



THE UNIVERSITY of TENNESSEE

KNOXVILLE. CHATTANOOGA. MARTIN. TULLAHOMA. MEMPHIS

UNIVERSITY FACULTY COUNCIL

Meeting 99
17 January 2018
Videoconference
MINUTES (approved)

UT Faculty Council Voting Members (Quorum, 5 voting members, established)

UTHSC	Martin Donaldson (Faculty Senate President)	present
	Phyllis A. Richey (Campus Representative)	present
UTK	Beauvais Lyons (Faculty Senate President)	present
	Bruce MacLennan (Campus Representative)	present
UTM	Chris Caldwell (Faculty Senate President)	present
	Robert Nanney (Campus Representative)	present
UTC	Gretchen Potts (Faculty Senate President)	present
	Gavin Townsend (Campus Representative)	present

Trustees (Ex-Officio voting)

	Susan Davidson (Board of Trustees faculty voting member)	present
	Terry Cooper (Board of Trustees faculty non-voting member)	present

UT Faculty Council Ex-Officio Non-voting Members

UT	Dr. Joe DiPietro (System President)	absent
UT	Linda Martin (Vice President, Academic Affairs and Student Success)	absent

Faculty Council Guests

UT	India Lane (System Office of Academic Affairs and Student Success)	present
UT	David Miller (Chief Financial Officer)	present

Call to Order 4:05 PM EST by Bruce MacLennan

Old Business

None

New Business

Report from David Miller, Chief Financial Officer for the University of Tennessee, on potential changes to the Optional Retirement Program

David reported that the State Treasurer¹ is seeking to expand the number of financial institution able to offer state employees 401K and 457 retirement plans. At the moment, Empower alone handles those plans. As a result, Tennessee employees might not be enjoying the lowest fees to support those plans.

David confirmed that the State Treasurer is open to efforts to eliminate the mandate preventing higher education employees from withdrawing more than 50% of our ORP 403B funds from TIAA, Valic, or Voya/ING. At this time, the 403B vendors are chosen by the University of Tennessee; the President of UT serves as the “custodian.” This presents a legal liability to the UT system. The State Treasurer’s Office would prefer to take control of those funds as it has the Empower funds. The Treasurer would have “better apparatus to be the fiduciary” for those funds. As is, UT lacks negotiating power with these vendors. Of more than 5,700 state employees in the ORP system, only 539 are in TIAA; such paltry representation hinders our ability to demand lower fees. If the state were to take over the management of the 403Bs, we would likely secure lower fees. We’d also have the choice to borrow from our retirement funds, something currently prohibited. The downside to this initiative is that the State would end up with total control of all UT retirement funds, and the State has proven willing to settle for a single vendor, as it did with Empower. A single vendor, without competition, might not provide UT employees with the choices and low fees we enjoy now.

If we are forced to give up control over the 403B, David want to at least “get a seat at the table” when it comes to selecting vendors. Without said seat, the funds would be chosen by the State Retirement Board of Trustees, consisting only of the Treasurer, the Commission of Finance Regulation, and the Finance Chair of each congressional house. But real control lies only with the Treasurer. David has a good relationship with the Treasurer, but we still might end up with one vendor. David agreed that would be unacceptable.

Terry asked why, years ago, the state scratched American Funds as one of our vendors, especially since that fund outperformed others.

David said that he asked the Assistant Treasurer² about getting some language that would allow for multiple vendors should the state indeed take over these 403B funds. She said it would be no problem to generate such language, but then failed to follow through with David’s request. Instead, David got an email indicating a willingness to meet with the faculty directly to discuss the situation. David asked us how we’d like to respond.

Terry asked what advantage would we gain by such a meeting if we don’t have a formal proposal in writing. Why offer our support to a state takeover of our 403B funds without guarantees that the state wouldn’t just do whatever it wanted, regardless of faculty wishes.

¹ While David never mentioned the name of the Tennessee State Treasurer, he is referring to David H. Lillard, Jr. (<http://treasury.tn.gov/about.html>)

² Here again, no name was mentioned. But the likely reference is to Joy Harris (<https://www.linkedin.com/in/joy-harris-4b9a746a>)

Gretchen wondered about the TBR schools. If the state allows some UT representation on a state retirement board, why wouldn't all the other public universities want the same thing? David responded that it's his understanding that the TBR schools also support the elimination of the 50% annuitization restriction.³ They also don't want just one vendor. David suggested that it would be good to have on this retirement board a representative from UT, another from the TBR schools, and one from the LGIs.⁴

Given this news about the proposed state management of ORPs, Terry wondered whether the UT campuses should reconsider their resolutions regarding the 50% restriction. Would our refusal to support any change give David some leverage? Terry is worried that if we support any initiative, legislators might use such support to say the faculty supported all manner of changes to our retirement plans.

