

**The University of Notre Dame
The Academic Council
Meeting of April 20, 2005**

Members Present: Rev. Edward Malloy, C.S.C., Nathan Hatch, John Affleck-Graves, Jean Ann Linney, Christine Maziar, Dennis Jacobs, Jeffrey Kantor, Rev. Mark Poorman, C.S.C., Joan Aldous, Panos Antsaklis, Douglas Archer, Sunny Boyd, Jay Brandenberger, Seth Brown, Olivia Remie Constable, Tom Cosimano, Don Crafton, Kenneth DeBoer, Neil Delaney, Thomas Frecka, Stephen Fredman, Nasir Ghiaseddin, Brad Gregory, Hope Hollocher, Frank Incropera, Eileen Kolman, Joseph Marino, Tom Noble, Patricia O'Hara, Teresa Phelps, Ava Preacher, Meghan Rhatigan, John Robinson, Mark Roche, Crystal Salcido, Mihir Sen, Carol Tanner, Richard Taylor, Jennifer Younger.

Members Absent: Tim Dale, Patricia Maurice, Paul McGowan, Bill Ramsey, Jeremy Staley

Members Excused: Rev. John Jenkins, C.S.C., Michael Lykoudis, Katie Crossin, Christian Moevs, Valerie Sayers, Bill Westfall, Carolyn Woo

Observers Present: Kevin Barry, Mary Hendriksen, Dan Saracino, Matt Storin, Col. Michael Zenk

Observers Absent: Harold Pace

Observers Excused:

The Reverend Edward A. Malloy, C.S.C., called the meeting to order at 3:05 p.m. Prof. Hatch offered a prayer.

1. Approval of minutes of the meeting of February 15, 2005: The minutes of the meeting of February 15, 2005, were approved unanimously.

2. Amendment to the *Academic Articles* concerning the mandate of the Academic Council: The *Academic Articles* now provide that the "principal functions" of the Academic Council are:

to determine general academic policies and regulations of the University; to consider the recommendations of the Graduate Council; to approve major changes in the requirements for admission to and graduation from the colleges and schools and in the program of study offered by colleges, schools, and departments; *to authorize the establishment, modification, or discontinuance of any academic organization of the University*; and to provide for review, amendment, and final interpretation of the academic articles, without prejudice to Article V.

Article IV, Section 3(a) [emphasis added]

The Faculty Affairs Committee has proposed the following change to the fourth phrase of the Council's mandate: “. . . to authorize the establishment, *major* modification or discontinuance of any academic organization *or degree program* of the University . . .” [emphasis added]

Prof. Robinson, chair of the Faculty Affairs Committee, explained that the issue giving rise to the proposed amendments was the decision last year by the Provost to discontinue two Music Department graduate programs. [On the recommendation of the Provost's Music Review Committee, in the spring of 2004, Provost Nathan Hatch decided that for several reasons, including the number of Music faculty needed to support a top-quality and competitive performance-based Master of Music program, both the M.M. and the M.A. in Music should be discontinued. [See *Notre Dame Report*, Vol. 34, No. 9, pp. 288-297 and Vol. 34, No. 11, pp. 324-327.] Prof. Robinson said that while the committee did not wish to review the propriety of that particular administrative action, it would propose an amendment to the *Academic Articles* to make clear for the future that when a major modification of a program is suggested—whether at the initiative of a department, college, or the central administration—that proposed modification must come before the Academic Council for approval. Prof. Robinson emphasized that under the proposed amendments, approval by the Academic Council is necessary both: (1) when a department does not wish to make changes to a program initiated by the central administration or a dean, *and* (2) when the department initiates the modification and has the approval of college and University administrators.

Prof. Hatch noted that the proposed amendment comes with the endorsement of the Executive Committee.

Prof. Robinson added that the proposal has the unanimous approval of the Faculty Affairs Committee and the endorsement of the Faculty Senate as well.

Prof. Roche noted a concern with the proposed amendment. The use of the word “major” before “modification” rather than before “academic organization” might be less than ideal, he said. An illustration of situations in which this usage might cause difficulties is provided by the Laboratory for Social Research (LSR). While the LSR is an academic organization, it is not a department—and is thus neither a major academic organization nor an entity that would normally come under the authority of the Academic Council. Prof. Roche said that it is important to point out that when the Executive Committee decided to endorse the proposed amendment, one of the arguments advanced for doing so was that the Academic Council does not need to be concerned with the dissolution of organizations it is not in the business of creating. That, however, is not what the proposal says. It does not differentiate among levels of academic organizations; instead, it considers only the levels of change. Thus, if the amendment is approved, future administrators may very well look at this provision and ask whether the Academic Council must decide to dissolve a particular entity—such as the LSR—that was created solely by a college council and never brought before the Academic Council for approval. Prof. Robinson suggested that in the

type of situation Prof. Roche describes, perhaps a procedural solution should be employed: When an administrator—for example, a dean—is in doubt as to whether an action under consideration is the sort of action covered by the provision, he or she could refer that question to the Executive Committee of the Academic Council. If the Executive Committee decides that the action does not require the approval of the Council, that decision can be communicated to the relevant administrator and the matter ended. Prof. Robinson said that while he realizes this may be a cumbersome procedure, committee members struggled over and over again to find language that would be both clear and appropriate for each sort of action that either a unit or an administrator might take. The current language is members' best effort. If Prof. Roche can propose language that captures with greater clarity the sort of action the committee intends to cover, he would consider it a welcome and friendly amendment.

Prof. Hatch said that, certainly, the Executive Committee endorsed the principle that if an entity is created that does not need Academic Council approval, then the college or whatever body created it has the power to do away with it.

Prof. Brown said that he believes the ambiguity that troubles Prof. Roche relates to the question of whether an entity in question is an “academic organization” or some other organization. For example, if the Department of Chemistry were to establish a center for mass spectrometry, that center would not be a true academic organization; therefore, the department itself could establish and disestablish it without going before the Academic Council.

