

**MINUTES**  
**Executive Committee Meeting**  
**Boulder Faculty Assembly**  
**December 17, 2007**

**Attending:**

Uriel Nauenberg, Chair  
David Kassoy, Secretary  
Greg Carey, At-Large Board Member  
Babs Buttenfield  
Larry Frey  
Terry Kleeman  
Paul Levitt  
Jeffrey Mitton  
Mike Preston  
Elizabeth Dunn

David Ferris, ASC Chair

John Cooper, Retired Faculty  
Bill Kaempfer

**Not Attending:**

Pam Diggle, Vice Chair  
Barbara Bintliff, Parliamentarian  
Cathy Comstock  
Elizabeth Bradley  
E. Christian Kopff  
Alphonse Keasley

David King, UGGS  
Ryan Biehle, UCSU

**Guests:**

Provost Phil DiStefano  
Jeff Cox, AVC for Faculty Affairs  
John Frazee, Director of Faculty Relations  
Dean Todd Gleeson, College of Arts & Sciences  
Candice Bowen, Director, Office of Discrimination and Harassment  
Jennifer Norton, HR Labor Relations

A meeting of the Boulder Faculty Assembly Executive Committee was held on Monday, December 17, 2007, in UMC Room 415/417. Chair Uriel Nauenberg presided. The meeting convened at 3:30 and adjourned at 5:00 p.m.  
The minutes of December 10, 2007 were approved without dissent.

- A. Chair's Report
  - Regarding the threatening language expressed in some of the Administrative Policy Statements from the President's office, the President's office has backed down and has removed the threatening language. This represents good collaboration with the BFA and the Chancellor's office.
  - Regarding the statement from the President's office about Campus Contact with Government Officials, Chair Nauenberg has communicated to the Chancellor's office the unacceptability and unconstitutionality of this. The Chancellor agrees and the President's office is already reconsidering the statement.
- B. Distinguished Guest - Todd Gleeson, Dean of Arts & Sciences

- Dean Gleeson gave a brief history of the origination of a proposal for a tenured, full professor endowed chair for Conservative Thought and Policy in the college. At the time the principal donor didn't have the cash on hand and they were concerned about what the definition of conservative might be. The faculty had an academic's definition of conservative which wasn't theirs. About two to three years ago, Dean Gleeson met with representatives from Economics, Political Science and International Affairs about breathing new life into this proposal because was a considerable donor base that the University does not have a traditional history of tapping. The principal objection at the time was that the notion of a tenured, full professor in one of our academic departments was somewhat problematic, but to reformat this in a way that brought in a series of visitors to come in and lecture, probably offer a course or two, and do some public speaking was probably a viable proposal and in most of those departments, was thought of as a good thing. It would increase the intellectual debate and the intellectual diversity of what we offer and could help us in the arena of public opinion as to how the state of Colorado and the nation views the Boulder campus and the people here which is as a somewhat liberally-oriented institution. That group worked on a brief description and they have about \$600,000 pledged now but need \$7-9 million. It is perceived by the people that have been involved with it as an opportunity to bring in economists, political scientists, theologians, and theorists in one social science or another who are academics, journalists, or elder statesmen. There would be a variety of people, some of whom would be high profile and some, probably only people who read The New Republic might recognize. They would be brought in for a series of courses and residency here for a semester or two. The selection would be faculty-dominated, but would include members of the community and donor groups. Dean Gleeson thinks it's a very good thing for the campus to offer some balance, both from the public perception of the place, but also for our students. It will provide for an interesting view of conservative and libertarian economics and political ideas and other social policies.
- There followed discussion of anonymity of the donors, where the position would be rostered and CARTSS was suggested as a possible department to provide back-up and administrative support.

C. Faculty Compensation & Benefits Motion on Faculty Retirement Policy

Boulder Faculty Assembly  
Executive Committee  
Resolution on New Faculty Retirement Policy  
BFA-X-R-121707

WHEREAS President Hank Brown has approved a new Retirement policy for the faculty,

THEREFORE BE IT RESOLVED that the BFA endorses that plan and urges its components to be equitably applied to all faculty.

