

Minutes of the Faculty of Arts and Sciences
The College of William and Mary
October 2, 2001, Millington 150

The meeting was called to order at 3:35 p.m. by Dean Geoffrey Feiss

I. Minutes of the Last Meeting

The minutes of the September 4, 2001 meeting were approved as posted.

II. Elections

Nominations and Elections Committee -- Elections for:

Retention, Promotion and Tenure Committee (RPT) - one three-year term in Area I]
John Conlee (English)
X Marlene Jack (Art and Art History)

International Studies Committee (ISC) - [one three-year term]
Donald Baxter (Government)
X Beatrice Guenther (Modern Languages)

III. Reports of Administrative Officers

[At the Dean's recommendation, these reports were given after a discussion of item b under the Faculty Affairs report, the Consensual Amorous Relations Policy]

Provost Cell reported that the executive committee of the Budget Policy Advisory Committee would meet tomorrow to decide which budget initiatives would be submitted to the Board of Visitors. They would include proposals to fund a) the process of changing administrative software, b) library resources and c) graduate student support.

She also reported on her meeting with the Faculty Assembly Faculty Affairs Committee and Associate Provost for Information Technology Courtney Carpenter to address concerns raised by a Personnel Office memo which incorrectly implied the imposition of a new more restrictive state policy on computer use. Provost Cell informed the faculty that a new statement of College policy in this area will be submitted to the Assembly for review, but that nothing has changed as a result of state policy: the College has gone into a faculty member's computer only one time, and that was with a search warrant based on credible evidence of criminal activity.

IV. Report of the Faculty Affairs Committee

[FAC's routine report on its activities was deferred until after the following discussion]

Dean Feiss introduced discussion of proposed changes in College policy governing Consensual Amorous Relations by commending the Faculty Assembly and the Arts and Sciences Faculty Affairs Committee for their work in this regard. He stressed that the item to be discussed was not related to existing policies on sexual harassment or any state and federal laws. The legality of either proposal for revising the Consensual Amorous Relations Policy is not at issue: having seen both, the Attorney General's Office has given formal approval to the April version and is favorably disposed toward the September version. Thus neither would raise legal issues. The Commonwealth can be said to have an overriding interest in maintaining a professional relationship between faculty and students.

The Dean and FAC have wanted a discussion of these proposals, and so today's meeting is designed to offer Arts and Sciences faculty a chance for input, which will be relayed to the Assembly. Dean Feiss outlined rules to govern the discussion, stipulating that remarks from any one individual would be limited to no more than two minutes.

Faculty Affairs Committee Chair Katherine Kulick opened the discussion with a brief overview of the issue's history. Given bad publicity resulting from a magazine article last academic year, the Board decided that the College needed a new Consensual Amorous Relations Policy: it agreed that the Assembly could write this new policy but reserved the right to approve or not. By April 2001 the Assembly had completed work on a draft of a new policy, but subsequently some faculty reconsidered and preferred a broader version. Summer 2001 brought news of another episode. In addition, by then members of the Board had let it be known that they found the April version as too narrow. As a result, the Assembly Executive Committee wrote a new version in September: not all members agreed with either draft, but saw the need to take a policy to the Board (by November) after Assembly action (in October).

[Kulick reported receiving email requests for clarification, specifically having to do with whether graduate students who serve as teaching assistants are classified as instructors or students in the new proposed policies. She has forwarded such concerns to the Assembly.]

Kulick summarized similarities and differences between the April and September proposals. Both share three points: faculty must pursue the unfettered process of learning; they must adhere to a proper professional role; and evaluation must reflect the true merits of a student's work.

As for differences, the April policy a) bars Consensual Amorous Relations between faculty and students for whom they have a direct professional responsibility (in short, permitting such relations where a student is not being supervised by that faculty member); b) a faculty member should not take on professional responsibility for any student with whom that faculty member has had a Consensual Amorous Relationship in the last four years; c) the faculty member must inform the student that any such relationship poses limits on that student's academic options; and d) there can be waivers or exemptions if the Provost approves.

The September version added a principle to the first three--namely that even where a faculty member has no direct professional responsibility for a student, a Consensual Amorous Relationship may be asymmetrical and disruptive to the College community. Thus it also spells out different restrictions: a) faculty are not to have Consensual Amorous Relations with any undergraduate; b) faculty may have no Consensual Amorous Relationship with graduate students for whom they have a direct professional responsibility, and c) any waiver/exemption would be granted by the Dean [an earlier version of this draft further stipulated that any waiver/exemption must be granted in advance, but the Personnel Policy Committee removed it].

