

Vanderbilt University
Faculty Senate Meeting
April 10, 2003
4:10 p.m. Room 140 Frist Hall, Nursing School

Call to Order

Approval of Minutes of March 13, 2003

Remarks by Virginia Shepherd, Faculty Senate Chair

Remarks by E. Gordon Gee, Chancellor
Board of Trust

Scheduled Remarks:

Report & Recommendations from Standing Committee Chairs

Senate Affairs – Chair Horn

Vote on recommended changes to Constitution

Presentation of recommended changes to ex-officio members

Senate Committee charges

Student Affairs – Chair Haselton

Report on Faculty Role in Residential Colleges

Professional Ethics & Academic Freedom – Chair McCarthy

Presentation of recommended changes in grievance process

Old Business

New Business

Good of the Senate

Adjournment

Voting Members present: Barz, Bess, Benbow, Clayton, Dobbs-Weinstein, Farran, Fleetwood, Fogo, Goldfarb, Goldring, Haselton, Hawiger, Horn, Hudnut-Beumler, Innes, Link, McCarthy, McCarty, Neff, Oates, Osheroff, Paschal, Perkins, Pitz, Ramsey, Saff, Shepherd, Swift, Tellinghuisen, Ward

Voting Members absent: , Booth (regrets), Christie, Conklin (regrets), Conway-Welch (regrets), Corbin, Denison, Gabbe, Galloway, Greene (regrets), Heyneman, Kay, Knight, Lind, Masulis,

McGill, Morrow (regrets), Outlaw, Retzlaff, Salisbury, Sasson, Simonett (regrets), Strauss, Summar (regrets), Syverud, Thompson, Victor, Wait (regrets)

Ex Officio Members present: Gee, Gherman, Jacobson, Limbird, Schoenfeld, Zeppos

Ex Officio Members absent: Brisky, Hall, Spitz, Williams

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The meeting was called to order at 4:10 p.m. by Chair Virginia Shepherd. After requesting for changes, the Minutes of March 13, 2003 was approved.

Chair Shepherd began the meeting by reviewing the agenda.

She then made the following remarks. Via e-mail, first-year senators will receive an information sheet for them to complete and return for the May 5 election of officers. Chair Shepherd also noted that in front of each senator was a copy of a “traits survey” related to faculty senate effectiveness. She asked that all senators complete the survey.

Next item on the agenda – Remarks from Chancellor Gee

Chancellor Gee extended his appreciation to the Senate Executive Committee and committee chairs for their work this year. He then stated that his remarks for the meeting would focus on changes to Board of Trust membership. Presently, there are forty-one members. He noted that Martha Ingram serves a chair of the BOT and is the single largest donor to the university. She believes in the mission of the university and the growth of education and research.

As the University continues to expand, there are challenges that the University must face and overcome. One change relates to moving away from life membership on the board to term membership. Chancellor Gee noted that board members will now adhere to being appointed to two five-year terms. Those members who are between the ages of 72-75 will become emeritus members. He stated that these changes will occur during the April board meeting.

Chancellor Gee stated that the Board will have a June retreat to focus on BOT governance as it welcomes new members who are young and diverse. Unfortunately, he cannot announce the new members until they are approved by the Board in April.

Chancellor Gee then opened the floor for questions.

Question: (Senator Hawiger) – Faculty are obviously significant stakeholders. What is our role with the Board of Trust?

Response: (Chancellor Gee) – The BOT has an academic committee, which provides an avenue for the Senate to present its concerns and accomplishments. There is also a direct relationship and a direct line of communication between the chair of the Senate and the chair of the Board committee.

Question: (Senator McCarthy) – Obviously with the new term membership, there is now membership flexibility; however, are there concerns that it will pose a challenge to maintaining a high level of emotional connection to the University?

Response: (Chancellor Gee) – Clearly, we have longstanding members who are truly committed to this University. We will need to work on making them feel included and loved after their terms end.

Question: (Senator Oates) – With senior members comes experience. Are there concerns that a lack of seniority will influence the effectiveness of the committee chairs?

