even in the most flagrant of cases.

Fr. Jenkins said subcommittee members discussed the question of requiring a unanimous Honesty Committee decision. He pointed out that the deans have wide discretion in overruling the finding of an Honesty Committee or in imposing a different penalty. The deans' offices are very much a backstop in a case in which a conviction appears questionable.

Prof. Blanchette commented that Section VI((D)(2), dealing with penalties, provides that a student who is found to have committed a "major offense" will receive an "F" in the course. Yet, if a student is already in danger of failing a course, he or she may decide that the odds of getting caught are less than those of receiving the "F" and go ahead and cheat.

Fr. Jenkins agreed that a rational actor may decide that the odds of getting caught are less than those of receiving a failing grade; however, a student who cheats twice may be suspended or dismissed from the University. Thus, any student calculating the odds would also need to factor in the possibility of a more severe penalty in the future if there is a second violation.

Prof. Blanchette remarked that if the student had not cheated before and was facing a failing grade, he or she may very well decide that cheating is more advantageous. Why should there not be a more serious penalty for major, premeditated cheating?

Prof. Woo said even if it would appear more “rational” to risk cheating rather than the certainty of a failing grade, the penalty for committing an Honor Code violation is not just about the “F.” The “F” on the transcript is accompanied by a record of dishonesty the student will carry with him or her.

Ms. Schmid commented that a student who calculated the odds in the way Prof. Blanchette has described would most likely be determined to have engaged in a “flagrant” offense. Under Section VI(D)(3), one offense characterized as “flagrant” may lead to suspension or dismissal.

Fr. Scully said he supports the draft of the Honor Code presented for approval today. He worked very hard with Prof. Stuart Greene on the draft the Academic Council considered in 1999. That draft was a joint endeavor of the Faculty Senate and the Academic Council. The document their committee produced failed to gain approval of the Academic Council, which was probably the correct decision. This is a far superior document, and he encourages Council members to approve it. If the proposed Code is adopted, experience with it undoubtedly will indicate that certain refinements are necessary. At that point, the Undergraduate Studies Committee can take up suggestions for further study.

Prof. Hosle asked if the proposed revisions contain any sanctions for faculty who do not report known dishonesty by students but who follow, for example, the sympathetic counseling approach described by Profs. Brogan and Gernes.

Fr. Jenkins said that the Code does not contain any specific sanctions. It is up to honesty committees to decide this.

Prof. DeBoer pointed out a small change in Section VI(C)(11), “Honesty Committee Hearing Procedures,” the line “. . . and it should include information such as the general nature of the suspected *offense* . . .” should read “such as the general nature of the suspected *offense*.”

Prof. Incropera raised a question about Section VI(E)(8)(d), which provides: “The dean or Architecture chair may agree with the decision but not with the penalty imposed by the Honesty Committee, and may decrease the severity of the penalty . . .” He asked Fr. Jenkins if the committee meant to preclude the possibility that a dean or the Architecture chair could *increase* the penalty. Perhaps the dean may have some information about the student the Honesty Committee did not.

Fr. Jenkins answered that the committee did intend to preclude the possibility that a dean or the Architecture chair could increase the penalty imposed by the Honesty Committee. The rationale is to protect the rights of the student. One person should not be able to inflict a greater penalty than the committee itself.

Prof. Garg pointed out that, earlier, in Section VI(E)(2), the Code provides three reasons for a student to appeal a decision: (1) new evidence, (2) the presence of a procedural defect in the preliminary investigation or hearing, or (3) evidence of personal bias on the part of members of the Honesty Committee that likely influenced the committee's decision. He asked where the Code indicates that another option for appeal is a petition for mercy on the part of the dean.

Fr. Jenkins replied that it is not one of the grounds for appealing to the Dean. The committee wanted to limit the number of appeals and to prevent every case from being taken to the next level.

Ms. Dayton asked where, specifically, the Code requires faculty members to explain to their students what constitutes plagiarism.

Fr. Jenkins said that it is Section IV(B)(2), "Communicating Standards to Students."

