

Minutes of Notre Dame Faculty Senate Meeting
December 1, 2015
DeBartolo Room 140

Attendees: Matthew Capdevielle, Dominic Chaloner, Christopher Chowrimootoo, Xavier Creary, Matthew Devine, Meredith Doellman, Mary Frandsen, David Galvin, John Gaski, Nasir Ghiaseddin, Michael Hemler, Michael Kirsch, Byung-Joo Lee, Hai Lin, Adam Martin, Mary Ann McDowell, Paul McDowell, Paul McGinn, Hildegund Müller, Walter Nicgorski, Chris Pratt, Joe Urbany, Sandra Vera-Muñoz, Jeanne Romero-Severson, Nidia Ruelas, Christopher Shields, Joshua Shrout, Anna Simon, Cheri Smith, Marsha Stevenson, David Thomas, Meng Wang, Hannelore Weber, Sophie White, Shauna Williams, Richard Williams, Xiaoshan Yang,

Excused: Mark Caprio

Absentees: Michael Mogavero, Samir Younes

Called to order at 6:02 pm

1. Opening prayer offered by Jeanne Romero-Severson, Chair
2. The minutes of the November 3, 2015 meeting were approved
3. Chair's Remarks (Jeanne Romero-Severson)

a. CIF Process

The University committee reviewing course evaluations is looking for academic papers on how best to evaluate teaching. If anyone knows of some good studies on this issue, please send them to Jeanne. The next committee meeting is this Thursday morning.

b. University's Traffic & Parking Appeals Committee

The University committee asked if the Faculty Senate would like to send a representative (which is optional). Jeanne asked if any representative would like to sit on this committee and, if so, to let her know.

4. Proposed Consolidated Appeal Procedures

Kathleen Brickley, Associate General Counsel, and Michael Desch, Chair of the Department of Political Sciences, made a presentation on the proposed procedures. A letter from Kathleen Brickley to the Faculty Senate was circulated via email prior to the meeting, discussing the historical development of the two appeals

procedures currently relevant to sex discrimination: (i) the “Frese” appeals procedure, resulting from the settlement of lawsuit filed in 1981, which is contained in Appendix A of the Academic Articles, and (ii) the more general appeals procedure. The letter also discussed the practical problems (redundancy, confusion, burden on faculty reviewers, etc.) these multiple procedures create. The Faculty Affairs Committee of the Academic Council has created a draft proposal to consolidate the two procedures into a single appeals procedure, which is intended to be more administrable while also protecting appellants’ rights. Various stakeholders (including the remaining member of the Frese class) have agreed to the proposed revision.

The floor was opened to questions, as follows:

Q: What are major changes under the proposed procedure?

Kathleen Brickley (KB): The standard of review will be “preponderance of evidence” (*i.e.*, more than 50%, as in civil cases). The proposed procedure will have three members, unlike the Appendix A procedure, which only has one member. (also, in the case of a discrimination complaint, at the request of the Provost or appellant, a member can be added for diversity). The remedies under the proposal are also more flexible—under the Appendix A procedure there is only a limited remedy of sending the case back to PAC, regardless of where the error occurred; in contrast, under the general procedure, as revised in 2009, the President or Provost (depending on where the process previously stopped) can fashion a more immediate and appropriate remedy (*e.g.*, promotion, reappointment, etc.).

Q: Could the President or Provost go against the recommendation of committee?

KB: The President or provost could reject the committee’s finding only if there is a very strong reason for doing so; as with the Appendix A procedure, the appellant would still have the option of filing a lawsuit.

Q: How does sexual orientation fit into the reference to discrimination based on “sex”?

KB: Dan Myers previously said he would direct such a complainant to file under a personal bias claim (because sexual orientation is not itself a protected class under federal law).

Q: Why don't Special Professional Faculty (SPF) have the opportunity to be reviewed by SPFs?

KB: We didn’t add a special requirement that SPFs must be on the committee; but existing general procedures allows SPFs to elect members to the committee

Q: Since the Frese settlement, have there been any lawsuits by people unhappy with internal procedures?

KB: Yes, there have been some; the internal appeals process happens with some regularity when promotion, etc. is denied

Q: What is the anticipated effect on the number or outcomes of appeals under the revised process?

KB: This wasn't considered, as it wasn't a driving reason for consolidating the procedures.

Q: Was there any discussion of allowing a person who was denied based on sexual discrimination to change the package reviewed by PAC to reflect additional information?

KB: Under new consolidated procedure, the Provost or President would make the determination of remedy without necessarily having to involve PAC. He might send it back to the department or PAC, as he deems appropriate, in a manner intended to eliminate the discriminatory factors

Q: Does anyone ever win appeals currently, or is this just going to just be a more streamlined way of rejecting appeals?

Michael said he doesn't know, but VP and Associate Provost Laura Carlson should be asked for data. Paul McGinn mentioned that he previously had asked Dan Myers, who said there had been no successful appeals during the time of Dan's involvement.

Q: Does the court need to approve this change?

KB: No; the court did not retain jurisdiction over such a change; however, the one remaining Frese class member agrees with the proposed change.

Kathleen Brickley noted that the plan is to put this proposal on the Academic Council's agenda for the first meeting in spring; if approved, it could become effective 7/1/16.

Q: If effective July 1, would it be optional for those denied this year?

KB: We'll have to look into this.