Response: (Chancellor Gee) Yes, that may become a problem, but that is why we must bring along members into leadership roles faster than we have so that experience can occur without waiting for maturation.

Next Item on the Agenda – Resolution on Board of Trust member Judson Graves Randolph

Chair Shepherd read a resolution thanking BOT member Judson Randolph for his years of service as chair of the Board's Academic Committee. After reading the document, Chair Shepherd asked for Senate acceptance of the resolution through voice vote. It was passed unanimously. (View document at <http://www.vanderbilt.edu/facultysenate/files/Randolph.pdf>)

Provost Zeppos thanked the Senate for passing the resolution.

Next Item on the Agenda – Senate Affairs Committee – vote on changes to the Constitution and a review of recommendations, which will be voted on by the Senate at the next meeting

Chair Shepherd called on Senator Mary Ann Horn, chair of the Senate Affairs Committee.

Senator Horn reviewed recommended changes to the Constitution as discussed during the March 13th Senate meeting.

[The recommended changes read as follows.]

A change to The Constitution of the Faculty Assembly and Faculty Senate of Vanderbilt University; Article II, Section 2, Sub-Section D:

CURRENT STATEMENT:

"The Senate may hold special sessions when matters of a confidential nature are being considered. Such sessions may be closed sessions, with only members present, executive sessions, with only voting members present, or special executive sessions, with only elected members present. No action taken at a special executive session shall be binding upon the Senate unless approved by a majority vote at a meeting where all voting members may be present. The Senate, acting by majority vote, shall have the authority to call any special session. [1971]."

RECOMMENDED REVISION:

(Bold type denotes additions or modifications.)

"The Senate may hold special sessions when matters of a confidential nature are being considered. Such sessions may be closed sessions, with only

members present, executive sessions, with only voting members present, or special executive sessions, with only elected members present. No action taken at a special executive session shall be binding upon the Senate unless approved by a majority vote at a meeting where all voting members may be present. **One special executive session shall be held in each academic year. In addition to the mandatory yearly special executive session, the Senate, acting by majority vote, or the Chair of the Faculty Senate, acting in consultation with the Executive Committee, shall have the authority to call a special session at any time.**"

Chair Shepherd asked for any further discussion.

Question: (Senator Pitz) – Will there be enough items to discuss in a special session each year?

Response: (Senator Horn) – I believe there will be enough items.

Question: (Senator Paschal) – The clause “at any time” – are there any requirements for advance notice?

Response: (Senator Horn) – That is already in the Constitution, so there are no new changes to that requirement.

Question: (Senator Fleetwood) – You use the word “shall be held” in reference to the chair calling a meeting. Should that be changed to “may be held.”

Response: (Senator Horn) – The chair already has this right. The committee just wanted to make it more formal.

Question: (Senator McCarthy) – Will this require pre-setting a date on a calendar?

Response: (Senator Horn) – It will be left up to the executive committee to call the meeting.

Chair Shepherd concluded discussion and called for a vote. She noted that the vote would require a 2/3 approval to pass. Voice vote taken. Motion passed. Chair Shepherd asked Senator Horn to bring the next recommendation, noting that this recommendation will require only a simple majority vote.

Senator Horn read the recommendation pertaining to closed voting.

[The recommended changes read as follows.]

A change to The Constitution of the Faculty Assembly and Faculty Senate of Vanderbilt University; Rules of Order, Section III, Sub-section B:

CURRENT STATEMENT:

"Voting on matters before the Faculty Senate shall normally be by ‘ayes’ and ‘nays’ (voice vote or show of hands). A roll call vote may be requested by any five voting Senators. In the event that a roll call vote is taken, the vote of each individual Senator shall be recorded by the Secretary in the minutes of that meeting. Except in the case of election of officers, no secret ballots shall be taken. This rule may be suspended by a two-thirds vote of the Senate."

RECOMMENDED REVISION:

(Bold type denotes additions or modifications.)

