Minutes of Regular Meeting

Meeting
Regular meeting of the full senate, 3:15 p.m., Kendall Cram Room, Lavin-Bernick Center.
Presiding: The chair, President Cowen.

Attendance
Ex Officio: Cowen (pres/chair), Long (vice chair), Bernstein (provost), Sachs (SVP, dean SOM), Lorino (CFO), Y. Jones (Exec VP), Barrera (chair, SAC), Mackin (secr), Wiese (parl)
Deans: DeNisi (ABF), Query (Libraries), Schwartz (Arch.), Griffin (Law), Fitzmorris (proxy for Marksby, SCS), Haber (SLA), Buekens (SPHTM), Altierno (SSE)
A. B. Freeman School of Business: H. Sujan (also proxy for M. Sujan), McFarland
Newcomb-Tulane College: Kalka
Architecture:
Continuing Studies: Green, McLennan
Law: Davies, Carriere
Liberal Arts: Hill (proxy for Masquelier), Cole, Rothenberg, Mayer, Thompson
Medicine: Mushatt, Doucet, S. Landry, Kahn (proxy for DeSalvo), Betancourt
Public Health and Tropical Medicine: Hutchinson, Hassig, Lefante
Science and Engineering: Schmehl, Colombo, Walker, Tasker
Social Work: Pearlmutter
Student Senators: Leverson, Wendt, proxy for Aronson
Staff Senators: Britton (proxy for Hayes)
Senators at Large: Kehoe, Ruscher, John, Robins, Kahn, Carroll, Purrington, Lesmond
Invited Guests: Wilson (chair, Athletics), Baños (vp, admin svcs), Maczuga (assoc vp, tech transfer), Salzer (assoc provost), Banker (spec asst, pres), Tetlow (Law)

Absent Senators: Clinton, MacLaren, Marks, V. Jones, Bernhard, Eason, Horowitz, Reitan, Bunnell, Lewis, Blainey, Platner

Introduction of New Senators and Guests
President Cowen introduced David Lesmond, chair of the Committee on Information Technology and senator at large.

Minutes
The minutes of the October 5 meeting were approved without change.

President’s Report
President Cowen briefly discussed several items. First, he announced that applications for early admissions were running 8 percent ahead of last year—36,500 versus 33,000. The administration expected a total of 45,000. He said the quality and diversity of the applicants was good, similar to the previous year.

Next, the president discussed the upcoming board meeting. He said the provost would be explaining the re-accreditation process of the Southern Association of Colleges and Schools to the board, as well as the specialty re-accreditations the university regularly experienced. President Cowen said the administration would also provide the board with an overview of the five-year capital expenditures budget in addition to the normal three-year budget. He said the long-term budget would be presented as information, not for a decision by the board. He added that he would
provide a copy of his presentation to the senate before February’s meeting.

Third, the president announced that the American Association of University Professors had removed Tulane from its censure list.

The president invited questions and was asked by Senator Mayer what the rationale was for the removal of censure. President Cowen replied that the organization had simply stated that the university had met its conditions but did not specify what those conditions were. He said he believed the sum total of actions taken by the senate had satisfied the AAUP.

Unfinished Business

Secretary’s Bylaw Amendment

Secretary Mackin offered the second reading of his proposed change to Bylaw V, which governs how bylaws may be amended or repealed (see Appendix 1). He said that under normal parliamentary procedures, if an organization had both a constitution and bylaws, the bylaws should be easier to amend than the constitution. Important issues of governance should be in the constitution, while the bylaws dealt with lesser matters like the structure of committees. However, the senate’s bylaws had the same requirement for amendment as the constitution, approval by two thirds of the voting membership. He argued that the requirement was unreasonable, as evidenced by the postponement of proposed changes to the bylaws in October because, although a quorum was present, two thirds of the voting membership were not present. He proposed changing the requirement to approval by two thirds of those members present and voting, which was normal parliamentary procedure and similar to the requirement for changes to the Faculty Handbook.

Secretary Mackin’s motion to amend the bylaws was approved by a vote of 47-0.

Committee on Committees’ Bylaw Amendments

Vice Chair Long, chair of the Committee on Committees, presented the postponed second reading of two sets of amendments to the bylaws (Appendix 2). The first set of amendments corrected labels and titles and made minor changes to committee membership because of changes that had occurred in administrative offices. That set of amendments was approved unanimously.