From the BFA Faculty Compensation and Benefits Committee: December 17, 2007

Approved by the BFA Executive Committee: December 17, 2007

Resolution presented to the BFA:

Passed by the BFA:

- Committee Chair Mike Preston presented the motion. His committee endorses the plan and urges its components to be equitably applied to all faculty.
- Dean Gleeson was asked to comment on the policy. He considers the proposal very faculty friendly and generous. The controversial part of the financial components says that for two or three years before somebody would retire, the campus can supplement their merit raises with six percent above whatever the normal campus raise is. And, there's a second part that says you can also provide up to a year's salary post-retirement in exchange for services rendered. No money is being provided for this proposal so it has to come out of faculty lines. It would cost the College of Arts and Sciences somewhere between a million and a half and two and a half million dollars every year to fund that proposal. He doesn't feel that it is worth pirating that amount of dollars of faculty lines in order to offer this kind of compensation package to everybody. He would rather invest in the faculty who are here, growing the faculty and growing the graduate students. Another problem is that the College of Arts and Sciences is out of office space. Phasing somebody out who's only here half-time and is taking up office space is an issue. It also prevents a department from going out and hiring a young faculty member who would fully engage in graduate training and creative work.
- Chair Nauenberg called for vote on the motion. The motion passed with six in favor and three against.

D. Faculty Affairs Committee Motions

Boulder Faculty Assembly  
Executive Committee  
Motion on Faculty Salary Equity  
BFA-X-M9-121007

WHEREAS salary inequity takes many shapes and forms, for example, compression and a debased merit system; and

WHEREAS the administration and the faculty often differ on the nature of inequity;

THEREFORE, the Faculty Affairs Committee moves:

That the administration and the BFA jointly recruit an independent consultant to determine whether CU has a serious salary equity problem and, if so, to help devise a solution to it.

From the BFA Faculty Affairs Committee: December 10, 2007  
Motion Failed: December 17, 2007

- Vice Provost Kaempfer reiterated that the evidence that he has been producing for the last eight or nine years shows that we have addressed the issue of equity problems with respect to gender and that there is a committee in place that can handle individual salary grievances should they be presented.
- Professor Mitton said that there was the objection that salaries did not seem to follow merit, but to bring in an outside consult seems unnecessary. Every department has a grievance and merit committee and if it can't be resolved at the departmental level it can be taken up to the college level.
- Professor Frey questioned what access a consultant would have. If they would have access to information in the merit review forms, it would be worthwhile. The information one needs to bring a grievance isn't available to an average faculty member. They don't have access to the way in which other faculty have been evaluated.
- Chair Nauenberg called for a vote and the motion failed with one in favor and nine opposed.

Boulder Faculty Assembly  
Executive Committee  
Motion on Salary Skims  
BFA-X-M10-121707

WHEREAS skims are neither transparent nor part of shared governance; and

WHEREAS skims often reduce the salary pool by as much as 50%; and

WHEREAS faculty habitually seek outside offers to improve their salaries; and

WHEREAS outside offers deplete department salary pools; and

WHEREAS chairs and deans often privately arrange counter offers, without the advice and consent of department faculty;

THEREFORE, the Faculty Affairs Committee moves:

That the salary skims at all levels--Chancellor, Provost, Deans--be discontinued. In the future, those funds will go directly to departments, which will assign raises on the basis of merit and which will determine if a retention offer should be extended to a colleague and, if so, at what amount.

