



Faculty Assembly Minutes, January 21, 2005

3:30 – 5 pm

Location: Chancellor's Hall 219

<https://cwm.zoom.us/j/4082245225>

Officers Present: David Feldman (Faculty Assembly President), Katherine Guthrie (Vice President) (zoom), Nicholas Popper (Secretary)

Other Members Present: Anna Chason, Chris Del Negro, Jim Dwyer, Marjy Friedrichs, Aaron Griffith (zoom), Brennan Harris, Rob Latour, Jessica Martin (zoom), Terry Meyers (Parliamentarian), Josh Puzey, Stephen Sheehi (zoom), Cristina Stancioiu, Scott Swan (Faculty Assembly Representative to the Board of Visitors), Brett Wilson, Kristin Wustholz

Members Absent: Chuck Bailey, Betsy Talbott.

Others in Attendance: Pamela Eddy, Cathy Forrestal, Adam Gershowitz, Carrie Nee, Margaret Saha, Sylvia Tandeciarz.

Meeting begins at 3:30

I. Minutes accepted

II. FA Bylaws

President David Feldman reports that the motion to amend bylaws has been approved by A&S and by VIMS. The other schools have not yet voted.

The key question under consideration today examines the language of FA's role in the selection of faculty to serve on committees that concern faculty convened by the administration.

Jim Dwyer moves FA into executive session. The motion is seconded but fails upon vote.

Dwyer then moves that FA not discuss or make any movements in terms of the FA bylaws or constitutions in this session. It is seconded and discussed. Motion fails.

Dwyer's motion to revise language in FA bylaws is proposed and seconded. Lengthy discussion. Feldman proposes to table discussion. Motion is seconded and passes.

III. Faculty Research Committee

Margaret Saha, chair of the FRC (which reports to FA), notes that it has traditionally been highly disorganized and proceeded according to inconsistent processes. She offers a proposed draft mission statement, charge, and structure statement so that the FA can begin regularizing membership etc. The question is asked whether there are bylaws for all committees that report to FA; the answer is no, and they likely should not be called bylaws, but there is no reason they cannot have rules and regulations or some similar nomenclature. Motion to approve, seconded, and passes unanimously.

IV. Fitness for Duty (FFD) policy

Feldman observes essential points of information for the ensuing discussion concerning the Fitness for Duty Policy: the FA has some influence but no control over the institution's FFD policy itself, but it does have control over the handbook. The issue at hand concerns the degree of faculty oversight and the risk for faculty to be dragged unwillingly into the FFD process.

Cathy Forrestall, who as former FA president has been assigned as designee for these conversations, reports that many faculty are uncomfortable with many elements of the current policy, for example its strange passages where it requires that medical diagnoses be described as "valid." She notes that this, and other changes, have recently been made to reflect requests coming out of discussion by the Executive Committee. She notes that any further changes will be made in consultation with both Faculty and Staff Assemblies. Feldman observes a lot of progress has been already.

Adam Gershowitz notes that the FFD was a big sticking point for the Handbook Working Group and was not initially in fact on its brief but only became a point of attention when the compliance office asked for it. He also notes that the initial draft from compliance was cut and pasted from UVA's FFD policy. He reports that the working group was bothered by lack of faculty involvement, and not all members were convinced by President Rowe's response that faculty should not have access to this kind of information about their colleagues. The inclusion of the FA president on the FFD team was not enough to produce a resolution, and the Handbook Working Group ultimately shelved the issue because there was no resolution forthcoming.

Feldman asks what the current policy is. Pam Eddy replies that it has been revised – the big shift is consultation language for faculty. The newer version also has more about accommodations for faculty who require them.

Gershowitz notes that in the new version, the Faculty Hearing Committee is only involved in that the faculty member can use the grievance process. But the deterrent to abuse of the FFD system

is not getting called up in front of FHC, but rather a lawsuit. University Counsel Carrie Nee agrees.

Dwyer asks why substitute the new FFD team for FHC. He continues that excluding faculty seems to lie in violation of AAUP guidelines, and that it discriminates on the basis of Title I. Nee says she won't speak to the AAUP question but doesn't understand how it discriminates. Feldman seeks to clarify that the current process affords greater protections to faculty who are able but unwilling to do their jobs than to those who are sick, and this needs to be addressed. Nee says an alternative possibility would be to supply an equivalent procedure for anyone unable to do their job for whatever reason. Feldman rules that out as lacking in humanity and maintains that it is preferable to give faculty who are incapable of performing their jobs because they are sick better protections.

Nee says she is focused on process of FFD. Feldman suggests then substituting a subcommittee of FHC as part of the assessment team. Dwyer suggests replacing the provost as decision-maker with the FHC. Nee notes that at present the FHC makes a recommendation to provost. Dwyer recommends having an initial FHC screening. Feldman asks whether it would happen after the FFD team. It is unclear how much benefit this would offer to counterbalance the added complexity or risk. Gershowitz notes that President Rowe seemed to want the FFD resolved in response to two concerns 1) she was concerned about individual faculty being involved in other's medical business 2) she thinks process already takes too long. He thus worries that adding an extra step would exacerbate that. Guthrie confirms that the process does take a long time. Feldman points out that such concerns are hypothetical. Gershowitz agrees but says that from his perspective, there needs to be faculty representation on the FFD team. Feldman points out that this is what he initially suggested and clarifies that this team not only recommends whether or not to get a medical diagnosis but also what makes recommendation about final assessment.

Feldman asks whether he can direct Forrestal to report that the FA would like to place 3 members of the FHC on the FFD rather than the FA president? Agreed. Feldman observes that FA needs to offer a cogent proposal, or the process will be taken out of its hands. Discussion tabled.

Meeting adjourns at 5:04.