"Voting on matters before the Faculty Senate shall normally be by "ayes" and "nays" (voice vote or show of hands) or by **electronic voting. A closed vote shall be taken at the request of any voting member on any issue except routine procedures such as approval of minutes and adjournment.** A roll call vote may be requested by any five voting Senators **and shall be instituted if approved by two-thirds of the voting members present. An approved roll call vote shall take precedence over any other form of voting, except in the election of officers, which shall always be by closed vote.** In the event that a roll call vote is taken, the vote of each individual Senator shall be recorded by the Secretary in the minutes of that meeting."

Chair Shepherd asked if there were any further discussion on the recommendation just heard. Hearing none, she asked for a show of hands for passage. Motion passed.

Next, Senator Horn reviewed five more recommendations for discussion. A vote will occur at the May 5th meeting.

(View document at <http://www.vanderbilt.edu/facultysenate/files/41003SenAff.pdf>)

Senator Horn opened the floor for questions. Having none, Chair Shepherd thanked Senator Horn and her committee.

Next Item on the Agenda – Student Affairs Committee – review of committee report on Residential Colleges and the role of faculty

Chair Shepherd called on Senator Rick Haselton, chair of the Student Affairs Committee.

Senator Haselton showed a very brief PowerPoint presentation. (View document at <http://www.vanderbilt.edu/facultysenate/files/studaff41003.pdf>) He noted that the committee had a lot of discussion on what title the head faculty position would have. No recommendations were agreed upon. The committee did agree that the person should be an outstanding leader. It also agreed that a University committee should be created to select the first head faculty position.

Senator Haselton also noted that the committee recommended there be flexible compensation for all who would be involved – from tenured faculty, to junior faculty and graduate students. The committee felt that the various positions would be a good recruiting tool for junior faculty and graduate students.

Senator Haselton opened the floor for questions.

Question: (Senator Hawiger) – So, has the administration already chosen a title for the head faculty role?

Response: (Senator Haselton) – As far as I know, no title has been decided yet.

Follow-up Question: (Senator Oates) – What about Master?

Follow-up Comment: (Senator Paschal) – That title is sexist.

Follow-up Comment: (Provost Zeppos) – Yale uses Faculty Master, and that has had some controversy. They are actually looking at changing the name. Vanderbilt will work to come up with a title that best captures the essence of the position and its role.

Chair Shepherd asked for any further discussion. Hearing none, Chair Shepherd thanked Senator Haselton and his committee.

Next Item on the Agenda – Professional Ethics & Academic Freedom (PEAF) Committee – a review of recommendations, which will be voted on by the Senate at the next meeting

Chair Shepherd called on Senator John McCarthy, chair of the PEAf Committee.
[NOTE: This section of the Minutes was transcribed to ensure accuracy of comments.]

To complement his discussion, Senator McCarthy showed a PowerPoint presentation. (View document at <http://www.vanderbilt.edu/facultysenate/files/PEAFpresent2.pdf>)

Senator McCarthy: At the beginning of the Academic Year 2002-2003, PEAf was charged to review the current formulations in the Faculty Manual, Part 4, Disciplinary Actions and Grievances, Chapter 2, Faculty Grievances, found on pages 132-138. Hard copies of the changes which PEAf has agreed upon are now being distributed.

In 1998, under the former Provost, Tom Burish, grievances arriving from reappointment, tenure and promotion decisions were split off from PEAf's charge. PEAf retained purview over all other grievable matters. Grievances of the first nature were referred to an ad hoc committee not consisting of PEAf members. Based on this background, PEAf was charged this year to reevaluate the tenure and promotion process and to reconsider the wisdom of having split off the ad hoc process from PEAf's general charge.

Due to several pressing matters last semester, the committee was unable to turn its attention to this charge until the beginning of this academic term. Since then, PEAf has met several times. We have had some intense discussions. We have gone through the passages with great care. We have exchanged e-mail messages regarding formulations and requests for further clarification. This has been a detailed process, and I am grateful to all the members of PEAf who devoted so much time to it.

My desire today is to lead the Senate through general and specific concerns then I will talk about specific recommendations. [Senator McCarthy proceeds to review the general and specific concerns as shown in the ppt. file.]