From the BFA Faculty Affairs Committee: December 17, 2007

Motion Failed: December 17, 2007

- Chair Nauenberg gave some background on this motion. AABAC recommended that some money be left back so that the Provost could assign raises to departments whose records were superior to those of other departments, so that the merit would include the behavior of departments, as compared to the situation in which the deans were assigning, across the board, same percentage raises to all departments. That was the purpose of that skim. The departments would have to write proposals to the Provost so that he could make a decision.
- Professor Kleeman commented that this is a real problem in small departments which often don't have a salary pool large enough to withstand a retention offer for someone in their department. It can be larger than the entire salary raise pool for the year.
- Chair Nauenberg called for a vote. The motion failed with one in favor and the rest opposed.

Boulder Faculty Assembly  
Executive Committee  
Motion on Scholarship Funds for Children of Faculty  
BFA-X-M11-121707

WHEREAS years ago, the faculty passed a motion to lend some financial support to CU faculty children attending college; and

WHEREAS both faculty and administrators agree on the principle of such support;  
and

WHEREAS contradictory documents and numbers exist;

THEREFORE, the Faculty Affairs Committee moves:

That in the future the administration make available to children of CU faculty scholarship funds.

From the BFA Faculty Affairs Committee: December 17, 2007  
Motion withdrawn: December 17, 2007

This motion is the same as the motion on Dependent Tuition, BFA-X-M4-102907, which passed the full assembly on December 11, 2007 and was transmitted to administrators on December 17, 2007.

Professor Levitt withdrew motion.

E. Old Motion from 1999 on Policy to Recover Costs Due to Deficit Spending

## Boulder Faculty Assembly

## BFA-M-1-0200: Policy to Recover Costs Due to Deficit Spending

**BFA-M-1-0200**  
**Boulder Faculty Assembly Budget and Planning Committee**  
**Motion: Policy to Recover Costs Due to Deficit Spending**

**Whereas,**

The President's Office has agreed from now on not to charge interest on any form of deficit spending by our faculty

**Let it be Resolved that,**

The Boulder Campus will proceed with the following policy to recover the costs from flagrant deficit spending:

- Every two months the Sponsored Program Accounts (SPA) office will send to the Office of Contracts and Grants (OCG) a list of accounts that for any reason are overspent by more than \$10,000.
- The director of OCG (Laurence Nelson) will comment on whether there are special reasons why a particular account should not be considered for charges.
- This list will be sent to the Vice-Chancellor for Research (Carol Lynch), to the Vice-chancellor for Budget and Planning (Ric Porreca), and to the chair of the BFA Budget and Planning Committee (Uriel Nauenberg for this year).
- For those accounts without an adequate reason for the deficit, a letter, indicating the deficit and requesting that the deficit be corrected, will be sent from the Associate Vice-chancellor for Research (Carol Lynch) and the chair of the BFA Budget and Planning Committee (Uriel Nauenberg) to the Principal Investigator with copy to the Chair of the appropriate Department, the Dean of the Unit, the Vice-chancellor for Budget and Planning (Ric Porreca), and the Vice-chancellor for Academic Affairs (Phil Distefano).
- If after two months of receipt of the letter the faculty member has not corrected the deficit, an interest charge of 1% per month will be charged to the department. This charge will be applied from the date at which the letter indicating the deficit was sent to the department.
- These costs will then be deducted in the next allocation period from the funds to be apportioned to the department.
- In case the deficits are incurred in programs funded by gifts or other auxiliary accounts, Ric Porreca's office will directly receive deficit information from the Accounting Office; the interest penalty, determined by the Vice-chancellor for Budget and Planning, will be charged starting immediately.

Notice of Motion  
to the BFA Executive Committee: December 13, 1999  
Notice of Motion to BFA: February 2, 2000  
From BFA Committee: Budget and Planning  
Approved by Executive Committee for  
forwarding to BFA: December 13, 1999  
Notice of Motion to BFA: February 3, 2000  
Approved by BFA: February 3, 2000  
Forwarded to: Dean Carol Lynch  
Forward date: February 4, 2000

This motion was reaffirmed unanimously.

