

ACADEMIC COUNCIL
MEETING of SEPTEMBER 2, 2008
McKenna Auditorium
1:30 p.m. – 3:00 p.m.

Members present: Rev. John Jenkins, C.S.C., Panos Antsaklis, A.J. Bellia, Robert Bernhard, Seth Brown, Tom Burish, Laura Carlson, James Collins, Greg Crawford, Neil Delaney, Steve Fallon, Umesh Garg, Nicole Garnett, Tom Gresik, Paul Huber, Dennis Jacobs, Lionel Jensen, Michael Jenuwine, Peter Kilpatrick, Chris Maziar, John McGreevy, Scott Monroe, William Nichols, Patricia O’Hara, Susan Ohmer, Hugh Page, Rev. Mark Poorman, C.S.C., Donald Pope-Davis, Joseph Powers, Ava Preacher, Jim Seida, Cheri Smith, Greg Sterling, Kasey Swanke, Ann Tenbrunsel, Julian Velasco, Carolyn Woo, Jennifer Younger

Members absent: John Affleck-Graves, Nasir Ghiaseddin, Daniel Lapsley, John LoSecco, Bill Westfall

Members excused: Michael Lykoudis, John Welle

Observers present: Kathryn Lam, Dale Nees, Harold Pace, Brandon Roach, Daniel Saracino

Observers absent: Kevin Barry

After calling the meeting to order, Fr. Jenkins welcomed everyone to the start of a new year and thanked the members for their service on the Council. He then asked Prof. John McGreevy to offer the opening prayer.

[Copies of the Academic Council’s meeting schedule for the 2008-2009 academic year were distributed to each member.]

1. Approval of Minutes: The minutes of the April 16, 2008 Academic Council meeting were unanimously approved with no discussion or changes.

2. Election of the Executive Committee: A document outlining the election procedures were distributed in advance of the meeting. Prof. Pope-Davis explained the ballots and voting procedures and initiated the voting, which continued throughout the meeting. The following members were elected to the Executive Committee of the Academic Council: Panos Antsaklis, Laura Carlson, Greg Crawford, Nicole Garnett, and John McGreevy. Fr. Jenkins later appointed the following members: James Collins and Ann Tenbrunsel.

After some discussion about the complexity of and time involved in the current election procedures, Fr. Jenkins asked members to consider reforms in the voting procedures.

3. Academic Articles: Fr. Jenkins explained that the suggested changes to the academic articles, as discussed and voted on in last year’s Academic Council meetings, would not become

effective until approved by the President and the Board of Trustees. Fr. Jenkins was comfortable with the changes proposed by the Council and forwarded them to the Board. The chair of the Board formed a subcommittee to work on them (led by Attorney Steve Brogan) and came back with five recommendations that were mainly for clarification and consistency purposes. Atty. Brogan will then present them to the full Board. Fr. Jenkins also invited Prof. Garnett of the Academic Articles Working Group to speak to these changes. Although not on the agenda, Fr. Jenkins felt it important to present them today and hear any comments he could pass on, as his understanding is that the Board will approve these changes at their October meeting. He then explained the five changes recommended by the Board.

Article I, Executive Administration

Section 1/The Governance of the University

For clarification purposes, the Board suggests adding the following subordination clause at the end of the section: “These academic articles are subject to the statutes and bylaws, and in the event of any inconsistency between these academic articles and the statutes or bylaws, the statutes or bylaws shall be controlling.” No discussion followed.

Article V, Procedures for Reviewing and Amending the Academic Articles

Provided that the previous recommendation is adopted, the Board subcommittee recommends deleting the following language: “Those matters in these articles that derive from the bylaws of the Board of Trustees may be amended only after amendment of the bylaws. Ordinarily any amendments desired by the Board of Trustees are referred by the Board in the first instance to the Academic Council for its action.”

Fr. Jenkins went on to explain that the Working Group supports the deletion of the first sentence and suggests that the second sentence be retained with the following language: “Ordinarily, any amendments to the academic articles desired by the Board of Trustees are referred by the Board in the first instance through the President to the Academic Council for review.” The Working Group is concerned by what is lost by deleting it and stated they are simply going to present that to the Board subcommittee as a recommendation. By leaving the last sentence in, they felt it sent the right signals. Prof. Garnett said that this body does not wish to have the power to amend the bylaws, but if the Trustees want an amendment to the academic articles, this is usually the place where it would be referred through the President. For these reasons, the Working Group agreed with the deletion of the first sentence, but would like to preserve the second.

A Council member expressed concern over the use of the word ‘ordinarily’ and inquired as to what defines an ‘extraordinary’ circumstance to which Fr. Jenkins said there was no intention to define it in this discussion.

The Council member also inquired if the rewording suggested that the President could alternatively exercise an option not to send the suggested amendments on to the Academic Council, thereby making an executive decision on it himself. After some discussion, it was stated that it was technically correct that the Board would not likely tell the President what to do, but that they would work with the President. However, the President does have the option of not going to the Academic Council. Fr. Jenkins felt it would be hard to imagine such a stand-off. Prof. Garnett said that generally, since Fr. Jenkins is the President and the chair of this Council,

and he is also the point of communication between this Council and the Board of Trustees, it made sense for him to be the one that they would communicate with rather than referring it directly to the Academic Council.