Prof. O'Hara suggested that clarity might be provided by changing the phrase in question to “major modification or discontinuance of any academic program or degree program of the University *established by the Council.*” [emphasis added]

Prof. Brown said that seems to be almost a circular definition.

Prof. O'Hara said that what she is trying to capture in her proposal is that if a particular unit emanated from the Council, then decisions to modify or discontinue it must be brought back to the Council.

Prof. Roche said that perhaps Prof. O'Hara's suggestion could be integrated with language providing that the Council must “authorize the establishment of any major academic organization or degree program of the University. Major modifications to or discontinuance of such organizations or degree programs must also be brought before the Academic Council.” This kind of two-part language would create the appropriate symmetry. He fears that without such additional explanation, a vote in favor of the committee's proposed amendment places too much reliance on oral tradition and, essentially, on the “common law” of the Executive Committee. As the composition of that committee changes, an administrator could very well say one day that the *Academic Articles* state clearly that changes to “any” academic organization require the approval of the Academic Council—and while Prof. Brown suggests otherwise, the words “academic organization” could describe almost any entity housed in one of Notre Dame's colleges.

Prof. Brown objected that such language establishes two ambiguities of interpretation: both whether an entity is an “academic organization” and whether it is a “major” academic organization.

Prof. Roche said that given the two-part structure he suggests, it is possible to delete the word “major” before “academic organization.”

Prof. Robinson said that the word “major” has been included for a very important reason. Surely, no one wants it to be the case that the agenda of the Council is cluttered with items that are clearly minor discretionary decisions.

Prof. Roche clarified that he did not intend to delete the word “major” before “modification;” rather his suggestion relates to the phrase “academic organization.” Yet, the phrase is still problematical. For example, suppose that the College of Arts and Letters creates a special initiative in literature, philosophy, and theology. The question is whether that entity should be considered an “academic organization,” and, if so, whether it is a “major” one. He does not feel that his example is the kind of case that must be brought to the Academic Council—which is why he suggested use of the word “major” in the first place. While the committee’s proposal is acceptable to him even without the changes he suggests, he is trying to speak on behalf of future administrators who might face problems similar to those he encountered with the Laboratory for Social Research.

Fr. Malloy asked if Prof. Roche wished to make a formal proposal to amend the committee’s language.

Prof. Roche declined.

Fr. Malloy then asked for a vote to amend Article IV, Section 3(a) of the *Academic Articles* to provide that a “principal function” of the Academic Council is to “authorize the establishment, major modification or discontinuance of any academic organization or degree program of the University.” The vote was unanimously in favor.

Fr. Malloy said that he approved the amendment to the *Academic Articles* as well but pointed out that the Board of Trustees must give final approval.

3. Proposal to establish a Department of Africana Studies at Notre Dame: Prof. Robinson, chair of the Faculty Affairs Committee, introduced the proposal to transform the University’s current program in African and African American Studies (AFAM) into an Africana Studies department. He noted that it arises under the same provision of the *Academic Articles* just discussed. Prof. Robinson said that the proposal has been through several iterations and approved by the Arts and Letters College Council as well as the Faculty Affairs Committee of the

Academic Council and the Executive Committee. He then introduced Prof. Hugh Page, Walter Associate Professor of Theology and director of the AFAM program.

Prof. Page began by saying that the proposal to establish a Department of Africana Studies has a very long history. It began with a planning group for diversity that was convened in academic year 2001-2002 by former Associate Provost Carol Ann Mooney; then was refined by an external consultation that took place on the future of African and African American studies at Notre Dame in the spring of 2004. Throughout, there has been the gradually emerging sense of the community that a transformation of the current African and African American studies program was prudent and timely. He noted that the proposal reflects input received from the panel of experts convened for the 2004 external consultation. Those experts had wide-ranging experience in the Africana studies field. Most held faculty appointments at peer institutions. Several also had experience in building comparable departments and programs. The proposal also reflects the feedback—particularly in the areas of hiring, mentoring, tenure, and promotion—of members of the College of Arts and Letters' College Council.

Noting that the handout distributed to members contains much information on the rationale for the change from a program to a department as well as responses to potential objections, Prof. Page discussed the choice of the name “Africana Studies” for the department. While that designation may be new for the University of Notre Dame, he said, it is the departmental name chosen at a number of peer institutions. “Africana Studies” reflects the fact that the Black experience is not confined to the Americas alone but is multi-regional in scope. It embraces Africa and multiple global Diasporas. Consequently, a department dedicated to the study of both Africa and the global dispersion of African peoples can facilitate research and teaching characterized by breadth, depth, and academic rigor. The study of the African Diaspora in any one locale involves the interdisciplinary and trans-disciplinary study of the Black Diaspora in multiple locales—for example, in Europe, in Central and South America, in the Caribbean, and in Canada. It also involves the use of methodologies generated within the humanities, the social sciences, and the theological disciplines, as well as in the pure and applied sciences.

Prof. Page continued that the question of institutional fit within a liberal arts education is one the current African and African American Studies advisory board also considered. While this is a question that some programs might not have addressed fully during the early period of black studies program formation in the 1960s and early 1970s, it is the board's opinion that the close examination of the life experiences of African and African Diasporan peoples is very much a part of the University's commitment to an integrative and holistic vision of Catholic education. The study and celebration of both that which unifies the human family and that which marks individual parts of it as distinctive are an essential part of Notre Dame's mission.

Prof. Page said that the board also considered the utility of transforming the African and African American Studies Program into the Department of Africana Studies. At present, the program serves some 20 majors and minors. As set forth on page 2 of the handout, the benefit to the University of an Africana Studies Department would be:

Enhanced ability to attract and retain minority faculty and students;
Increased capacity to infuse diversity into undergraduate and graduate curricula and create student leaders with the knowledge necessary to succeed in the multicultural world of the 21st century;
Expansion of the international scope of research and teaching at the University;
Increased national recognition for Notre Dame as a *pioneering* research university;
and
Greater capability to advance the University's ecclesial and educational aims as articulated in the Mission Statement;

Fr. Malloy noted that today's issue of *The Chronicle of Higher Education* contained an historical overview of the evolution of African and African American Studies programs. The tenor of the article seemed to be that Notre Dame is the kind of institution in which a department of Africana studies might well flourish, as opposed to some other settings in which similar ventures have not succeeded.