F. Distinguished Guests Provost Phil DiStefano, Jeff Cox, AVC for Faculty Affairs, John Frazee, Director of Faculty Relations, Candice Bowen, Director, Office of Discrimination and Harassment, and Jennifer Norton, HR Labor Relations

### Discussion of Long-term Disability and Reinstatement

- Chair Nauenberg introduced the discussion of the issue of long-term disability and reinstatement relative to the treatment of regular, tenured faculty and the treatment of instructors.
- Director Frazee stated that there is not a written policy in faculty affairs about long-term disability and whether to grant a tenured or tenure track faculty member a year or longer to make a decision about reinstatement. The practice over the past nine or ten years has been that a tenured or tenure track faculty member has applied for long-term disability and has worked out with his or her chair and dean, the opportunity to be reinstated after a period of time. This has been a practice but not a policy. Professional exempt staff and instructors who go on long-term disability don't have that option of reinstatement at this point.
- Chair Nauenberg asked if, relative to all these benefits and disabilities, Jennifer Norton and Candice Bowen are going to rewrite the policies that will be implemented to make sure that there is a tighter description of the procedure. Ms. Norton replied that Labor Relations will be providing guidance to instructors and to faculty about these types of programs.
- Provost DiStefano stated that they are consolidating issues such as short-term, long-term disability, and FMLA into Human Resources rather than keeping it in Faculty Affairs.
- AVC Cox stated that the practice for instructors has been not to grant long-term disability largely because we are dealing with term-contracted people, unlike a tenured faculty member who has a long-term contractual relationship to the University. We would have to consider what does it mean if the long-term disability runs beyond the length of the current contract, are we now guaranteeing another contract? Are we guaranteeing the remains of the old contract? The contractual relationship between the University and a tenured faculty member and a University instructor are structured so differently. So, there is no talk of extending the reinstatement option to instructors.
- Vice Provost Kaempfer posed the question: "Is the instructor more like the tenure track faculty person who has clearly defined research and professional service obligations or is it more like the staff person?"
- Chair Nauenberg asked that the Task Force on Instructors, chaired by Professor Mitton, look into the matter and offer some recommendations. Professor Mitton answered that, in the course of interviewing instructors during fall semester, this topic was never brought up. Professor Dunn pointed out that the people most affected would be on disability leave or would have already lost their jobs and least likely to have been available for participation in the interviews.
- Professor Mitton replied that there was a concern about whether re-issuance of a contract was fair. The Task Force has made a very explicit recommendation that instructors find out a year ahead of time, so that they have grievance procedures available to them for reinstatement. And, that a fast-track grievance procedure and committee be available to them to see that nothing has been done that is inappropriate.
- Chair Nauenberg asked Professor Mitton to look at the policy and make suggestions.

## G. Discussion of Grievance Policy

- AVC Cox and Director Frazee have begun an inventory of grievance procedures that are available on campus from the department level on up. There is a gap in grievance procedures which is the reason a Provost-level grievance committee was created last summer. This committee handles cases where there is no other adequate grievance procedure or where the grievance is against a dean or other administrator where it could only be adjudicated at the Provost level. That committee is staffed by member coming off the VCAC.
- They are interested in having a clear road map of what grievance procedures are available and in figuring out where there are gaps and then filling those gaps with a grievance committee of the BFA or procedures in colleges. AVC Cox stressed the need to be clear about defining the limits of any committee. Professor Cooper emphasized the need to do a better job of disseminating grievance procedure information.
- Vice Provost Kaempfer stated that it is not a good thing to have a process in which you have committees competing with each other in the grievance process. What is important is to have a very clear road map of exactly what the appropriate process is to follow, complete with having a possibility of a final hearing, if the process was procedurally flawed.
- Director Frazee said that in addition to inventorying the existing grievance procedures, at some point, it would make sense to step back and establish some criteria for what good procedures ought to be as a filter for deciding whether the policies need to be revised or written. It is important to make a distinction between grievances, which are allegations of violations of policy, versus appeals, which address decisions, versus conduct issues, which are a separate class and need to be handled with different processes. Without that, you end up with a map that has three or four roads in and no exit. It is important to be clear about how the process works and that it works in a timely fashion.
- It was brought up that the Faculty Ombuds Office has not been mentioned in this conversation and that their program is relatively unknown on the campus. It was suggested that we need to raise the consciousness of the faculty of what opportunities they have for looking at ways to address their problems. Professor Kassoy explained that its role is to act as a neutral party to facilitate the resolution of problems.
- Professor Cooper suggested that the BFA Chair should form an ad hoc committee of two or three Executive Committee members to work with the Associate Vice Chancellor for Faculty Affairs and the Director of Faculty Relations to establish criteria for good grievance procedures; to develop and guide the revision process of policies; and to make the distinction between grievances and appeals in order to reach a more comprehensive understanding of what is a grievance. The existing Faculty Affairs Committee motions on establishing a Grievance Committee and Third-Level Review Policy would be tabled while the ad hoc committee looks at them and makes suggestions.
- Professor Ferris stated that the fact that there's a proposal for a BFA grievance committee means that there is an issue with grievance procedures not being

