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## FSEC Minutes December 4, 2014

University of Rhode Island Faculty Senate

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# Faculty Senate Executive Committee Meeting

## Minutes #24

**December 4, 2014**

1. The meeting was called to order at 8:07 AM on Thursday, December 4, 2014 in Library Conference Room B, Chairperson Nassersharif presiding. Senators Cerbo, Rollo Koster, Rarick, Sullivan, and Welters were present.

2. Minutes of FSEC Meeting #23, November 20, 2014 were approved.

### 3. ANNOUNCEMENTS/CORRESPONDENCE/REPORTS

a. Ms. Neff was asked to contact GEIST Chair, Director Swift to confirm that she will attend the January 20, 2015 FSEC meeting.

b. Ms. Neff reported that Dean Zawia and Associate Dean Killingbeck would attend the January 27, 2015 FSEC meeting.

### 4. ONGOING BUSINESS

The FSEC discussed the forum on improving shared governance that was held at the November 20 Faculty Senate meeting and the subject of reconfiguring the Senate leadership. Committee members discussed the necessary By-Laws language changes that would be presented at the December 11 Faculty Senate meeting. Two models were debated: 1) the 3-year model consisting of an annual election for a Vice Chair/Chair-elect with the past Chair remaining as an ex officio member, and 2) a two-year term as Chair followed by a year as an ex officio past Chair. Any Senator whose term on the FSEC as Vice Chair-Chair-past Chair exceeds the 3-year term limit of an individual Senate appointment will be permitted to fill the term to which he/she was elected and would be considered an ex officio member of both the FSEC and the Senate in the year serving as past Chair. Senator Sullivan offered to draft the proposed By-Laws changes.

5. Professor Wenisch, Chair of the Constitution, By-Laws, and University Manual Committee and Senator Kirschenbaum, a member of the Constitution, By-Laws, and University Manual Committee joined the meeting at 9:00 AM. Professor Wenisch distributed prepared notes (attached at the end of these minutes). Discussion ensued about the issue of faculty voting eligibility on matters requiring Faculty Senate approval. The Faculty Senate Office had received inquiries about voting rights not only related to Health Sciences but also related to the potential move of the department of Landscape Architecture out of College of the Environment and Life Sciences. Professor Wenisch cited from the University Manual, Chapter 4, The Faculty:

**4.11.10** Membership in the University Faculty, also referred to as the General Faculty, shall be based on appointment by the President and on direct participation in or supervision of any of the following activities: teaching, librarianship, and research, within the University. The General Faculty shall consist of continuing professors, associate professors, assistant professors, instructors (see 7.10.10);

Professor Wenisch asserted that the term "continuing" is and has been understood to mean tenured (and tenure-track) referring to the fact that the position does not require renewal. Faculty on limited appointments require periodic renewal of their contracts.

Professor Wenisch also asserted that the University Manual is unambiguous with regard to the question as to who is entitled to vote at department and college meetings if the matter to be voted on needs Faculty Senate approval: only continuing (i.e. tenure-track) faculty members as stated in the following sections of Chapter 4:

Regarding college faculties:

**4.50.13** Voting on matters which require approval of the Faculty Senate shall be limited to continuing faculty holding any of the ranks listed in 7.10.10.

Regarding department faculties:

**4.60.12** Voting on matters which require approval of the Faculty Senate shall be limited to continuing faculty holding any of the ranks listed in 7.10.10.

Discussion ensued. Senator Sullivan moved to empower the Senate Chair to develop and distribute a memorandum that affirms that only tenure-track faculty qualify as continuing faculty and that voting on matters that require Senate approval is one of the rights and responsibilities that faculty on limited appointments do not share. The motion passed.

The meeting was adjourned at 10:10 AM.

Respectfully submitted,

Nancy Neff

**Faculty Voting Rights - Preliminary Notes**  
**Fritz Wenisch, Chairman of the Constitution, By-Laws, and University Manual Committee**  
**Prepared for the Faculty Senate Executive Committee, December 4, 2014**

The question has come up as to who can vote on a proposal to reorganize the health-related colleges and departments as it makes its way from departments over colleges to the Faculty Senate and from there, to the President's desk.

A first key point is that voting rights are a governance issue; consequently, they fall under Faculty Senate jurisdiction, as the following sentence from the "Powers" Article of the Faculty Senate Constitution makes clear: "It [the Senate] shall, with the concurrence of the President, formulate policy concerning teaching and research, study, exercise, discipline and government." Rules concerning voting privileges of people attending department and college meetings can be changed only through Faculty Senate legislation subsequently approved by the President.