Prof. Page agreed with Fr. Malloy's observation. He said that one of the shortcomings of the article, though, was that it failed to delineate some of the factors that have governed the growth of Africana Studies programs at state institutions, at small colleges, and at religiously affiliated institutions. From the evidence presented, it does seem clear that Notre Dame is precisely the kind of institution in which an Africana studies program can flourish. Notre Dame can provide the resources to ensure its strength and its integration into the departmental fabric of the college.

Prof. Younger commented that the proposal is a very good one, and she supports it. Her only concern is that while there is mention of University support for faculty and for office space, the need for expanded library resources is not addressed in the proposal. Prof. Younger stated that she knows that both Profs. Roche and Page are aware of that need and have submitted proposals through other means for library support; nevertheless, as a part of the infrastructure, it is best if library support is built into reports of this kind.

Prof. Page responded that he and Prof. Roche discussed the issue of library support when they looked at the amount of endowment income that would go into the new department. They made sure to set aside fairly substantial funds for library acquisition for just that reason.

Prof. Roche added that when deciding whether to endorse the proposal, the Executive Committee reviewed the minutes of the College Council meeting. Those minutes explain that of the \$10 million dollars slated to be raised in the campaign, \$9 million is for faculty positions (two senior, two junior); \$500,000 is for library collections; and \$500,000 is for programming. The current budget for AFAM is not huge right now; it is about \$3,500.00. As Prof. Younger pointed out to him earlier, Northwestern University has probably the best collection in the country in the field of Africana studies. Indiana University has a very good collection as well, and through the Center for Research Libraries, Notre Dame scholars have access to other

materials. The advisory board does recognize a need in this area and built it into the campaign.

Prof. Robinson said that when the Faculty Affairs Committee and Executive Committee were assessing the proposal, some concerns were expressed over the small size of the proposed department. Members of his committee hope that the commitment to four faculty—two senior and two junior—is an initial commitment and not a final one. Committee members also hope that during the time the department is growing, sufficient attention is paid to mentoring junior faculty, especially with respect to promotion and tenure decisions.

Prof. Roche said that, as dean of the College of Arts and Letters, he wishes to go on record as strongly supporting the proposal. He was opposed to the creation of the department for several years, primarily for two reasons: First, he was very concerned about isolating the African and African American scholars in one department instead of enriching multiple departments with scholars in this field. It was in conversation with the advisory committee and the panel of outside consultants, however, that he was persuaded that—much as with Irish language and literature—a cluster of scholars would be more than just the cluster of scholars who have their departmental home there. With some scholars taking a tenure home in the Department of Africana Studies, there would be others who might receive a joint appointment—ideally at the tenured level—in this department or in others. There would be still other faculty members, including some already on the faculty—the current advisory board members, for example—who would hold concurrent appointments in this department. With three layers of identification with departmental goals, the number of colleagues will be much greater than only the departmental core.

Prof. Roche said that his second concern had to do with standards for hiring and, even more so, for promotion and tenure. He did not want to be faced with a situation in which the department hired, say, an economist, who would be judged by scholars in Africana studies rather than by economists. Prof. Page has resolved this by working out in conversation with the college council a description of the Committee on Appointments and Promotions (CAP) as a multi-disciplinary group. One of the first tasks of the new department will be to create a draft CAP document, requiring his approval, that would allow for appointments from other departments to enrich the CAP in such a way that many kinds of expertise would be represented. He views the college council vote as one that binds him to that course. Prof. Roche added that the target date for the department's official start date is July 1. [Prof. Page became the dean of Notre Dame's First Year of Studies on July 1; Prof. Richard Pierce, formerly associate director of AFAM, was named chair of the Africana Studies Department, also effective July 1.]

Prof. Marino said that he was a bit confused about the numbers. The proposal says that the University's goal is to raise \$10 million for the new department in the current capital campaign, but he does not see how that sum will generate \$400,000—the amount necessary to sustain four faculty members, a library allotment, and support staff.

Prof. Roche said that the calculation was made in line with campaign targets. A senior position requires \$3,000,000 in funds; a junior position \$1,500,000; thus, with two senior and two junior positions, \$9,000,000 is required, which still leaves \$500,000 for library support and \$500,000 for program funds. He assumes that this particular department will be a department that will be very competitive in terms of hires; thus, he may actually need to invest more funds in order to cover the salaries of some new hires, but that was necessary in the last campaign as well, when salaries in some cases exceeded the pay-out from endowment and needed to be supplemented with additional funds.

Fr. Malloy asked for a vote on the proposal to establish an Africana Studies Department at Notre Dame. It was unanimously in favor.

4. Revisions to the Academic Code of Honor: Prof. Preacher, chair of the Undergraduate Studies Committee, said that the amendments to the University's Code of Honor presented to the Council today represent a great deal of work by the University Code of Honor Committee. The proposals have gone through two revisions in the Honor Code Committee and two revisions in the Undergraduate Studies Committee. They come to the Council today with the recommendation of both her committee and of the Executive Committee.

Prof. Preacher explained that the major amendment to be voted on today is one that allows faculty members to negotiate a settlement with a student directly when an Honor Code violation occurs. [Proposed Section V((D)(2)(i)] Another amendment, added quite recently and discussed among committee members by e-mail, would add a final sentence to the pledge contained in Section II: "As a member of the Notre Dame community, I will not participate in or tolerate academic dishonesty." Most of the other amendments, she said, can be characterized as minor.