comprehensive enough within the colleges. Whether the way to fix that is within the colleges, or whether it's to add another layer, which could possibly end up not fixing it, is the dilemma. The motion shows that we have a problem.

Boulder Faculty Assembly  
Executive Committee  
Motion on Establishment of a BFA Grievance Committee  
BFA-X-M1-121707

WHEREAS faculty may be subject to arbitrary administrative actions; and

WHEREAS faculty may be subject to administrative harassment; and

WHEREAS faculty may be subject to hostile administrative workplace conditions;  
and

WHEREAS faculty are subject to administrative authority; and

WHEREAS faculty currently have no recourse to an independent grievance procedure outside the closed administrative chain of command; and

WHEREAS faculty, in the estimation of the Faculty Affairs Committee, wish to establish a grievance procedure that is independent, open, fair, and effective;

THEREFORE, BE IT RESOLVED that the BFA recommends the following:

1. That a campus grievance committee (BFA Grievance Committee) be established under the sole authority of the BFA; and
2. That this committee shall have full power to hear all faculty grievance cases involving abuse of administrative authority; and
3. That this committee will be assisted by the Office of \*\*\* and the Office of \*\*\*\*\*;  
and
4. That the Office of \*\*\* and the Office of \*\*\*\*\* shall report all of its own such grievance cases to the BFA Grievance Committee; and
5. That the decisions of the BFA Grievance Committee shall be final and binding unless grieving faculty or the Chancellor choose to appeal to the University of Colorado Privilege and Tenure Committee.

From the BFA Faculty Affairs Committee: December 17, 2007  
Motion tabled by the BFA Executive Committee: December 17, 2007

## Motion on Third Level Review

- Discussion of the Third Level Review document resulted in talk about what constitutes an appeals process versus a grievance procedure. Also, they are not making recommendations about altering the tenure process. Rather they will be considering procedures for hearing instructor grievances over non-reappointment and how that should be handled; or the kinds of grievances where there is no place to be heard and deciding where they should be heard.
- The Ad Hoc Committee will look at this document and make suggestions. The motion was tabled.

Boulder Faculty Assembly  
Executive Committee  
Motion on Third Level Review  
BFA-X-M4-121707

WHEREAS the Faculty Affairs Committee was charged with scrutinizing the Third-level review document,

THEREFORE the Faculty Affairs Committee offers the following suggested changes:

THAT in the case of a negative decision for reappointment or tenure by the Provost, the faculty member, within ten working days of receipt of written notice of denial of reappointment and tenure, may file a written request for review with the Chancellor, indicating flaws in the basis for the decision; and