Speaking for the Assembly Executive Committee, Professor Colleen Kennedy reported that she and her colleagues have been accused of kowtowing to Board pressure. She replied that based on her experience, the Board is no more likely to have one opinion than is the faculty, but in this area unity prevails. Moreover, she added, the Board has power to make policy and has not yet done so. She insisted that the faculty must thus be prepared. To be sure, all faculty would like the Board to be merely a genial advisor and fierce advocate (as some of its members are), but the latter also sees its role as advancing the welfare of the College--which some define differently. Some members favor managing College business even more closely. Thus the faculty needs to understand the Board's bottom line so that it does not totally abdicate its own policymaking role.

Another charge facing Assembly members, she continued, is that giving ground to the Board. But Kennedy replied that working with the Board on any given issue need not mean that it will be harder to take a stance on other issues. She pointed out that the Assembly had not been asked to draft a policy by the Board--it had merely been alerted to Board concerns.

Kennedy argued that anyone familiar with the Board's views know that it would not approve the April draft, meaning there would then be no policy--and the Board itself would shape one. The Assembly's choice appears to be either offer the Board a policy supported by only about half the faculty or none policy at all--and the former option seems preferable.

As to the harm of the April version, she said it is encoded in the policy itself: under its provisions, students would be prevented from taking certain courses, but faculty suffer in no way.

At that point, discussion of the two drafts began; the following viewpoints are paraphrased:

[Faculty] Either draft imposes limits on faculty, but the limits are necessary: thus the September version should be passed, as undergraduates are different from graduate students (the faculty's responsibility for the former is closer to the traditional one of in loco parentis). Yet why does the stronger September policy include qualifications such as Consensual Amorous Relations being "asymmetrical" and "disruptive to the College community"?

[Kulick] Others may feel compromised by such relationships, such as the student's roommates, in that they don't benefit from.

[Faculty/Followup] Couldn't someone also charge that a perfectly benign relationship offends them and try to get it banned as well on the same grounds?

[Faculty] Will prospective graduate teaching assistants be informed before they are hired that they are banned from relationships with students (such a ban could have a very serious effect).

[Kulick] True but this is not intended; the Assembly will look into the dual role of grad students.

[Faculty] The April version deserves strong support, but there are several kinds of teachers, including some undergraduates themselves. The April policy would ban relations between them and other students for four years; the September policy removes that and offers no clarification.

[Faculty] This policy is paternalistic and moralistic. The State of Virginia does not have a good record on civil liberties. It has restricted rights of association but doesn't enforce it since so many people would be in jail for fornication, oral sex, homosexuality etc. Consensual amorous relations should not be banned; those who have such relations ought to be prohibited from entering into professional relationships, but people should not be told what to do with their hearts.

[Faculty] Anyone over 18 is an adult in Virginia, but that doesn't mean all consensual amorous relations among them should be permitted--not between high school teachers and their students, nor between college faculty and undergraduates. We need to sell this institution to an external audience. The special relationship between mentors and their charges requires protecting the latter. Any relationship between them is asymmetrical (graduate students are different).

[Faculty] The April policy is reasonable. The harm of any such relationships extends beyond those directly involved: students should not have to stay away from certain faculty members' classes because the latter have a reputation, yet that happens under the current policy.

[Faculty] We should be wary of legislating morality. What would the Board do on its own that is worse than this policy? Many undergraduates are older yet this would restrict them as well.

[Kennedy] The Board could ban all relationships (involving undergraduate or graduate students) with no exemptions and actually specify termination as the penalty for violation.

[Faculty] Two questions: what would happen to faculty who violate either of the new policies, and what do our peer institutions do in this area?

[Kulick] Review indicates a huge variety of different policies from total bans on such relations to limited bans (i.e. only on those students being directly supervised). Private schools are stricter. Penalties for the violation of College policies are spelled out in the Faculty Handbook.

[Faculty] Much of this is driven by unusual events involving only a few people. We have made a good faith effort to work this out. The April policy is better: it's hard to say undergrads are that different from grad students (the distinction is not as sharp as implied in the September draft).