Prof. Preacher then introduced Prof. Thomas Flint, professor of philosophy, University Honor Code Officer, and faculty representative from the College of Arts and Letters on the University Code of Honor Committee, to answer questions about the amendments.

After acknowledging the amount of work that has gone into formulating the amendments, Prof. Phelps suggested one minor, friendly amendment to the proposal on negotiated pleas. In cases where an Honesty Code violation is suspected, faculty members are given various options under Section V(D)(2) *Faculty and Teaching Assistant Responsibilities under the Academic Code of Honor: Responsible Actions*. Prof. Phelps said some clarifying language would be helpful in this rather lengthy section—perhaps emphasizing the word "one" with italics or bold print in the sentence reading: "If aware of a situation in which dishonest behavior may have occurred, faculty must take one of the following actions. . ." Then, for further clarity, the word "one" could be emphasized again in revised Section V(D)(3) within the sentence: "Faculty are obliged to follow one of these procedures in all cases." Those changes would make it clear, Prof. Phelps said, particularly to junior faculty who may not wish to negotiate with a student, that an

option always available to faculty is simply submitting information of a student's suspected violation to the Honesty Committee.

Prof. Preacher said that she would take Prof. Phelps' suggestion as a friendly amendment.

Prof. Roche said he had three questions or comments. First, Section IV(B) *Personal Academic Behavior*, pertaining to student work, provides: "All work submitted for **a course** is accepted as a student's own work, unless otherwise understood and approved by the instructor." He asked if a senior thesis, for example, which is something not normally considered a "course," would be covered by this language.

Prof. Preacher said that it would be covered. During their consideration of these amendments, Committee members specifically discussed the use of the word "course," with some members believing it to be a more technical term. She recalls that the word was "class" in a previous draft and then changed to "course" because members felt very strongly that the Honor Code should apply to senior theses, directed readings, directed research, and similar situations.

Prof. Roche said his second question concerns Section VI(A), dealing with the composition of honesty committees: "A college **or school** may set up honesty committees at either the departmental or college level." As Prof. Flint knows, he said, the College of Arts and Letters houses some interdisciplinary programs that offer courses that are not cross-listed. Some of the interdisciplinary minors have autonomous capstone courses or introductory courses—*Science, Technology, and Values* would be an example—and, for this type of course, there is really no obvious place to take a suspected Honor Code case. It seems that in such a case there would be at least three options: (1) creating a college committee to encompass all such interdepartmental cases; (2) provide that any unit that offers courses have an Honesty Committee, which seems unproductive because in some cases that may only be one or two courses per year; or (3) when a case arises in such an interdisciplinary program, elect a committee. The disadvantage of the third option, Prof. Roche pointed out, is that the committee is put together after attention has been drawn to a matter—with the ideal being to create a more disinterested situation in which a committee is already in place and cases then come before it.

Prof. Roche said that his preference would be the first option—a college-level committee—but the current language would not allow it.

While agreeing with Prof. Roche that the provision creates some difficulty, Prof. Flint said that it is a provision in the current handbook rather than part of a change before the Council today. Thus, this may be language that his committee should reexamine and decide if some sort of amendment ought to be proposed for the future; or, perhaps members would decide that such cases should be handled on an *ad hoc* basis. He would prefer to defer discussing this situation until it can be explored by the Committee.

Prof. Roche then raised his third question, which he said might be based

on a possible gap in the Code. It is in the section titled *Notification of the Decision and the Appeal Process for Major or Minor Offenses* [Section VII(E)(2)] and pertains to authority given in that section to the dean to overrule a decision. Given his primary responsibilities as dean, Prof. Roche said, and because there is no special expertise he as dean brings to appeals, he would prefer to delegate review of Honesty Code appeals to the associate dean. Thus, he would suggest inserting into the provision language along the lines of: “The dean has the right to delegate responsibility for all appeals to the relevant associate dean.” While the power of delegation may be understood, he has always interpreted the Code to mean that the dean must ultimately be involved.

Prof. Flint said that while it may be advisable to make the change Dean Roche suggests, again, he would recommend against doing that now, in a hurried fashion. It is preferable to look at other clauses in the Code and see what references they make to the deans’ involvement. For example, Section VII(E)(6) says explicitly that a student bringing an appeal “has the right to appear before the dean.” He suggests that this is another issue the University Committee ought to consider for a possible future amendment.

Noting that when he was in the Provost’s Office, he was the person who reviewed Honesty Code appeals, Fr. Malloy commented that his presumption has always been that the person ultimately responsible for a task can subdelegate it, as long as he or she oversees the process and, by periodic review, assures that it is being done properly. If that presumption is accurate, there need not be any explicit articulation of the delegation.

Raising a different question on the proposed amendments, Prof. O’Hara said that while she realizes the entire issue of negotiated pleas must have been discussed at length by Committee members at every possible level, she would still like to hear the rationale for this particular proposal explained to the full Council. There are a few aspects of negotiated pleas that disturb her. First, typically, negotiations involve people with relative parity; yet, when a student is accused of an Honesty Code violation, there is no parity with the accusing faculty member. The student has a great deal at stake. Perhaps when forced to choose between a faculty member who is adamant about a violation or going to a full hearing—that having a 50/50 chance of success, a student may very well decide to plead and agree to the proffered sanction because, or at least in part, of the imbalance in the student/faculty relationship. Prof. O’Hara pointed out that in any situation of negotiated pleas, the faculty member is not only the person bringing the charges, he or she is also the finder of fact and the imposer of sanctions. While she realizes that Honesty Committee members researched this area and found that negotiated pleas are permitted at other institutions, it is a concept she finds troubling.

Second, Prof. O’Hara commented, assuming that Notre Dame does wish to adopt a system that allows negotiated pleas, what strikes her about the current proposal is that there is no differentiation between the availability of pleading as an appropriate action in a minor case, a major case, or even a flagrant case. While she can perhaps understand introducing the concept of negotiated pleas for minor violations, she finds it more difficult to accept the practice once

violations move to a more serious level.