Following his review, Senator McCarthy opened the floor for questions.

Question: (Senator Bess) – It says the Chair of PEAf will act as the initial contact for a tenure and promotion grievance. That gives that person strong gate keeping powers. In effect that person could have the power to veto the entire process right there at the beginning. Is that correct?

Response: (Senator McCarthy) – I think that is a fairly narrow reading of the Faculty Manual. The Faculty Manual, as it states currently, is that in any grievance, in any of the non-tenure and promotion decisions, is encouraged to contact the Chair of PEAf to see if there is not some way to resolve the conflict informally. The point of initial contact is aimed at trying to avoid the formal process of grieving. The Chair of PEAf does not have the sole responsibility for making

that kind of decision; however if the chair, after consultation with the potential grievant, is convinced that the grievant wishes to move forward, then a formal grievance is filed. The Chair distributes the grievance to PEAFF, and collectively, the committee discusses the merits of the case and reaches a decision. The Chair then communicates that decision to the grievant, allowing the process to go to the next step. So if a grievance is filed, it is not the Chair's decision. It is the Committee's decision.

Question: (Dean McCarty) – Could you help me understand what special expertise PEAFF would have in recommending legal counsel?

Response: (Senator McCarthy) – PEAFF would not have any special legal expertise or expertise in recommending legal counsel other than responding in a humane and collegial fashion to a colleague who says “Well, what do I do? I don't know any lawyers.”

Follow-up Comment: (Dean McCarty) – I suggest that this is a very dangerous position for any committee to take – to get involved in a legal proceeding, when it has no special expertise.

Response: (Senator McCarthy) – The committee would not be involved in any legal decision.

Comment: (Provost Zeppos) – I too would question this role. I am not saying that this should not go forward, but it can be far more complex and raise a host more relationship and fiduciary duty issues than you might think at first blush.

Comment: (Chair Shepherd) – I think that one concern for PEAFF was that a faculty member may feel he/she does not have any options in terms of finding legal counsel. Junior faculty, particularly, are left with “Well, what do I do now?” I guess the intent was to try and be humane in this and to be of assistance.

Comment: (Dean McCarty) – I know that I would hate for any faculty committee to make a recommendation that is not within its realm of expertise.

Question: (Dean Hudnut-Beumler) – I leave it to the lawyers on whether a bad referral might actually be a disservice to a grievant faculty member. I am wondering whether the current process of having a Process Chair might not be a stronger process than we think. Current arrangements provide that the Process Chair is appointed to serve a two-year term. There was some concern about whether this person, who was rendered by the Vice Chancellor of Health Affairs and Provost, would be a trustworthy person – one who would be gifted with this particular task of meeting with people who had a tenure or promotion grievance. Do we have any guarantees that the PEAFF Chair, as we go on from year to year in our political arrangement of how we determine our officers, will be equally gifted?

Response: (Senator McCarthy) – The PEAFF Chair would be only the initial point of contact. That is, the Chair would make the initial decision as to whether there are procedural matters involved. The committee determines whether there is a grievable matter or not. If the decision is made that the case does have merit, then a report is made to the Chair of the Faculty Senate and the Ad Hoc process begins.

The present recommendation is that the Ad Hoc Chair, not the Process Chair (as currently formulated) is appointed for a two-year term and is someone to whom all segments of the University community can turn to with confidence. It is our assumption that the Chair of the

Faculty Senate, the Provost, and the Vice Chancellor for Health Affairs can agree upon a person to chair the Ad Hoc Committee. They would also then agree upon the members of the Ad Hoc Committee. PEAFF would not have anything to do with the actual investigation of the claims of the grievant.

I understand that there is a certain degree of attractiveness to the objectivity of having a Process Chair already in place. But on the other hand, you also have PEAFF in place. For most of the history of this institution and the Senate, PEAFF has functioned as the committee to investigate grievances that arise out of tenure and promotion decisions. The primary reason apparently as to why that function was split off is because of the workload imposed upon PEAFF.