Second, the University Manual is unambiguous with regard to the question as to who is entitled to vote at department and college meetings if the matter to be voted on needs Faculty Senate approval: Only continuing (i.e. tenure-track) faculty members. Here are the relevant passages:

Regarding college faculties:

**4.50.13** Voting on matters which require approval of the Faculty Senate shall be limited to continuing faculty holding any of the ranks listed in 7.10.10.

Regarding department faculties:

**4.60.12** Voting on matters which require approval of the Faculty Senate shall be limited to continuing faculty holding any of the ranks listed in 7.10.10.

[The ranks listed in 7.10.10 are Professor, Associate Professor, Assistant Professor, and Instructor; people who have these ranks, are, however, not continuing (i.e. tenure track), but appointed for a limited period of time, are not entitled to vote on matters requiring Faculty Senate approval.]

In keeping with what was said earlier about governance, the two University Manual passages quoted were included in the University Manual on the basis of a Faculty Senate vote. In the 1970s, in various departments, teachers were appointed to positions which today are called "Lecturer" positions, i.e. non-continuing persons (they could - and often were, of course - be reappointed to additional terms) whose responsibilities were limited to teaching. The question arose as to what their degree of involvement in policy making should be, and an ad-hoc committee on voting rights was appointed to study that issue and make recommendations with regard to it. That committee proposed to the Faculty Senate among else that 4.50.13 and 4.60.12 be included in the University Manual; the Faculty Senate voted in favor of the proposal, and President Frank Newman approved of the legislation on 9/28/78.

As an aside, it has been argued that in some colleges, non-tenure track persons have been allowed to vote on matters requiring Faculty Senate approval, and that consequently, because of precedent, the rules are that such persons can vote on such matters.

This argument is faulty. Precedent does come into the picture only if a rule is ambiguous, and/or if there is no way to determine the intent of the body/person establishing the rule; then, it would be justified to use as an argument, "That's how the rule has always been understood." In the case at issue, first, there is no ambiguity to the University Manual passages; second, those of us whose institutional memory goes back to the 1970s know precisely what the items to be addressed were when the two University Manual provisions quoted earlier were approved (I myself, for example, have a clear memory of my conversations with John Hanke, one of the members of the ad-hoc committee proposing the Manual passages, and at the time, a member of the philosophy department). Thus, the "precedent" argument amounts in this case to saying, "Since a rule has been violated by colleges and/or departments, it does not apply to them anymore." It would be like a department arguing with the provost after he faulted it for violating the rule against giving final exams on the last day of classes, "Since we have had such exams semester after semester, the rule against finals on the last day of classes does not apply to us." Violation of a rule, even if frequent, does not make it go away.

It has also been argued that the various bodies from department faculties to the Faculty Senate can only vote the entire proposal up or down, but cannot propose any amendments. This is incorrect; it is a "slap in the face" of joint governance. Departments, colleges, and the Faculty Senate have a perfect right, as in all other matters, to consider and vote on amendments to the proposal. College faculties, inasmuch as they supersede their departments, do, of course, not only have a right to make and approve of their own amendments to the proposal, but also to undo amendments one of their departments involved in the proposal has made; similarly, the Faculty Senate also has a right not only to propose and vote on its own amendments to the proposal, but to "undo" amendments made at the College level.

Whatever the Faculty Senate approves must, of course, be submitted to the President, who can either approve or veto the Senate legislation, but he does not have a right to change it. He can, of course, send the vetoed legislation back to the Senate with instructions as to how it must be changed so that he would approve of it; this may amount to the elimination of amendments that have been added either by a department or by a college or by the Senate; the instruction may, of course, also amount to, "Go back precisely to the original proposal, or I will not sign off on it." Then, it is up to the Senate what to do.

#### **Relevant sections of the University Manual:**

**4.10.10** On Faculty Governance. Faculty participation in the government of the University of Rhode Island is essential to its sound development and to the successful performance of its role in the life of the state.

The basic functions of the University's "teaching and research" are performed by a community of scholars who must exercise sound judgment in the planning and execution of their assigned responsibilities. Since decisions on all academic levels may affect profoundly the performance of each faculty member, provision must be made to ensure that his/her point of view will be represented in the formulation of policies that control his/her professional activities. The collective judgment of the scholars who comprise the faculty is a resource of great value which properly utilized, will help to guarantee that University policy will be wisely established and effectively carried out.