Third, Prof. O'Hara said, the amendments proposed to the Code allow only a window of seven calendar days for most actions. [See, for example, proposed Section V(D)(2)(a)(i), which gives a student who signs an Honor Code Violation Report seven calendar days to revoke the negotiated agreement.] Prof. O'Hara commented that when she thinks of violations that might arise during final exams, with Christmas break imminent, she questions if seven calendar days is a sufficient length of time.

Responding sequentially to Prof. O'Hara's concerns, Prof. Flint said that, of course, it is true that parity does not exist between a student accused of an Honesty Code violation and a faculty member. In many, many cases, however, students and faculty will both have an interest in resolving a matter without a hearing. And, in many, many cases, not only is there no mystery as to whether a violation occurred, both the faculty member and the student can very readily ascertain a just punishment. Moreover, he said, it is no secret that these kinds of negotiations are going on now—simply under the table, completely unregulated, completely unreported. The recent survey his committee completed along with a review of files coming into the Provost's Office leaves no doubt of that. Thus, Prof. Flint, said, the current situation is hardly ideal. It seemed to Committee members that it would be much better to allow negotiated pleas but to require that there be some kind of check on them by the associate provost—coupled with establishment of a system of reporting any negotiated agreements made. While the system proposed is not perfect, perfection is impossible with regard to these matters.

As to Prof. O'Hara's point concerning minor and major violations, Prof. Flint continued, he suspects that it would be rare to find students agreeing to a negotiation in which they say, "Yes, this was a major violation and I ought to fail the course." Generally, with negotiated agreements, the student is essentially saying: "This was a minor violation. I agree that a grade of 'F' on the assignment is appropriate. We don't need to go to a committee in order to reach that conclusion." Additionally, any language limiting negotiated pleas to minor violations would be very cumbersome. It would require some kind of determination in advance as to whether a violation is major or minor, and he cannot quite see how that would work.

Finally, Prof. Flint said, as far as the seven-calendar-day rule, the Committee's hope was that Honesty Code matters can be wrapped up fairly quickly. Many of these cases arise at the end of the semester. Both professors and students have an interest in seeing that issues are concluded quickly, especially when a suspected violation occurs late in the spring semester. It is very traumatic, especially for students, to have a suggestion that they have acted improperly come to light in late April or May and then be forced to wait until late September, for example, before there is any sort of a hearing. Committee members' thinking was that seven calendar days is a sufficient and appropriate amount of time to allow the Associate Provost's office to examine the file and to make sure that there was no obvious unfairness in what was done, as well as to give a student an opportunity to reconsider what he or she has signed and assure themselves that their acceptance of a negotiated sanction was not done out of haste or because of undue pressure by

the faculty member. If a student has a change of heart, he or she can then decide within that window of time that a full honesty committee hearing would be a better option.

Prof. O'Hara asked whether committee members held conversations with faculty or administrators from other institutions that allow negotiated pleas. Did they borrow this language from other codes?

Prof. Flint said that he does not believe the language was borrowed from other codes. Rather, the provisions were drafted within the committee in very close conjunction with the general counsel's office. Members of that office made many suggestions with regard to language and ways in which the language might be improved.

On the question of the appropriateness of negotiated pleas for both major and minor violations, Prof. O'Hara asked whether it is completely hypothetical that a student—given a choice between taking an “F” in the course or going to a hearing and facing suspension—would not feel under some kind of pressure to take the “F.” While she realizes that committee members expect the bulk of the cases to involve minor violations, it strikes her that, given that the penalty portion of the Code distinguishes between major and minor violations—not exhaustively but at least with examples [see Section VII(D) *Assignment of Penalties*], she is apprehensive that while the cases about which she is hypothesizing might be few, the stakes are incredibly high, especially when distinguishing between “major” and “flagrant” violations. Again, in such cases, all of the power rests in the faculty member.

Prof. Flint responded that while the committee did include a line for flagrant violations on the violation report form, so that a student and a faculty member could negotiate an agreement in which the student says, “Yes, I am guilty of a flagrant violation and therefore the Provost's Office should consider dismissing me from the University,” he cannot imagine that such a case would ever occur.

Prof. O'Hara said that the case she had in mind is a student who must choose between whether a violation will be classified as “major”—which means taking an “F” in the course—or as “flagrant”—which requires suspension. If I am the student, she said, the risk of going to a hearing with suspension as a possible outcome versus taking an “F” in the course may make me take the negotiated plea even if I think I have defenses. The faculty member is essentially holding all the cards.

While Prof. Flint agreed that the situation Prof. O'Hara describes is theoretically possible, he does not recall a situation—ever since the “flagrant” classification was created—in which an honesty committee has ever recommended that a violation be deemed flagrant. It is the committee's view that “major” and “minor” are the relevant categories of Honesty Code offenses. He would think that these same categories would apply with regard to negotiated settlements.

Prof. Frecka said he had a less technical question. Judging from the extensive work

Committee members have devoted to the proposed amendments and today's discussion, he said, it is apparent that there is a significant cheating problem on campus, as there is on most campuses throughout the United States. He is curious as to whether one purpose of these modifications to the Honesty Code is to drastically reduce the instances of cheating on this campus, or if that is too great a hope.

Prof. Jacobs responded by saying that the Committee has much on its plate. The amendments proposed today are just one of its many initiatives. Other initiatives under way are designed to combat the number of students participating in academic dishonesty. If, in fact, Notre Dame adopts the system proposed today—one that will bring more Honor Code violations to light—that may in itself serve as some measure of deterrence, but this is just one initiative of many the Committee intends to put forward.

Then, asked Prof. Frecka, can Council members expect that, at some point, an entire program will be rolled out to the University to address the frequency with which academic dishonesty occurs?

Prof. Jacobs said that they could. Over the summer, members will be putting together a great deal of educational materials for students and faculty, including a *Student Guide to the Academic Code of Honor*—a concise summary of those portions of the Code that students need to know, with examples of dishonest behaviors and responsible actions.