Comment: (Senator Fogo) – I want to address the last comment. If I were a potential grievant junior faculty member, I would be more worried about a Process Chair who would be in place for two years rather than a person who is appointed – with all due respect and fairness to the Chair of the Faculty Senate, who should be my advocate and should be the person who looks out for all fairness for all faculty procedures. I think there is more of a risk of having a person who is placed for two years perhaps either not having a good understanding of the particular area or being so involved with the area that there develops a conflict of interest. So, I think it is a good solution to have a committee that is appointed for a specific circumstance. The Faculty Chair will have a very strong voice and vote in the selection with the Vice Chancellor and the Provost. I think we should have such a group.

Comment: (Senator Pitz) – I just want to point out another fact. The new Ad Hoc Chair would conduct the investigation to its conclusion, and would not be limited by a term.

Comment: (Chair-elect Ramsey) – We are really just talking about the mechanism for determining whether a matter is grievable, if you assume that the allegations have merit. It seems to me that the function could be performed equally well by the Chair of the Process or the PEAFF Committee collectively. I think that the PEAFF Committee is actually in a little better position to do that.

Comment: (Chair Shepherd) – To me, this makes the process more accessible to grievants. The PEAFF Committee is set up as the gatekeeper that each person can contact. PEAFF knows the process and it knows the procedure. It is a much simpler process for the faculty member, and that is what I would be most concerned about in this case.

Comment: (Senator McCarthy) – I also think that it might be beneficial in terms of preserving a pool of qualified and willing faculty to serve on the Ad Hoc Committee, who would be called into service. I know of no Chair of PEAFF who would react with joy at the thought of even more work, but the solution proposed is one that tries to react to the very positive aspects and gains of the Ad Hoc process. We want to streamline it in such a way that we can preserve energy and expertise. There are at least two references, within those six pages that I cited, that state a grievant has recourse to legal counsel. So, PEAFF felt that it was probably worthwhile for us to formulate and formalize it in some way.

Question: (Senator Goldfarb) – I have a couple of questions. One is, according to this handout, in Chapter 2, Section A, it says, “only the Chair of PEAFF” as opposed to the Committee.

Response: (Senator McCarthy) – When the Chair of PEAFF is approached by a potential grievant, the process requires an attempt to solve the dispute without a formal grievance. What that means is that the grievant meets with the Chair of PEAFF, maybe more than once. The Chair of PEAFF will also meet with other parties who are involved to see if there is not some way to avoid a formal grievance.

If the Chair of PEAFF is not able to reach an agreement with the parties and the grievant decides to file a formal grievance, it goes to the Committee. The Committee views the grievance according to specified guidelines in the Faculty Manual and determines whether to accept the grievance or not. If the Committee decides to accept the grievance, then the Chair of PEAFF is charged with communicating that decision to the grievant and to the parties being grieved against.

At this point, PEAFF’s investigation begins. We try to be as fair and as open as possible. And only after all the evidence has been examined, is a decision made.

Follow-up Comment: (Senator Goldfarb) – It sounds like a Grand Jury.

Response: (Senator McCarthy) – No, not really, because PEAFF does not have the final say.

Comment: (Chair Shepherd) – I believe Senator Goldfarb is referring to this top slide on page five. In the wording it says, “only after the Chair of PEAFF has made a preliminary determination.” Understand that there are certain criteria that the grievance must meet. That is all that the Chair of PEAFF will be doing. He/she will be making sure that the grievant is meeting one or more of those criteria.

Question: (Senator Paschal) – I have a couple of questions. There are many changes. Are we going to be asked, when we do vote for this, to vote for this en masse? Or item by item?

Response: (Chair Shepherd) – I am going to defer to our Parliamentarian here.

Follow-up Response: (Senator Horn) – One possibility is to ask for suggested amendments to PEAFF’s recommendations. PEAFF could evaluate them and put a revised recommendation on the Web.

Comment: (Senator McCarthy) – I have two responses. One is I was hoping that we would have a window of time for senators to read through the recommended changes and to respond with alternative recommendations. The second is that while it would take much longer to approve this section by section, it would allow everyone to vote on each section according to his or her best judgment and conscience.