The second set of amendments clarified the responsibilities of the Committee on Committees in appointing committee members, chairs, and deputy chairs. Vice Chair Long said the change merely reflected the principles stated in the constitution, including consultation with the president on appointment of chairs and deputy chairs. That set of amendments also passed unanimously.

Committee Reports

Committee on Social Issues

Senator Carriere discussed her written report on the lack of activity by the committee in the last year. She said the committee had received no petitions and had not had any issues referred to it by the senate.

Committee on University Honors

Senator Davies, chair of the committee, summarized his written annual report, which included only information for public consumption. He said the committee had considered 17 candidates for university honors. Of those candidates, eight were rejected, three were postponed, and six would be presented for senate approval in executive session. He added that two candidates previously approved by the senate were expected to receive university honors in 2010, followed by one more approved candidate in 2011.

New Business

Senator Hutchinson’s Proposed Change to Faculty Handbook

Senator Hutchinson, representing the School of Public Health and Tropical Medicine, gave the first reading of a proposed amendment to the Faculty Handbook, Part III B, Academic Titles, to allow for a difference in practice between the School of Medicine and the School of Public Health and Tropical Medicine regarding clinical professors (Appendix 3). He summarized the
rationale and changes requested, which had previously been distributed to the senate electronically.

Senator Hutchinson said that the practice in the School of Public Health and Tropical medicine for about 20 years had been to place the term “clinical” in front of the rank of the faculty member. The School of Medicine, on the other hand, placed the term “clinical” in front of the department of the faculty member, except in the case of part-time appointments. The Faculty Handbook stipulated the practice used by the School of Medicine for both schools. Senator Hutchinson argued that the Handbook requirement created misleading titles in many areas of public health. For example, the title “professor of clinical community health sciences” made no sense because the purpose of community health sciences was to move out of clinics into the community.

Senator Hutchinson also noted that the current practice at the School of Public Health and Tropical Medicine followed the practice at a majority of schools of public health and would also be consistent with the placement of the terms “research” and “adjunct.” He recommended that the Handbook be amended to allow his school to continue its current practice.

Senator Kahn asked whether the change would affect the School of Medicine or simply create a difference between the schools. Senator Hutchinson said it would allow for difference in usage between the schools.

Senator Kehoe asked whether an issue like this should be routinely referred to the Committee on Faculty Tenure, Freedom, and Responsibility. Secretary Mackin responded that the issue should be referred if it were considered a substantive change affecting faculty tenure, freedom, or responsibility. He added that any senator could move to refer the issue to FTFR. No motions to refer were made.

Committee on Budget Review

Senator McFarland, chair of the Committee on Budget Review, presented a motion requesting the senate to delegate authority to a joint committee of PFAC and Budget Review to review and approve budget assumptions for FY 2011, with the stipulation that the committee would report back to the senate in February. He explained that his committee had been unable to give its normal December report because the budget assumptions were not yet available from the administration. He proposed to use the same procedures that had been used the previous spring. Vice President Lorino added that action was required before the executive session of the board during the third week of January, and the joint committee meeting would be scheduled accordingly.

Senator Carroll asked why the information had not been provided on time. Vice President Lorino said that the office was two weeks behind its normal schedule because of the time spent on multi-year forecasting. The actual data from FY 2010 used as a baseline for assumptions was not yet available.

The motion was then approved unanimously.

Committee on Student Affairs

Senator Kahn, chair of the committee, moved that the senate approve the revised Student Code of Conduct, which had been distributed in final form to the senators the day before the meeting. He said the code had been approved by his committee after months of work and vetted by many groups, including undergraduate students, graduate students, the administration, Tulane legal counsel, and external legal consultants. He added that the code had also been compared with those of peer institutions.

Senator Kahn pointed out the substantive changes in the code. First among these was the change in level of evidence required. The revised code used the standard of “preponderance of evidence”; the previous code used the standard of “clear and convincing evidence.” Senator Kahn said the new standard was used by most peer institutions and the old standard was used primarily in legal cases of habeas corpus.

Senator Kahn said the new code allowed for a mediation process when a student admits to an offense under the code. The mediation process would avoid cumbersome administrative hearings in cases that did not involve suspension, expulsion, or other severe penalties. He emphasized that the code was not an honor code or professional code, which would be enforced.
separately, but that the code sought to avoid cases of double jeopardy.