Prof. Aldous said that the negotiated settlement procedure the committee proposes seems to presume that faculty members lack interpersonal skills. While she is appalled at the report of widespread cheating on campus, experienced faculty members with confidence in their ability to deal with students may very well decline to participate in the proposed reporting system. There is already resentment among the faculty about the number of procedures one must follow. She is curious why the Committee did not include a provision that compliments people on their intelligence and presumes that they can manage Honor Code matters on their own.

Prof. Flint said that the proposal on the table is largely in line with Prof. Aldous' comments. He agrees that the Code's current procedures are very time consuming, for they require that every violation—no matter how minor—be taken to an honesty committee. That can be very difficult and time consuming, and he knows faculty resist going to a committee in all cases. The purpose of the negotiated plea amendment is to supplement—not to replace—the current procedure with one that is relatively easy for faculty members to employ. The sole requirement is filling out a very simple form—which, again, Prof. Flint emphasized, is very important. The reporting system is the only check available at the University to guard against students who cheat repeatedly. And, Committee members do believe that students who violate the Honor Code repeatedly should be subject to additional sanctions.

Prof. Aldous said that she suspects that there will be many faculty members who will continue to handle academic dishonesty in their own informal way.

Prof. Flint said that she may be correct, but the hope of Committee members is that the number doing so will be reduced. He believes that many, many faculty will indeed abide by the procedures. That has been the experience of other universities that have tried this system.

A member said he believes it is extremely important that the University maintain a record for multiple offenders. Having read the section of the proposed amendment pertaining to such a record [See Section V(D)(2)(i)], however, that idea is not apparent. Rather, under the proposed language, the purpose of reporting seems to be to ensure that the agreed-upon penalty is appropriate across departments for similar offenses. That makes the reporting system function more as a check that the faculty member and the student have come to an approvable penalty. The Provost's Office would be more likely to encourage faculty members' participation with a reporting system that is even simpler—one that informs only that an Honor Code violation has occurred. The whole point should be whether the faculty member and student can agree on a reasonable penalty. It does not need to be checked by someone in the Provost's Office or by members of the Honesty Committee.

Prof. Flint responded that having a check was not in committee members' original proposal. This provision was added at the recommendation of University counsel, who said that, for legal reasons, it is important that the possibility of nullification in the case of an obviously unjust or unfair negotiated settlement be in place. The system is not going to work if the Associate Provost is frequently nullifying these kinds of agreements; rather, nullification of an agreement can occur only in a case where there is obvious unfairness or obvious inappropriateness of some sort. The idea was not to discourage faculty from submitting reports or to make things more complicated; it is simply to provide some kind of safeguard against genuinely unfair agreements.

Prof. Constable said that she has concerns with the proposal for negotiated pleas primarily because of its potential for inequitable treatment. Some students may be able to talk their way into a much better deal than a student who is not as skilled. Thus, even one faculty member with several different students may negotiate widely varying settlements. In a system of individual negotiations, there is no clear baseline. On the other hand, when violations go to an impartial committee that is overseeing many cases, the likelihood of equal treatment across courses for similar violations is much more likely.

Prof. Flint acknowledged that there will probably be inequities with negotiated agreements. Yet, he pointed out, there are inequities now with the current system. Not all committees handle things in the same manner. One needs only to review the files to see that different committees and different departments handle things in very different ways.

Prof. Constable said that she presumes that standards are consistent at least across departments.

Prof. Flint said that they are not. The point is that inequities are present under the Code

in its current form because agreements are negotiated frequently between faculty members and students now with no check whatsoever and no recording. While Committee members know that what they propose is not a perfect system, they believe it to be a definite improvement on what is currently in place. The system would not work very well if every agreement had to go to a committee for approval—that would slow down the process immensely. Committee members are convinced that such an approval process would contribute to a very high level of faculty noncompliance.

Prof. Preacher commented that she believes the University Code of Honor Committee is considering issuing guidelines for selecting honor code sanctions. Once released, they will provide some assistance to faculty and honesty committees.

Prof. Antsaklis said his question relates to students' education about academic dishonesty. The Code says that students have a responsibility to become familiar with the Honesty Code, and all students must sign a pledge to abide by its provisions. While he appreciates the work that has gone into the Code and its revisions, the key to success in this area is education. The University should have a comprehensive plan of explaining to students how important academic honesty is—rather than saying, “Ah, I caught you and here is a document. This is what’s going to happen to you.” He believes it is important to be proactive in this area. Unfortunately, some Notre Dame students enter their undergraduate years with bad habits from high school. Thus, he advocates putting the Code together with a very comprehensive plan of intensive teaching about academic honesty.

Prof. Jacobs reiterated that the Committee has such a plan. That plan, however, does not require approval of the Academic Council. Council members are seeing today just the one piece that does require their approval—the amendments to the *Academic Code of Honor*.

Prof. Antsaklis said he wonders how much time is spent on discussion of academic honesty and dishonesty during, for example, first-year students' orientation.

Prof. Jacobs answered that approximately six minutes of the first-year orientation schedule are allocated to the subject.

Given that orientation is three days, Prof. Antsaklis said, obviously, more time is necessary.

Prof. Kolman commented that the proposals presented today are the fifth revision of the Honesty Code in which she has participated. She is pleased that for the first time there is a committee whose members are knowledgeable, really knowledgeable, about current practice on campus. Because of their careful review of the files, the picture these committee members have of academic dishonesty is accurate and consists of more than mere anecdotal evidence. Thus, the proposed amendments are a great breath of fresh air—albeit only one piece of a more major renovation. While Committee members do not claim the proposed amendments are perfect, they

are a major step forward—again, because they are the result of much more research and expertise than was true of other revisions. While those versions, too, were the result of a good deal of work, Committee members did not have as clear a picture of the state of Honesty Code violations and appeals because records were not centralized in the Associate Provost’s office. Prof. Kolman recommended approval, which, she said, would then allow the Committee to take up its work on education.