THAT if the Chancellor finds procedural errors of sufficient magnitude, the Chancellor may direct that the Provost repeat the review process as outlined above. If the Chancellor does not ask for a repetition of the review process, the Chancellor will refer the candidate's request to the BFA Grievance Committee. [BFA needs to provide for the creation of this committee.] The BFA Grievance Committee will choose a Personnel Advisory Subcommittee of three to five tenured faculty members, none of whom have previously participated in the review. The Director of Faculty Relations, or other designee of the AVC for Faculty Affairs, will participate as a nonvoting resource member of the committee; and

THAT the Subcommittee will review the complete dossier, report its findings, and make its recommendation to the Chancellor. Such a recommendation shall be solely based on procedural issues and will not be an evaluation of the candidate's academic merit. Although procedural errors per se may entitle the candidate to proper reconsideration as herein provided, such errors shall never be used as the justification for personnel recommendations. Nor shall the BFA Grievance Committee substitute its judgment about an individual's merit for that of other committees and administrators. The committee shall promptly report any procedural deficiencies to the chief academic officer; and

THAT the Chancellor will inform the candidate of the subcommittee's recommendation as soon as possible; and

THAT if the Chancellor does not accept the recommendation of the Subcommittee, or if the faculty member does not accept it, and either of these parties alleges procedural flaws in the review, the matter is referred to the Privilege and Tenure Committee; and

THAT a candidate shall be entitled to submit any material or information that he/she believes will be helpful in evaluating her/his tenure at the first, second, and third level review stages. Materials provided at a higher level of the review stage shall also be provided simultaneously to all other bodies reviewing the candidate so that they may respond, as they deem appropriate; and

THAT each faculty member shall have access to all performance evaluation documents in his/her own files. These documents shall include statements prepared by primary unit evaluation committees, by department or division chairs, or by administrative officers, but shall not include letters of recommendation solicited from outside the primary unit, which are to be treated as confidential. Each faculty member shall be informed in writing by the head of the primary unit of the results of evaluations of the faculty member's performance; and

THAT if a candidate so requests, in a confidential conversation, the Provost or his/her representative shall advise her/him in a confidential conversation of the reasons that contributed to a recommendation not to reappoint or grant tenure or promote; and

THAT after review by the BFA Grievance Committee, a candidate for reappointment, promotion, and/or tenure is entitled to appeal to the Privilege and Tenure Committee within the allowed time frame (see Regent Policy 5-H) if the candidate feels that the procedures described herein have not been observed at any stage of the recommending or review process.

From the BFA Faculty Affairs Committee: December 17, 2007  
Motion tabled by the BFA Executive Committee: December 17, 2007

#### Motion on Accrued Sick Leave

- The Budget and Planning Committee looked into this and found out that there is a distinction between the way sick leave and time off is handled between twelve-month employees and nine-month employees. Most of the tenure-track faculty are nine-month employees, but not all. Some of those in the library are twelve-month employees. And, many administrators are twelve-month employees. The twelve-month employees can accumulate their sick leave days and cash them in towards the end of their career at a 1:4 ratio. The time is capped at 960 hours.
- Professor Levitt withdrew the motion.

Boulder Faculty Assembly  
Executive Committee  
Motion on Faculty Accrued Sick Leave  
BFA-X-M1-100807

WHEREAS administrators may at the time of their retirement cash in accrued time;  
and

WHEREAS faculty may not use their accrued sick-leave time; and

WHEREAS many faculty would prefer to spend their final years at CU doing research  
at full pay rather than teaching part time to defray expenses; and

WHEREAS a number of first-rate universities allow faculty to use their medical-leave  
time for research purposes;

THEREFORE, the Faculty Affairs Committee moves:

That any faculty member may, three years prior to retirement, use his or her accrued  
sick leave time for purposes of a reduced teaching load.

(Note: Faculty will still be required to serve on committees and to continue their  
research responsibilities.)

From the BFA Faculty Affairs Committee: November 12, 2007  
Forwarded to the Budget & Planning Committee: November 12, 2007  
Motion withdrawn: December 17, 2007

There being no further business, the meeting was adjourned.