Senator Kahn emphasized that the current code had become very outdated and difficult to follow. He asked Senator Wendt, president of the Graduate and Professional Students Association to comment on the proposed code.

Senator Wendt said the proposed code was better than the old code, and that was the test that should be used in deciding how to vote. Offenses were more clearly defined. The new code offered ways to correct behavior before it did permanent damage to a student’s career. He admitted that when he began the process he was looking for the perfect code, but he now believed it was not to be found. The new code was a major improvement. Finally, he said, he thought the process used in developing the code resulted in effective collaboration between students and the administration.

Vice Chair Long then proposed an amendment to the code (Appendix 4), which would change the procedure for revising the code. The motion was seconded. He pointed out that the proposed method for substantive revisions would bypass the senate and give authority to a senate committee that the senate’s constitution and bylaws did not allow. His amendment would insure that substantive changes came back to the senate.

Several student senators raised concerns about the amendment. Senator Wendt, however, said that he approved of the amendment because it provided greater protection for student interests by allowing them to bring issues to the full senate. Another student senator said the code as written would allow faster changes. Senator Carroll replied that speed is not an absolute good.

Vice Chair Long’s amendment was then approved by a large majority, with one nay vote.

Senator Walker asked what would happen to those who were currently in the process. Associate Provost Hogg said the code would take effect in the fall, and current cases would be under the old code. He asked Tania Tetlow of the Law School to speak to the issue of burden of proof. She said preponderance of evidence is the civil law standard. The exceptions are for criminal law. The cases in the code were not criminal cases but issues of the good of the community.

Senator Purrington said he did not know why the standard could not be clear and convincing evidence. He asked how the nature of offenses was being changed. Senator Kahn said the new code provided clearer definitions of the offenses.

Secretary Mackin then moved to postpone consideration of the code until the next senate meeting. His motion was seconded. Secretary Mackin said that the motion to approve the revised code was technically a motion to change something previously passed by the senate—the old code. Such a motion required sufficient prior notice or approval by two thirds of voting senators. He did not believe the senators had sufficient notice because he had not been able to send out the revised code with the agenda because of communication problems. He said the approval was not urgent because the code would not take effect until the fall semester.

Secretary Mackin’s motion to postpone the approval motion until the next senate meeting was approved unanimously.

Adjournment
With no further public business, the meeting was adjourned to executive session at 4:10 p.m.

Respectfully submitted,
Jim Mackin, Secretary

Secretary’s Note: All written reports mentioned in the minutes, together with the full text of approved Handbook revisions and other policy changes, will be available on the senate Web site, http://www.tulane.edu/~usenate/.
Appendix 1, Approved Change to Bylaw V

As previously written:

These Bylaws may be amended or repealed in the following manner:
(a) The proposal to amend or repeal the Bylaws must be made at the regular meeting preceding that at which the vote is taken on such proposal.
(b) A two-thirds majority vote of the voting membership of the University Senate shall be necessary in order to amend or repeal these Bylaws.

Proposed change:

These Bylaws may be amended or repealed in the following manner:
(a) The proposal to amend or repeal the Bylaws must be made at the regular meeting preceding that at which the vote is taken on such proposal.
(b) A two-thirds majority vote of the voting membership of the University Senate shall be necessary in order to amend or repeal these Bylaws. The proposal to amend or repeal the Bylaws must be approved by two thirds of those senators present and voting at the second reading during which a quorum is present.

Approved final version:

These Bylaws may be amended or repealed in the following manner:
(a) The proposal to amend or repeal the Bylaws must be made at the regular meeting preceding that at which the vote is taken on such proposal.
(b) The proposal to amend or repeal the Bylaws must be approved by two thirds of those senators present and voting at the second reading during which a quorum is present.
Appendix 2, Approved Changes to Bylaw III

Section 2: Committee Membership

I. Committee on Educational Policy—Under ex officio (non-voting), change “the Director of the Innovative Learning Center” to “the Chief Technology Officer or the CTO’s designee”

II. Committee on Equal Opportunity and Institutional Equity—(a) Change the semi-colon before “the General Counsel” to a colon; (b) Change the words “…one representative each from the Office of Multicultural Affairs, Disability Services, and Lesbian, Gay, and Bisexual Life, all ex officio (non-voting).” to “… a representative from the Office of Multicultural Affairs, and a representative from Disability Services.” [Note: Lesbian, Gay, and Bisexual Life has been consolidated with Multicultural Affairs.]