Prof. Delaney commented that when the proposal to allow negotiated agreements was originally proposed to the Undergraduate Studies Committee, most members were opposed to it until they reviewed evidence of how it has succeeded elsewhere. Gradually, the whole tenor of the conversation changed and committee members acknowledged that the current system is not working at all. Moreover, they accepted that there is no way to fix that system, particularly from the top down. Rather, it is only a reasonable and modest alternative to honesty committee hearings—a bottom-up proposal—that will address the problem. The proposed system is one people actually will use.

A member said he had just one question about documentation of the negotiation: Where will these records go, and can the information they contain be used by anyone else in the University to punish the student a second time?

Prof. Jacobs explained that under the current system, when there is an honesty committee hearing in a department and the committee finds a student responsible, the file is forwarded to his office, with no record remaining in the department or the dean’s office. The record resides only in the Associate Provost’s office, filed by student name. If, then, another file comes into his office for that student—and it can come from the same department, a different department, or anywhere on campus—when his assistant goes to file the second case, there will already be a file present. It is that discovery that will trigger action on his part to begin looking at the case, to meet with the student, and to take any other appropriate action to determine if there is, in fact, an additional sanction necessary. As the Code provides, all students are notified at the time of a first offense that if a second offense occurs, the standard penalty is suspension or dismissal. [Section VII(G)(2)]

Prof. Jacobs continued that if the Council approves the proposal to allow negotiated pleas, the same sequence of events would occur. The student would be notified on the first occasion of dishonesty that a second violation could be met with suspension or dismissal. And, if the Associate Provost’s Office receives a report of a second violation of any type—whether through a report that the student and faculty member negotiate or through that of an honesty committee hearing—the same process is triggered. He would become involved at that point and decide if an additional sanction is warranted.

Seeing no other members with comments or questions, Fr. Malloy called for a vote on the amendments to the University’s Honor Code proposed by the University Code of Honor Committee. The most major amendment is an option for faculty and students to agree to an

appropriate punishment when an Honesty Code violation occurs. The amendments were approved, with two abstentions and no “nay” votes.

5. Adoption of Core Curriculum rationales: Prof. Preacher announced that this agenda item as well comes from the Undergraduate Studies Committee. Referring to the document given to members in advance of the meeting, she said that the only part of it up for a vote are the “rationales” beginning on page 9. The curricular proposals contained in pages 1 through 8 were approved by the Council on April 8, 2003.

Prof. Preacher said that all the rationales—for example, for the fine arts requirement, the first-year composition requirement, or the science requirement—have been through the Curriculum Committee more than once. That committee read them, made comments, and sent them back to the various unit committees for revisions. After the first round of revisions, if Curriculum Committee members were still not satisfied, more revisions were made.

Prof. Preacher noted that the rationales come to the floor with the recommendation of the Undergraduate Studies Committee and the Executive Committee. Both recommend a phased implementation of the rationales. In the first phase, the core curriculum subcommittees will look at the University’s current curriculum and determine which courses actually fulfill the requirements. In the second phase, courses from international studies programs will be examined to see how they fit into the curriculum. The final and third phase will deal with what is the most complex problem: transferred credits from other institutions.

Prof. Roche commented that he is very pleased with the rationales. While he realizes that the main action item resulting from a vote today will be the review of current courses and a judgment as to whether or not they match the expectations set forth in the rationales, another action item that he would like to see—and which, perhaps, the Council could endorse—is not just approval of the courses but attention to the entire concept of learning goals. Almost every course in the University has a syllabus, and he has looked at many syllabi over the years. A very significant number of them do not mention students’ learning goals for the course, or at least fail to highlight them. Learning goals are not what *material* is covered in the course but what *capacity* students should develop in the course during the semester. Articulating these goals is, he believes, a very important change in Notre Dame’s culture. There have been effective Kaneb Center workshops on this subject, and the culture is already changing, but the process is very slow. He would like to see in every syllabus, right up front, an articulation of the four, five, or six learning goals for the course. When those goals satisfy a certain University requirement, they could, in some ways, be taken almost directly from the rationales the Council is approving today. There could be additional goals tailored to the instructor and his or her particular style of teaching. He hopes that the importance of articulating learning goals could be conveyed to faculty members in some systematic way.

Prof. Jacobs said that in all the phases Prof. Preacher named, the subcommittees assigned to vet the courses that may, in fact, satisfy the different requirements of the core curriculum will be asking for course materials. They will then be looking at whether those materials demonstrate

that a particular course will make progress toward the learning objectives outlined in the rationale. That process in itself should extract out of the faculty teaching those courses a set of learning goals and outcomes that will then be looked at in comparison to the rationales. Thus, for that subset of University courses—those which satisfy the core curriculum—articulation of learning goals will begin to occur.

Prof. Jacobs said, related to Prof. Roche’s concern, a committee of students and faculty is looking at how the University can better inform students of course learning objectives at the time they select courses. The recommendation of the group is to create a system in which learning objectives are available to students for all courses, not just those satisfying the core curriculum. While realization of that goal may be some distance in the future, the University is definitely moving in that direction.

A member asked whether, once approved, the rationales will be published in any way.

Prof. Jacobs answered that they will be posted on the Web. The Curriculum Committee has made it clear to the drafting committees that there are multiple audiences for these rationales—one being the subcommittee that then must use them to decide which courses fulfill a particular requirement. It is important as well that faculty across the University are able to read the rationales and be able to say, “So, that’s what’s happening in mathematics, or philosophy, or fine arts.” Finally, it is important that Notre Dame students can look at the rationales as a whole and begin to perceive the curriculum as being a cohesive whole.

Prof. Gregory commented that in reading the various rationales, he noted that three of them—Fine Arts, Philosophy, and Theology—explicitly connect the rationales to Catholicity and the Catholic vision of Notre Dame. None of the others do. He asked whether the Curriculum Committee discussed this point and whether it matters that some rationales mention the goal of a Catholic liberal arts education and some do not. Is there some overriding rationale that all of the rationales, in some way, ought to address?

