

Executive Committee Meeting

April 30, 2007

Chair Jerry Hauser called the meeting to order at 3:30 p.m.

Minutes of April 2, and April 16, 2007 were approved.

Chair's Report

- Hauser reported meeting with the Chancellor to discuss the status of Prof. Ward Churchill. It now goes to P&T, then the President, and then to the Regents.
- Hauser discussed the P&T grievance motion with the Chancellor. He noted we cannot go forward with a full scale change in location of P&T since the grievance audit is underway; the audit will be completed sometime in the fall. We do have the yet-to-be implemented part IV of Faculty Rights and Duties which deals with unprofessional conduct. The Chancellor and faculty can move ahead to establish a grievance procedure that will put part IV into action. The Chancellor is in agreement with this and when it passes, Hauser stated he would hold this conversation with the Chancellor formally.
- Hauser and the Chancellor discussed the Vice Chancellor position for Equity and Community Engagement. Nothing has changed.
- Hauser announced the Alcohol White paper has been revised and he will send it to the Chancellor and Provost.
- Hauser stated the salary pool will be 5.1 percent pending Regent's approval to meet the 7% approved increase in spending level.

Motion - Silver and Gold Record – Mark Dubin, BFA Representative to S&G Record.

Hauser stated he had sent an e-mail draft of the APS. Hauser noted some items of major change. One, that the President and his designee have the authority to appoint the editor. The Board, he imagines, is called upon to make recommendations, though this is not specified. Hauser also noted that in the past, the chair of the Board has been the faculty representative from the School of Journalism, who is named by the dean of the School of Journalism, and that person had a vote. This document says the School of Journalism will have a representative, but sits ex-officio. Hauser noted in the past, each university in the system named its own representative to sit on the board of directors. The current document says Faculty Council will name faculty

representatives from across the system. Dubin stated we should be on record to maintain that each campus appoints its own representative. Bintliff suggested amending the motion to say that under “B”: maintain the current diverse representation including maintaining the current policy of direct appointments to the Editorial Board by the Faculty Assembly and Staff Council at each university within the CU system. Motion passed with amendment and will go to the Assembly on May 3.

Special Report: Christine Arguello, Managing Senior Associate Counsel.

Arguello stated she provides guidance to staff, faculty, administrators, students, and the parents association. She cannot provide guidance if someone is taking action against CU that would contravene the interests of the University.

When asked about the Silver and Gold APS, she stated that issue as it is considered a system issue, not a campus issue.

When asked about the Amendment 41 status, she noted legislation has been put forward to help clarify certain aspects, but her concern is that the wording of the amendment was clear so they can't say it is to clarify anything. She stated it should be addressed at the court level as to whether it is legal or not. Pfeffer stated given how clear the wording was, were there unintended consequences. Arguello thought things were not intended. She noted all they had to do was limit the definition of the benefit, in terms of being a gift provided in order to influence a decision. Rosse asked about gambling being permitted. Arguello explained that it falls under a consideration given for something. She also noted if you are invited to speak and it is a 501C3, you are allowed the cost of attending. Regarding prizes, unless it is based on some consideration at the time or continued performance, are considered as a gift.

Bintliff stated the Law School is discussing things one may do to keep students safe as a response to the event at Virginia Tech and asked what is going on at the Chancellor level. Arguello responded that at the cabinet meeting with the Chancellor, they met with IMOG to debrief as to what did Virginia Tech do, and what do we do. They decided to have table-top run-through exercises. Also, she has received legislation being considered with respect to K-12 education and was asked for feedback as to whether to include higher education. Her concern is it imposed obligations without giving anything in return. She noted one thing that keeps our hands tied is the FRPA privacy act which says we cannot give out information on particular students. She has recommended an amendment to FRPA to allow informing parents if a student is a risk to him or herself or to others. She thinks it should go further, if we have reason to believe there is risk to the community, we should be able to send out notices. Dubin asked if IMOG is making recommendations beyond what we are currently doing. Arguello responded it sounds easy to send out

e-mail, but it takes two hours minimum time. One of the problems at Virginia Tech is their webpage crashed because of overload. We are looking at proposals for text messaging and other types of communication. Arguello noted we are trying to address preemptively how to get the training and message out. Rosse asked if Colorado law requires reporting behavior we think is a risk. Arguello responded statutes require you report actual crime you're aware of. Keasley noted we do have intervention mechanism, and we have ombudsman. Arguello stated that is all confidential, the question is do they talk to each other. One can do referrals to mental health, but right now we don't have a mental health counselor who would know if a student is off his/her medication and be able to take steps to communicate back to those interested. On the other side there are privacy laws involved. This is part of what legislation needs to address. Pfeffer asked what is the best thing to do when there is a problem. Arguello replied, call Student Affairs, or talk to the student if comfortable with that, but the best bet is give it to Student Affairs.