III. Committee on Information Technology—Under Administration (non-voting), change “Chief Information Officer” to “Vice President for Information Technology and Chief Technology Officer”

Section 1: Committee Functions

Committee on Committees

I. Add a new subsection: (1) Except where otherwise provided, to appoint members of Senate standing committees.

II. Renumber existing subsections (1) - (5) as (2) - (6) respectively

III. Change the new subsection (3) [originally subsection (2)] to read “Except where otherwise provided, to appoint, with the concurrence of the President, the chairs (and deputy chairs as needed) of Senate standing committees.….”
Appendix 3, Proposed Amendment to Faculty Handbook, Part III, B. Academic Titles

Existing Language
Clinical Professor: Clinical Professor is a category of full-time faculty membership in the School of Medicine and the School of Public Health and Tropical Medicine established for professors whose primary responsibility is providing practical instruction and application of practical knowledge. For clinical appointments, the term "clinical" precedes the department of appointment, e.g. Professor of Clinical Surgery.
Clinical Professors do not receive tenure. Clinical faculty appointments may also be made at the part time level. In the School of Medicine, to differentiate part-time clinical appointments, the term "clinical" precedes the rank, e.g., Clinical Associate Professor of Medicine.

The amendment would strike the last sentence of each existing paragraph, add a sentence to the end of the second paragraph, and add a new third paragraph. The new language is: Clinical Professors have either a terminal degree in their field or equivalent professional experience.
For full-time clinical appointments in the School of Medicine, the term “clinical” precedes the department of appointment, e.g., Professor of Clinical Surgery. For all clinical appointments in the School of Public Health and Tropical Medicine, and all part-time clinical appointments in the School of Medicine, the term “clinical” precedes the rank, e.g., Clinical Assistant Professor of Health Systems Management and Clinical Associate Professor of Medicine.

With the amendment, the section would then read:
Clinical Professor: Clinical Professor is a category of full-time faculty membership in the School of Medicine and the School of Public Health and Tropical Medicine established for professors whose primary responsibility is providing practical instruction and application of practical knowledge.
Clinical Professors do not receive tenure. Clinical faculty appointments may also be made at the part time level. Clinical Professors have either a terminal degree in their field or equivalent professional experience.
For full-time clinical appointments in the School of Medicine, the term “clinical” precedes the department of appointment, e.g., Professor of Clinical Surgery. For all clinical appointments in the School of Public Health and Tropical Medicine, and all part-time clinical appointments in the School of Medicine, the term “clinical” precedes the rank, e.g., Clinical Assistant Professor of Health Systems Management and Clinical Associate Professor of Medicine.
Appendix 4, Approved Amendment to Student Code of Conduct

XI. REVISION OF THE CODE OF STUDENT CONDUCT

The Code of Student Conduct should be reviewed by the Vice President of Student Affairs on an annual basis. All proposed revisions must first go before the Committee on the Code of Student Conduct, which shall determine whether the proposed revisions are minor or substantive. This Committee will fall under the purview of the Vice President for Student Affairs, or his or her designated representative and shall be comprised of one faculty member, one staff member and three student members, as appointed by the Vice President for Student Affairs for one year terms. The Student Conduct Administrator shall serve as the non-voting chair. This committee shall convene whenever there is a proposed revision to the Code of Student Conduct and its sole role will be to determine whether the proposed revision is minor or substantive. A minor change is defined as anything that does not affect the intent, workings or procedures of the conduct process. Such minor changes, as determined by the Committee on the Code of Student Conduct, can be made by the Student Conduct Administrator and the Vice President for Student Affairs, based on agreement by both with final review and approval by the Provost. A substantive change, as determined by the Committee on the Code of Student Conduct, is defined as a change that affects the conduct process or student’s rights. The revision process for substantive changes is as follows:

- The proposed changes are vetted among staff, students, and faculty internal to the conduct process, General Counsel, Provost Staff, Student Affairs senior leadership and the Student Affairs Committee of the Senate (SACS).
- SACS reviews and approves the recommended changes to the University Senate with respect to the proposed changes.
- The University Senate reviews and acts on the SACS recommendations.
- The action of the University Senate is forwarded to the Provost for review.
- The Provost forwards with comment the record of SACS recommendations and University Senate actions to the President’s cabinet.
- Final approval of proposed substantive revisions to the revised Code resides within granted by the President’s cabinet.