Prof. Jacobs answered that there is not an overriding rationale, other than that contained in the first eight pages of the document titled “Curricular Proposals.” The document contains no mandate that the individual rationales for the various requirements must speak to the issue of Notre Dame’s Catholicity. There was some flexibility in the document for the various disciplinary communities on campus to shape the rationales in a way each thought appropriate.

Prof. Preacher said that Prof. Cavadini, chair of Theology, asked that she present to the Council his concern that the current rationales are fragmented and that there is no overriding rationale to give a sense of a goal for the curriculum across the University. He hopes to see that addressed in the future.

Prof. Poorman said he agreed with Prof. Cavadini’s observation. Even what was passed in April of 2003 contains no rationale for why Notre Dame *has* a core curriculum. There are

many instructions about how to execute the various curriculum rationales when it comes to sub-disciplines but no rationale for the core curriculum itself. In this view this is a major flaw and should be addressed—and very soon.

Fr. Malloy responded that he sees the rationales as a necessary articulation of already-existing requirements. He understands the desire to do the same thing for the curriculum as a whole and recommends that the University Core Curriculum Committee make doing so a priority for the future, with appropriate consideration by the Academic Council. Now, however, he advocates going forward with approval of the hard work that has been achieved up to this point knowing, as all must know, that the “big picture question” is always a touchstone for Notre Dame and the particular kind of university it is.

Mr. Barry, associate director of the Kaneb Center for Teaching and Learning, said that he and others at the Kaneb hope that the curriculum rationales will help encourage faculty to provide vital information to students, such as learning goals, for all courses at the University. It is distressing to him how uneven the presentation of learning goals is in the rationales, for it has become standard practice to formulate those goals in terms of what students do—for example, “exposing” them to certain material, or students will “understand” concept X. Ideally, the learning goals should be stated in terms of observable behavior such as, students will be able to “solve” statistical problems or students will “compare and contrast” arguments. If these rationales are to serve as examples for faculty when they articulate learning goals for their own courses, it would help to have a consistent way of stating the learning outcomes that are expected from these core courses.

Prof. Jacobs replied that for some of the rationales, he read through and critiqued many drafts and met often with the respective drafting committees. The rationales have come a long way. While not all at a level consistent with Dr. Barry’s aspirations, the University is at a point at which faculty need to begin working with them—that is, trying to use them in the way they are intended. It is his expectation that after a year or two of working with these rationales, some of the core curriculum subcommittees will decide that their rationales need to be revised. Thus, the Council may be looking at a different set of rationales in a few years. He would imagine that the revisions will include more detail and achieve greater nuance as the subcommittees gain more experience in applying the rationales.

Prof. Kolman remarked that Prof. Jacobs worked very hard to get the rationales to their current level. While they could perhaps be better written if someone who really knows the language sat down and wrote them all, the benefit of the process as it was done was that nearly every department in the University at least began thinking about articulation of learning outcomes.

Dr. Barry said that he and others at the Kaneb Center for Teaching and Learning would have been happy to have been invited to the meetings at which rationales were constructed and to have discussed their wording. He asked to be invited to future meetings.

Fr. Malloy asked for a vote on adoption of the core curriculum rationales, which were approved unanimously. He then thanked Prof. Jacobs and the committee members for their hard work on the rationales.

6. Committee reports:

(a) Undergraduate Studies Committee: Prof. Preacher, chair, said that the committee has presented two major proposals from its 2004-2005 agenda to the full Council today. A third agenda item members considered this year was that of Advanced Placement (AP) credit. As they began to explore that issue, however, it became clear that micromanaging AP was not the best course of action. Also in that process, Prof. Preacher said, it became increasingly and painfully clear that the University's *Academic Code* has not been revised in a number of years. The University is beginning to move to a point where the *Code* no longer covers practice; thus, members suggest that the Council think seriously about a wholesale rewriting of the *Code*. She has asked Prof. Hatch to appoint a task force to address *Code* revisions, and he has agreed to do so.

Finally, Prof. Preacher said, the fourth issue the committee set out to examine this year was grade inflation. Not much progress was made on that front, however, and she recommends that next year's committee take up this particular issue again.

(b) Faculty Affairs Committee: Prof. Robinson said that after passage today of the amendment to the *Academic Articles* proposed by the committee, there is nothing left on the Faculty Affairs Committee's agenda. He noted that during the process of constructing that amendment, it became clear to committee members that the *Academic Articles*, too, are in need of revision. A future committee might well give some attention to that task.

(c) Graduate Studies Committee: Prof. Boyd, chair, said that the primary work of the committee this year was the drafting of a proposal for the addition of an executive committee to the Graduate Council. The proposed committee would have eight members and, importantly, it would have elected faculty and graduate student members. The goal in recommending such an executive committee was to increase the involvement of faculty and graduate students in both setting the agenda for the Graduate Council and in advising the council and the Graduate School on difficult or complex problems. She is happy to report that the Graduate Council unanimously approved the committee's proposal, and she expects that it will come to this group early next year.

Fr. Malloy thanked all members of the Academic Council for their hard work this year. He extended special thanks to Prof. Hatch, the University's provost, who is leaving Notre Dame this summer to assume the presidency of Wake Forest University; Prof. Linney, vice president and associate provost, who organized Academic Council meetings this year; the members of the Executive Committee; and the chairs of the three Council committees.

Fr. Malloy noted that during his tenure as Notre Dame's president, the Council has

moved increasingly towards a model much like that provided by the United States House and Senate, where the work of the committees is critical. A cooperative relationship between the Council and both the Faculty Senate and student government is critical as well. While these changes may make full Council meetings less scintillating than in the past, they are an essential step in the academic oversight function with which the Council is entrusted.

Fr. Malloy then adjourned the meeting at 4:20 p.m.

Respectfully submitted,

Jean Ann Linney
Vice President and Associate Provost