**4.11.10** Membership in the University Faculty, also referred to as the General Faculty, shall be based on appointment by the President and on direct participation in or supervision of any of the following activities: teaching, librarianship, and research, within the University. The General Faculty shall consist of continuing professors, associate professors, assistant professors, instructors (see 7.10.10); the President, the Provost, the Vice President for Research and Economic Development, the Vice Provost(s) and the academic dean of each college or school.

**4.32.10** Jurisdiction of College Faculties. The General Faculty delegates to each college faculty jurisdiction over matters primarily of interest only to that college, such as: distribution of units for entrance requirements among secondary school subjects; the curricula of the college within limits of the general policies prescribed by the Faculty Senate; action concerning petitions for changes in prescribed courses of study, presented by individual students enrolled in the college; recommendations to the University faculty concerning the granting of degrees to students enrolled in the college; and decisions concerning the scholastic standing of students enrolled in the college, through the college's Scholastic Standing Committee, to which this matter is delegated.

**4.32.11** Questions of jurisdiction as to the powers of the General Faculty (or its representative body, the Faculty Senate) and the faculties of several colleges shall be referred to the President. Appeals from the President's ruling shall be decided by the General Faculty.

**4.50.10** College Faculties. Faculty members assigned to a college of the University shall constitute the faculty of that college. A faculty member affiliated with more than one college shall be considered a member of the faculty of each. The dean of the college shall be the presiding officer. The college faculty shall elect a secretary and committees, including a curriculum committee. #05-06--10 #12-13--36

**4.50.11** Each college faculty shall meet at least once a semester at the call of its dean and determine its own procedures, consistent with policies prescribed by the University Faculty through its Senate. The dean shall call a special meeting of a college faculty on the written request of 25 percent of its members.

**4.50.12** Attendance at meetings of the College Faculty is expected. Twenty percent (20%) of the membership (10% of colleges with more than 200 members) shall constitute a quorum. An Agenda containing all items proposed for action shall be distributed to faculty five (5) workdays prior to the meeting.

**4.50.13** Voting on matters which require approval of the Faculty Senate shall be limited to continuing faculty holding any of the ranks listed in 7.10.10.

**4.60.10** Department Faculties. Efficient operation necessitates regularly scheduled department meetings. Monthly meetings are suggested as a minimum. A democratic procedure in the conduct of department meetings is essential. The chairperson shall be responsible for keeping all members fully informed on matters of concern to the department.

**4.60.11** Among the matters discussed in department meetings should be the advisability of introduction of new courses, especially those that give members opportunities for developing specific interests, provided, however, that more essential courses are not dropped or neglected

**4.60.12** Voting on matters which require approval of the Faculty Senate shall be limited to continuing faculty holding any of the ranks listed in 7.10.10.

**From the Senate Constitution**  
**Article II - Powers**

1. The Senate, subject to the provisions of state and federal law, subject to consistency with the general objectives established by its governing Board, and subject to the referendum power of the General Faculty, has ultimate legislative power on educational policies. It shall, with the concurrence of the President, formulate policy concerning teaching and research, study, exercise, discipline and government: for example, and without excluding others not listed, academic standards (scholastic standing, admission and dismissal policy, class attendance, grading systems, etc.), the University calendar, University-wide curriculum matters both graduate and undergraduate, and research and patent policy as they may affect the faculty as a whole. Nothing in this article should be construed to interfere with the authority or responsibility of the appropriate administrative officers in the carrying out of established policy, or in proposing, through the President, such changes in policy as they deem desirable.

**From the Senate By-laws**

**4.75** The Curricular Affairs Committee. This committee shall study and make recommendations to the Faculty Senate on the following matters: the establishment, abolition, division or merger of colleges and schools of the University, at the undergraduate and graduate level, including the College of Continuing Education; the establishment or abolition of undergraduate degrees or credit certificates awarded by the University in any of its divisions; the establishment, abolition, division or merger of departments of instruction, or other units or areas affecting instruction; the establishment, at the undergraduate level, of new experimental and interdisciplinary instructional programs not confined to one college; the establishment, modification or abolition of curriculums or programs of study leading to degrees or credit certificates at the baccalaureate level or lower, with due regard to requirements for accreditation when applicable; the introduction, modification or abolition of individual courses intended primarily for undergraduate instruction; unresolved problems arising in connection with the routine editing of course and curriculum numbers, titles, and descriptions to appear in the University Catalog.

**4.76** In addition, the committee shall initiate action on matters within its jurisdiction by referring them to the faculties of colleges and schools concerned, shall review all such proposals originating in college faculties, the Senate or elsewhere and shall recommend procedures that permit matters within its jurisdiction to be handled expeditiously.