[Faculty] The September version is preferable. The notion of harm is very important: consensual amorous relations pollute the learning environment, violating the students' sense of fairness. Also a question for the earlier speaker: do undergraduates ever teach?

[Faculty] In reply to the previous question, some undergraduates are lab assistants and tutors: they are never the instructor of record, but they have professional responsibilities.

[Kulick] Such cases would be referred to Student Affairs and governed by the Student handbook.

[Faculty] April's draft passed unanimously. We distinguished Consensual Amorous Relations from harassment and professional relations: we meant only non-professional relationships.

[Faculty] All faculty have some responsibility for all undergrads; the September draft is better.

[Faculty] The latter point is valid, yet the September policy is too tight on graduate students, who do not have a professional responsibility for all undergraduates in the same way as faculty do.

[Faculty] The harm of the September policy is the erosion of the rights of association. The State Attorney General would not defend it; it is not defensible. As for tactics, the faculty could bring the April policy to the Board with broader faculty support than it could for the September draft.

[Provost Cell] The Attorney General has reviewed the April draft and sees nothing in it that is contrary to the law. The Attorney General has said that the College could legally ban such relationships (without having formally reviewed the September policy)

[Faculty] Concerns about the September version are understandable, yet the right of association can not be unconditional: typically the greater good limits such rights and this is the greater good.

[Faculty] My civil rights end where those of my students begin.

[Faculty] Just because something passes muster with the Virginia Attorney General does not mean it is clearly constitutional (if history is any indicator). The principle used to measure constitutionality is not that the "greater good" trumps rights: rights by definition are not trumped. This policy change limits the rights of both faculty and students: the latter see it as paternalistic. The State can limit those rights only where it has a compelling interest and limits are defined narrowly: the September policy is way over-board and the April version is very strong compared to the policies of other schools. We already have rules against sexual harassment and violations of professional responsibility: this is really a moral denunciation.

[Faculty] The September policy is better, and not because it is "moral." The April policy is too narrow in defining professional responsibility: we need a broader definition (we must be able to give relationships with students outside the classroom, e.g. in advising clubs etc.).

[Faculty] The September version is better. We are not saying that Consensual Amorous Relations can't ever happen--merely that they can't happen with people who are still undergraduates. Patience is a virtue. And while maybe some students oppose restrictions, we don't yet know what most think. This policy is indeed written to cover exceptions to the rule, but then so are most. Students talk of caddish behavior, and not all were being supervised by the teacher in question, so the April policy would not deal with their grievances. What was consensual can become nasty, and students might not take any more classes in the entire department of the faculty member.

[Feiss] Arts and Sciences concerns will be passed on to the Assembly. After this discussion, Will Hausman briefly reported on other FAC activities. The Committee has met four times since the last faculty meeting, mainly in order to complete committee assignments. It has also named new committees to find a new graduate dean and to name the Hamilton professors. There is also a committee for reviewing joint application policies, which are now being turned in and will be reviewed quickly by the FAC.

V. Report of the Retention, Promotion and Tenure Committee (2000-01)

Professor Dick Kiefer briefly summarized the work of the RPT in 2000-2001: it forwarded nine positive tenure recommendations to the Dean, one split vote and one negative recommendation. The Dean forwarded positive recommendations to the Provost in all eleven cases. The RPT approved all five nominations for promotion to full professor and the Dean concurred in all cases. The Committee passed on positive recommendations for three hires with tenure, three at rank of Full Professor, one at Associate rank; again the Dean accepted all four recommendations. Finally, the Committee endorsed one department's recommendation of promotion of an Associate professor to the status of Professor Emeritus upon retirement.

VI. Old Business

There was no old business.

VII. New Business

The Secretary urged all faculty to consider contributing to the 2001 Commonwealth of Virginia Campaign, the State's one official solicitation of employees for charitable donations. He stressed that designated donations go only to those groups designated, not to overhead that might benefit other organizations. Also, contributions can be made to groups assisting with relief efforts in the aftermath of terrorist attacks in New York and Washington DC.

Respectfully submitted,

Clay Clemens

Professor of Government

Secretary's Note: With only months left to serve, the Secretary is eager to recruit a successor in hopes for a seamless transition, and would be happy to inform anyone interested about all the perks of this job, from the Lear Jet to the condo in the Bahamas. Just call x13027.