Article II, Academic Officers

Sections 1, 3, 4, 7, 8, and 11

The amendments to Article II, Section 1 proposed by the Academic Council contained the following language: “For a five-year review of the Provost, a committee is constituted similarly, except the President does not serve on it.” The Board subcommittee recommends amending this passage as follows: “For the five-year review of the Provost, a committee is constituted similarly. The President may, in his discretion, serve on that committee.”

Likewise, in several other sections (3, 4, 7, 8, and 11) of Article II, the amendments proposed by the Academic Council contained the following language: “For the five-year review, a similar committee is constituted, except that the Provost does not serve on it.” The Board subcommittee recommends amending this passage as follows: “For the five-year review, a similar committee is constituted. The Provost may, in his or her discretion, serve on that committee.”

The Working Group does not object to these changes as it gives the Provost and the President some discretion in constituting these committees.

When asked by Prof. Preacher if the President and Provost would then constitute an extra member on that committee or be in substitution of another person on the committee, Prof. Garnett responded that they would be extra members and would not decrease the elected faculty representation on the committee.

Article II, Academic Officers

Section 5/Dean of the Law School

Fr. Jenkins said that the Board subcommittee recommends deleting the following language: “Before making any recommendations to the Provost, the committee shall consult with the faculty and students of the Law School. No offer, formal or informal, shall be extended to any candidate for the deanship until the Provost has provided the faculty of the Law School with the candidate’s credentials and full opportunity to react to that candidacy.” Fr. Jenkins’ understanding was that this involved the Board subcommittee’s concern over consistency among deans, and cited the dean of Architecture as an example where this clause was not present.

After discussing this change with the Working Group, Fr. Jenkins said it was requested that the Provost enter into a memorandum of understanding reflecting his commitment to comply with ABA accreditation standards. The dean of the Law School and the Provost have since entered into such an agreement and therefore the Working Group supports the Board recommendation to delete the second sentence of the excerpt above.

Fr. Jenkins said it was also noted that because the first deleted sentence is included in Section 4/ Deans of Colleges, the Working Group suggests the Board retain the first sentence and insert similar language into Section 6/Dean of the School of Architecture. He continued by saying that he will inform the Board that the Working Group wishes to retain the first sentence.

Prof. Garnett asked, as a member of the Working Group, if Fr. Jenkins would convey their thanks to the Board subcommittee. She said they are very busy people and also excellent lawyers. She stated that they spent a lot of time and care going over this document, which she felt actually improved it. Fr. Jenkins agreed to do so.

Prof. Woo inquired as to when the new articles will come into effect. In particular, she questioned those that pertain to increased amounts of notice. Fr. Jenkins responded by saying that on October 3, 2008, the articles will formally be proposed to the Board and that he expects approval. However, he asked Prof. Burish to comment about issues that may arise regarding putting them into effect.

Prof. Burish thought the revised articles will go into effect the semester after they are approved. If that is unwise, because some may take a year contractually in order to work into the schedule, Prof. Burish suggested that we should: 1) look at those; 2) identify which ones might be difficult to implement midyear; and 3) formally state when they begin. He said that any suggestions on why changes should not be implemented until the fall of 2009, rather than January 2009, should be directed to Prof. Pope-Davis. Prof. Pope-Davis will then look them over and bring them back to this body as a suggestion.

Article III

Section 8/Severe Sanctions and Dismissal for Serious Cause

Subsection (c) Procedures for Imposing Severe Sanctions of Adjudicating Dismissal

Subsubsection 6. Dismissal Date

The Board subcommittee recommends amending the section as follows: “Dismissal Date. Ordinarily, any dismissal immediately follows the final decision. However, the President may, in any situation he determines in his sole discretion to be extraordinary grave, immediately remove a faculty member from participation in some or all University activities, pending completion of the procedures set out in Article III, Section 8, Subsection (c). In all cases arising under Section 8, the accused faculty member is entitled to full salary until any final decision is reached.” Fr. Jenkins explained that the change allows for more clarity. The Working Group supports the change.

Fr. Jenkins again thanked the Council and commended the Working Group for its thoughtful and conscientious job.

4. Role and Responsibilities of Membership: Prof. Pope-Davis distributed a statement that articulates the Roles and Responsibilities of Members of the Academic Council. It reminds council members of their responsibility to disseminate information regarding decisions that take place in this body on to their constituents. He noted that concern arose last year regarding the decisions and votes made in the Academic Council not getting back to the respective councils or departments.

5. Introduction of New Members: Fr. Jenkins introduced the following new members to the Academic Council:

Greg Crawford

Dean, College of Science

John McGreevy
Peter Kilpatrick
Greg Sterling
Tom Gresik

Dean, College of Arts and Letters
Dean, College of Engineering
Dean, Graduate School
Chair, Faculty Senate

6. Committee Assignments: The Council has three standing committees that address the following areas: Undergraduate Studies, Advanced Studies, and Faculty Affairs. After distributing a ballot, Prof. Pope-Davis asked members to indicate their preference for committee assignments.

7. Miscellaneous: Fr. Jenkins thanked everyone for the great faculty turnout at the Opening Mass and Picnic. He really appreciated everyone's presence and thinks it has become a nice event to bring everyone together and celebrate.

Fr. Jenkins noted that on September 16, 2008, he will give his Faculty Address. He uses that occasion to give the faculty a sense of what the issues are, where the University is going and what the issues will be in the coming year. He also informed the Council that a staff Town Hall Meeting will take place on September 17, 2008 and that they should feel free to attend.

Having no further business to discuss, Fr. Jenkins adjourned the meeting.