The Chair noted that there does not seem to be any strong Faculty Senate opposition to the proposal, but we won't be giving a formal opinion tonight; if anyone does have concerns, they should email Michael

(Michael.Desch.4@nd.edu). Senators should let their department/colleges know about this and seek input from other faculty.

5. Decennial Core Curriculum Review (Michael Hildreth)

Michael Hildreth is co-chair of the University's Decennial Core Curriculum Review Committee.

Michael provided a brief summary. The committee's charge was to lead a campus-wide conversation and deliberation. A draft report was released on Monday. There will be many opportunities for discussion across campus; Michael presented slides summarizing the committee's charge, procedures, outreach to a wide range of stakeholders, and the proposed changes. The plan is to frame the core curriculum around "ways of knowing"

The floor was opened to questions, as follows:

Q: How did they decide to eliminate AP courses to test out of the core requirements, and what do peers institutions do?

Michael Hildreth (MH): Peer institutions have a wide variety of policies. We'd like to see AP used for placement, but not used to place out of core requirements; even currently, given the variations among ND colleges, there aren't a wide swath of core courses of which you can test out. The committee thought that, because you can't test out of many of the courses, you shouldn't be able to test out of any core courses.

Q: How are courses designated as writing courses?

MH: The committee would like to see greater uniformity in writing designations. Regarding AP courses and the writing requirement, AP would be very relevant for placement (e.g., allow to skip lower level class and start in higher class), but might not be appropriate to satisfy the requirement that a student has met a core type of class. Another possibility might be to allow only AP Language, not AP Lit, to count as writing, and perhaps to raise the required score to 5.

Q: IB needs to be considered along with AP, along with SAT 2 subject tests; also we need to consider the needs and expectations of students -- testing out of core courses allows students to pursue additional interests

MH: The number of core courses that students can place out of isn't very big, so eliminating them wouldn't have a big effect on students' ability to pursue their interests. Also, the Director of Admissions doesn't think these changes regarding AP and Core requirements would have a significant impact on applicants' decisions.

MH then showed slides summarizing the proposed new core requirements, explaining how they fit into a “ways of knowing” approach

Q: Is it possible that someone could go through Engineering and not take a literature course?

MH: Yes

Q: It seems like many new courses would need to be created.

MH: We received many good proposals to be put into the core; by setting up options, it will create space to create these new courses (*e.g.*, integration courses), but will not necessarily require specific new courses.

Q: Why not require a diversity course, instead of just offering it as an option as, say, an integration course?

MH: We received many very good ideas, but ultimately decided we couldn't select a few to require or the required number of courses could get overwhelming, and instead decided to offer them as options within the categories.

Q: Would significant numbers of existing core courses need to be revised to fit within the revised requirements?

MH: No, but it will be useful to periodically review courses (consciousness raising) and reflect on whether they're meeting the requirements. We hope that University-wide ownership of core courses increases.

Q: Can core courses be double-counted?

MH: We'd like them to not double-count within core requirements (but they could simultaneously satisfy a major's requirements).

Q: To what extent were results of student surveys incorporated, particularly with respect to philosophy/theology requirements?

MH: We didn't specifically ask about philosophy/theology or other specific requirements; we merely asked about general experiences and thoughts regarding the core. Ultimately, it's a faculty decision as to what specific core areas are part of an appropriate college education.

Q: Might it be a disservice to students to not thoroughly review the theology requirement?

MH: Extensive discussions were undertaken by the committee regarding the requirement; we didn't take it lightly.

Q: Did the committee take into consideration concerns that eliminating requirements would have adverse consequences for those who teach particular courses? Is that a factor in keeping theology or other requirements?

MH: No, we looked at what was important for students to learn (including what is important at a Catholic university), and tried to give them options.

Q: Won't the recommendation that each department require at least 3 free electives cause some departments to make significant changes to their requirements (e.g., engineering)?

MH: 3 is just a number for discussion; maybe it should be 2; but 0 seems too low.

Q: Will the proposal for more teaching by distinguished professors reduce teaching opportunities for graduate students?

MH: Not necessarily; there are many ways to structure a course – e.g. you could have graduate students teach sections.

Q: But that would limit the number of chances for our graduate students to be the instructor of record.

MH: That's a good point; we'll need to consider this (and it might not involve significant numbers of classes).

Q: How would integration courses be determined, and will they count as a course for each instructor if interdisciplinary?

MH: Our hope is they will count as 1 class for each instructor, and the University will support the creation of effective courses, given that the University would be saying it's of core importance.

Q: What if an integration course doesn't draw many people from your department; might your department chair object?

MH: You might need to adapt the course in the future to better draw your students; over time, the appropriateness of a course as integrative might need to be reconsidered.

MH concluded by summarizing the next steps. The committee plans to spend the rest of this academic year soliciting feedback. After assessing feedback, the committee will create a final report. The committee plans to submit a final report

to the Academic Council in Fall 2016.

6. Adjournment

Because of the length of time taken for discussion of the proposed consolidated appeals procedure and the core curriculum review, the Chair asked if there was any pressing committee business or other new business that needed to be addressed tonight. None was mentioned, so the meeting adjourned at 8:00 pm.

7. Next Regular Meeting, 6:00 pm, Tuesday, February 2, 2016; Room 141

Respectfully submitted,

Michael Kirsch
Professor of Law
Co-Secretary