Keasley asked about the Linda Chavez action to target CU and the wording of amendments. Arguello noted that the problem with initiatives is when the title ballot is approved and it's a single subject being addressed, you're stuck with what is put in. Colorado Unity met with the governor's staff and legislative leaders on how to head it off. It will be on the ballot November 2008. We can't sit back and let it go through. Keasley stated as employees we are not allowed to participate on University time. She noted to make sure it is clearly documented and take a day off if you are going to participate so you are not on University time. Kaempfer noted this case, Amendment 41, some other things in the past, like election of the president, and Amendment 2, all those seem to support the notion that Colorado is excessively liberal on ballot issue process. Would it be in the interest of CU to make that harder, to use us as a test case. Arguello responded, no if we did, we would really come under attack for trying to curtail constitutional rights of our citizens.

Special Report: John Frazee, Director of Faculty Relations

Hauser introduced the new director of faculty relations. Frazee described his office as filling the gap between the faculty ombuds program and formal processes on campus. He noted there is some overlap with the ombuds office. If a faculty member or chair wants to bring an issue to him, they can do an informal conversation. A lot of issues don't lend themselves to that kind of informal, confidential, strictly voluntary intervention that the ombuds office does. Where stronger forms of intervention are needed, or more mobile or flexible intervention is required, that's where he can be of help. He does everything from informal, private, confidential work, with single faculty, through mediated conversations with groups, to assessment of conflict issues within a unit, and at the upper end of formality, he can conduct formal investigations of allegations of misconduct, short of harassment and discrimination and crimes. Two other pieces of his work are advising on

issues of policy that effects how the campus deals with conflict and conduct issues, and he has also taken over the LEAP and Emerging Leaders programs. Frazee stated his cases so far have ranged from the simple level of classroom scheduling conflicts to a more serious allegation of misconduct.

Dubin stated it was hard to understand what kind of misconduct is not already covered by the campus. Frazee noted the difference between conduct and conflict. A conflict issue is not misbehaving. Conduct encompasses all kinds of behavior, i.e., disruptive behavior, intimidating, bullying, name calling, mistreating graduate students, unprofessional, uncollegial behavior. His operating rule is to try to fix it at lowest possible level. The mediated sessions that he has done so far have all been situations where the faculty Ombuds could not have made the meeting happen. Those meetings are strictly voluntary and people would not participate if he had not reached out to them. When asked how that is enforced, he responded, as an example, a dean can direct a faculty member to meet with him. He (Frazee) does not have the authority to compel, but the appointing authority can.

Hauser asked if any of the matters he deals with are grievable. He responded yes, which he sees as a problem. He said his understanding is that the grievance process suggests everything is grievable. A low level conflict shouldn't rise to a grievance level. Conduct issues ought not to be addressed through a grievance process, but through a conduct process. Hauser asked if a chair in a department could tell a faculty member they were engaging in behavior that was inappropriate, the person might continue and receive a reprimand, then it might be turned over to the dean, then goes in the person's file--the question is, are these violations of policy. Frazee said he would call it conduct. Hauser stated it could end up in grievance. Frazee replied the grievance procedures are serving multiple purposes, and he felt it leads to lack of clarity of when and how to use it. Some chairs and deans have indicated uncertainty when faced with someone persistently disruptive faculty, and don't know where to turn for policy guidance. Dubin stated it would be useful as he did more of this and recognized a systemic problem, to bring it to this group or any other group. He agreed, adding it is part of what he does. Frazee noted people don't know what's in their tool kit to deal with problems beyond talking to the faculty member. They don't know options, or sanctions. Rosse asked in case of investigation does he do the investigation for the appointing authority. Frazee replied, yes, but he has to have authorization from the appointing authority. He then does fact finding and submits a written report with a set of findings and recommendations. It then goes to the appointing authority and next level up. Rosse asked if the actions are grievable, it would depend on the action of the appointing authority. Frazee responded that is part of the confusion, what mechanism is used to determine if a sanction is warranted and then what happens when the sanction is issued. His understanding is that even a minor sanction is appealable, up to and including privilege and tenure. If the smallest step causes the whole process to be put

into motion, that itself is a deterrent in dealing with low level kinds of unprofessional behavior. Hauser asked how does one protect people. A common narrative is an untenured faculty member intimidated in raising any issue or complaint, when dealing with a senior faculty member or chair of a department. How do you see your office addressing these kinds of concerns. Frazee replied hypothetically he has a brokering role; he can take a concern of junior faculty members to a chair to discuss it. If it is something serious he can go to the appropriate dean. He stated the same principle applies if it's a conduct issue of an administrator. Then he has the flexibility to deal with that also. Hauser asked if he can protect a person from reprisals. He said the best way is to create a situation where the conversation can happen.

Pfeffer reported on the slate for the BFA elections. Hauser noted that the By-laws restrict the number of BFA representatives on each committee to two. He asked about the possibility of faculty members in the assembly who are elected or chose not to serve on a committee, being appointed to a committee. Bintliff stated they would serve as individual faculty.

Hauser noted it was his final Executive Committee meeting and thanked everyone for their time and advice over the last two years.

There being no further business, meeting adjourned.