Question: (Senator Paschal) – Will you make this text then available on the Web?

Response: (Senator McCarthy) – It will be put up there for viewing.

Comment: (Vice Chancellor Jacobson) – I have three points. First, since John clarified that the Chair isn’t really using his/her discretion to judge the merits of the case, but is actually

interpreting whether the case meets specified criteria, I think the language “is acceptable for consideration” is probably the wrong language. Second, since I usually agree with the Provost, and I am not a lawyer, I believe there is a better way to share with a grievant’s legal opportunities than to have PEAf advise them. Perhaps PEAf could construct an information sheet. Thirdly, Matt’s [Ramsey] comment was not totally accurate in that it is only the beginning of the process that will be changed. It may seem like a minor point, but on the appointment of individual participants to the committee, the current language has the Vice Chancellor and the Provost concurring with the appointment as opposed to being consulted. I would prefer to retain the concurrence. I believe we can add value to the composition of the committee by having more than just consultations concerning the formation of the committee.

Comment: (Provost Zeppos) – I do think that Michael’s [Goldfarb] question needs to be addressed in a very thoughtful way, because I couldn’t quite understand if the process you have described involves the full PEAf Committee. What you have described is not a Grand Jury, but instead something that looked a little bit more like a hearing, which a Grand Jury is not.

Response: (Senator McCarthy) – I think that Michael’s concerns were actually addressed, perhaps in an oblique fashion, but namely that the way PEAf functions now is in a three stage process. First is this informal contact. Next is the formal filing of a grievance which goes beyond the Chair of PEAf. Lastly, the grievance is taken up by the entire Committee.

Question: (Provost Zeppos) – Does the Chair of PEAf have the right to say “Yeah” or “Nay” alone? Who else is involved?

Response: (Senator McCarthy) – All the members of PEAf.

Follow-up Comment: (Chair Shepherd) – In the recommendation, it states that, “The Chair of PEAf determines whether or not the grievance meets the criteria that are enumerated in the Faculty Manual.”

Follow-up Comment: (Senator McCarthy) – After consulting with PEAf.

Comment: (Chair Shepherd) – As it is written here, “The Chair of PEAf determines whether it meets those criteria.”

Question: (Provost Zeppos) – So, the Chair alone can say “No.” What would happen then?

Response: (Senator McCarthy) – If the Chair alone says “No,” and the grievant insists upon filing a grievance, the grievance can go forward.

Follow-up Question: (Provost Zeppos) – To the Ad Hoc Committee?

Follow-up Response: (Senator McCarthy) – No, it would go to the PEAf Committee. The PEAf Committee would then determine, according to those guidelines spelled out in the Faculty Manual, and they are spelled out twice, whether the grievance has merit.

Comment: (Senator Pitz) – I think that the wording is an editing error, because later on in this paragraph description, it says the whole Committee decides.

Follow-up Comment: (Senator McCarthy) – It is the whole Committee. It should read “PEAf” and not “Chair of.”

Question: (Senator Hawiger) – This is an extremely important academic process because tenure obviously determines whether someone will stay here. It boils down to specific expertise in the field of study or scholarly activity. Who is providing this expertise?

Response: (Senator McCarthy) – It would be the Ad Hoc Committee.

Chair Shepherd: I would like to conclude this discussion. I suggest that we look through each of these sections, then e-mail suggestions, comments, or questions to John. We will provide opportunities to bring up amendments at the May meeting.

Chair Shepherd thanked Senator McCarthy and his committee.

Chair Shepherd then called for any old or new business or good of the Senate.

Senator Perkins: For possible future consideration, I recommend that the Senate examine the current process used by students to take courses outside of their college. It is very complicated and difficult.

Response: (Chair Shepherd) – That is a very valid issue and I will defer to the Chair-elect and the next academic year.

Hearing no other concerns, the meeting was adjourned at 5:45 p.m.

Respectfully submitted,

Ellen Goldring,
Secretary