

BOARD OF REGENTS OF THE UNIVERSITY OF WISCONSIN SYSTEM

COMMITTEE REGARDING FACULTY/ACADEMIC STAFF DISCIPLINARY PROCESS

Minutes of the Meeting

April 17, 2006

3:05 p.m.

Van Hise Hall

19<sup>th</sup> Floor Conference Room

Madison, Wisconsin

Committee Members Present: Regent Michael Spector, Chair; Regent Peggy Rosenzweig, Regent Brent Smith, General Counsel Pat Brady, Professor Walter Dickey, Chancellor David Markee; Regent President David Walsh

Committee Members Unable to Attend: None

Regent Spector reported that the deadline for the Committee to make its recommendation to the Board of Regents had been moved from the May meeting to the June meeting. This extension would allow time for governance bodies to complete their review of the proposed rules.

The purpose of this meeting was to review the kinds of comments being received. A list summarizing the comments was distributed and is attached to these minutes.

In response to an inquiry by Regent Rosenzweig, Ms. Brady indicated that submissions by governance groups would be due by May 5<sup>th</sup>. Regent Spector said that the Committee would meet again in May to review all comments that were received. All governance groups had been made aware of this schedule.

Regent Spector then went over the list of comments, which included areas of concern as well as suggestions for change. Stating that he was glad that input was being provided, he said that he believed what the Committee put forth was a solid basis for discussion and that it must be made clear that rules to deal with certain types of criminal misconduct do not threaten First Amendment rights or academic freedom.

Regent President Walsh added that governance groups understood the problem and were seeking solutions. He had met with the UW-Madison University Committee and heard their concerns.

In response to a question by Regent Rosenzweig as to next steps, Regent Spector said that, after the rest of the comments are received, an analysis would be done and sent out on what the current rules provide, the Committee's proposal, suggestions for change, and the effect of those suggestions. This would be done between the May and June Board meetings.

Regent Smith expressed appreciation for the thoughtful comments that had been provided.

In addition to the written input, Professor Dickey indicated that he had met with the UW-Whitewater Faculty Senate, with the UW System Faculty Representatives, and with the UW-Madison University Committee, along with Regents Walsh and Spector. Ms. Brady added that she had met with the Faculty Representatives as well, and with the Academic Staff Representatives.

Ms. Brady remarked that many of the comments were similar and involved definition of serious criminal misconduct, the issue of suspension without pay, burden of proof, and provision for back pay. She suggested that the analysis be organized around topic areas such as those.

Professor Dickey suggested a three or four page analysis showing proposed changes by category, how they would differ from the original proposal, and what impact they would have.

Professor Richard Schauer, of the American Federation of Teachers, reported that an alternative proposal drafted by the AFT had been circulated to all faculties.

Professor Mark Evanson, UW-Platteville, added that the proposal had been adopted by some campus governance bodies and was under consideration by others.

Professor Lawrence Kahan, UW-Madison, thanked the Committee for extending the deadline for responses and reported that the Faculty Senate expected to act on the matter at its May 1<sup>st</sup> meeting. The AFT proposal was one among a number of suggestions being considered.

Regent President Walsh observed that the comments received have been thoughtful and have raised issues worthy of discussion.

Professor Evenson noted that faculty senates have disagreed with the intent and provisions of the proposed rules. Therefore, he felt that the AFT proposal should be part of the discussion. Professor Schauer added that this proposal was part of the UW-Superior submission.

Russ Whitesel, Senior Staff Attorney for the Legislative Council, reminded the group that there also will be review at the legislative level, providing more

opportunities for those who may disagree with the Regent position to present their views.

Regent Spector said that the Committee would meet to review all comments submitted and would proceed in the way described by Professor Dickey and Ms Brady.

It was agreed to schedule a meeting of the Committee on May 16<sup>th</sup> at 3:00 p.m. with in-person participation to the extent possible. A second meeting would be scheduled on May 25<sup>th</sup> at 1:00 p.m. if needed. It was agreed that material for the meeting would be sent out by May 12<sup>th</sup>.

With regard to the process for rule making, Regent Rosenzweig pointed out that, after the Board of Regents holds a hearing and submits a proposed rule, the legislative standing committee may also hold a hearing and take public testimony. The committee then may make changes to the proposed rule.

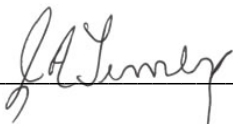
Mr. Whitesel added that governance body input and the hearing by the Board make the UW's process more inclusive than that followed by other rule-making bodies. The rules also would need to be sent to the Legislative Council for statutory authority and technical language review.

Professor Schauer referred to a 1994 court decision on a salary dispute at UW-Platteville in which the judge ruled that the board could not overrule the faculty where responsibilities overlap. He commented that no systematic way has been developed of coming to decisions on major policies.

Professor Kahan said that a statement of scope is required under Chapter 227 of the statutes. He added that s.36.13 of the statutes requires that rules for discipline and dismissal be jointly promulgated.

Professor Dickey thought that the Chapter 227 requirements would be triggered when the Board of Regents submits a proposed rule.

The discussion concluded and the meeting was adjourned at 4:10 p.m.

  
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Judith A. Temby, Secretary