Returning to the question of sanctions against a faculty member who does not report suspected Honor Code violations to an Honesty Committee but chooses his or her own course of action, Prof. Preacher commented that in the past, when students have reported that a faculty member has unjustly accused him or her of plagiarism and imposed a sanction, her office has advised the students to take the issue to the Honesty Committee themselves. That hearing is not a sanction for the faculty member; rather, it simply means that the student will have a different hearing. This course of action has worked out well in the past, with the students feeling satisfied that they have received a fair hearing.

Prof. Preacher asked for clarification of Section VI(D)(3), concerning offenses deemed "flagrant" by the Honesty Committee. In those cases, the committee may recommend "suspension or dismissal" of the student. Prof. Preacher said that the current Code does not offer the option of suspension. While there are suspensions for disciplinary reasons, there is now no such thing as an academic suspension. Is the new Code creating one?

Fr. Jenkins responded that what Prof. Preacher is calling "dismissal," the committee has called "suspension."

Prof. Powers inquired that in referring to Prof. Incropera's question about giving deans the option of increasing the severity of a penalty, when a committee assigns penalties, can it look at the student's past record? Will it know, for example, that the

student has a prior violation?

Fr. Jenkins replied that the committee will not know of a student's prior violations. If there is a prior violation, the Associate Provost assigns a further penalty for the repeated offense. The standard penalty for a repeated offense is suspension or dismissal from the University. Section VI(G)(2).

Fr. Malloy asked Fr. Jenkins if he was prepared to call for a vote on the proposed revisions to the Honor Code.

Fr. Jenkins said he was and moved for the Council to approve it. Fr. Scully seconded the motion.

Fr. Malloy called for a vote on the proposed revisions to the Honor Code. It was unanimous in favor of their acceptance.

Fr. Malloy thanked Fr. Jenkins and the committee as a whole for their hard work, painstaking attention to detail, and their inclusion in the revision process of many constituents. He said that revising the Honor Code had been an enormous task, but the process was marked throughout by a tremendous amount of collegiality.

9. Committee Reports

(a) Faculty Affairs Committee. Prof. Delaney said that his committee had brought several items forward at today's meeting for resolution.

(b) Graduate Studies Committee. Prof. Garg said that committee members continue to discuss quality-of-life issues for graduate students, including the possibility of designating certain facilities on campus exclusively for their use.

(c) Undergraduate Studies Committee. Prof. Roche said now that the revised Honor Code has been approved, other business for Undergraduate Studies subcommittees include: (1) formulating a concrete proposal to maximize the University's use of classroom space, and (2) examination of broad curricular issues, including the unevenness of tutoring opportunities across colleges and integrating some of the major requirements from study abroad into the curriculum.

10. New Business – Library Expenditures. Prof. Aldous distributed a handout she compiled from statistics on file at the Geostat Center of the Alderman Library at the University of Virginia. It provided figures on total expenditures of various university and college libraries showing that from 1995-2000, Notre Dame had the third highest percent increase in total library expenditures, but was ranked ninth in the amount of total library expenditures in 2000. (Princeton was first with \$29,434,902; Notre Dame's expenditures were reported as \$17,225,138.) Prof. Aldous said she was concerned

about the amount of expenditures for libraries at Notre Dame. Libraries are absolutely central to the work of the University. She asked why large donors are not encouraged to fund this very important part of University life.

Fr. Malloy said that a good topic for a future meeting – featuring a presentation both by Jennifer Younger, Director of University Libraries, and others – is the Library, its funding, and future priorities.

Prof. Affleck-Graves agreed. He suggested a future meeting devoted to the whole funding trajectory of Notre Dame’s Library and of comparable libraries, as well as development efforts with respect to the Library. Several interesting initiatives have occurred in the Library, he said, and a comprehensive report would be very enlightening.

Fr. Malloy added that there is a great story to tell in terms of how the University has been able to attract support for the Library in its last two Development campaigns, as well as the progress that has been made in many areas under Jennifer Younger’s leadership.

Prof. Aldous asked that the presentation be scheduled for the next meeting. If that is not possible, it should occur at some meeting this semester.

Fr. Malloy said he would direct consideration of such a presentation and discussion to the Executive Committee, the group that sets the agenda for Academic Council meetings.

There being no further business, Fr. Malloy adjourned the meeting at 4:55 p.m.

Respectfully submitted,

John Affleck-Graves
Secretary