Beauvais reminded us that the resolution very specifically supports only the 50% restriction.

Beauvais asked David how, if the state were truly interested in faculty input regarding all the proposed retirement changes, would the Treasurer like to approach the faculty. India suggested that a TUFSS meeting might provide a good forum. Beauvais agreed, but he said we really needed to have something on paper to discuss, a document outlining the impact of such a change in retirement fund management. Terry agreed with the general idea of a TUFSS meeting, but suggested, in the event of a formal resolution, that UT craft its own resolution independent of whatever may come out of TUFSS.

Gretchen asked when we might expect to see some proposed legislation? How quickly will faculty senates have to respond? David responded that this will be ongoing through February and March.

Phyllis asked when would be the most appropriate time for the UFC to meet with the State Treasurer. David said, "in the next week or so." Presumably via videoconference. Terry wanted to know if we could get something in writing so that we "know where the starting point is." David indicated that there are already several "existing things." He could send the "draft legislation" but that the document is very hard to read. Fortunately, there is a summary available. Terry asked if we could get David's analysis of the situation before we met with the Treasurer. Phyllis recommended that such an analysis should be distributed to the various campus CFOs. India said that she would get together with David to figure how best to connect someone from the Treasurer's Office with the UCF, TUFSS, the CFOs, and someone from Anthony's office. India asked if a late Wednesday meeting would work for us. Phyllis recommended we Doodle everyone to see if we could meet to strategize before we meet with the Treasurer.

Beauvais asked David to confirm his impression that the State Treasurer was in favor of eliminating the 50% restriction on annuitization. David so confirmed. Then Beauvais asked if the UTHSC faculty had yet voted in support of the resolution passed by all the other UT schools. The response: UTHSC was waiting to gather more information.

³ Terry recommended that we add a note to the minutes defining "annuitization." He supplied the following: "Annuitization is the process of converting an annuity investment into a series of periodic income payments. Annuities may be annuitized for a specific period or for the life of the annuitant...To annuitize is to 'flip the switch' and start taking income from an annuity."

⁴ An acronym new to me, LGI stands for Locally Governed Institution. It is used here to refer to four-year schools in Tennessee that were once part of TBR but now have their own governing boards (ETSU, MTSU, University of Memphis, etc.). Bruce kindly explained this in an email of 20 January.

Terry asked David if it would be possible to “parse” the proposed legislation to help us make sense of the whole thing. David said sure. Beauvais noted that while the UT resolution limited itself to the 50% restriction, it would be great if we ended up having a broader conversation with the State Treasurer about retirement funds generally. David left the meeting.

Approval of the Minutes

Beauvais asked about approving the minutes for the meeting of January 17. Bruce offered one small correction. Beauvais thanked Gavin for distributing a draft of the minutes.⁵ Minutes approved.

Proposed Reduction in the Number of the Board of Trustees

Bruce asked India for an update on the Governor’s proposed UT Board of Trustees reduction. India reported that we might get some details when the Governor delivers his state of the State address on January 29. India reminded us that with the FOCUS act came the decentralization of the TBR schools, allowing each campus to have its own board. These boards were constituted to include ten members, including faculty and student representatives. The faculty representative, selected by the faculty senate, was to have a two-year term and full voting rights. This suggests that the governor will be receptive to continued faculty representation on any reduced UT Board of Trustees. But we might have to fight to retain a voting student representative. India was encouraged, however, to read one article that suggested the Governor was primarily concerned with the bounty of ex-officio members on the BOT -- various commissioners who rarely attend BOT meetings anyway. Maybe those relatively non-contributing members are the ones the Governor has in mind. Still, India says she has heard multiple sources indicate that faculty membership on the BOT may indeed be cut. Bottom line: we must wait and see.

Terry asked India if she knows any reason behind any potential faculty disenfranchisement on the BOT. India responded that some on the BOT interpreted some literature put out by the American Association of Governing Boards (AGB) that recommended that neither faculty nor students should be included on governing boards of universities. In response, Beauvais reminded us that the AAUP advocates including faculty on such boards for public institutions.⁶

Beauvais agreed that the BOT was too large, but wondered what the fallout would be to various BOT subcommittees should BOT membership be reduced. India said she had no information on this, but suggested that a reduction in BOT subcommittees could be to our benefit. As is, UT efficiency is not what it could be given that initiatives must sometimes pass through multiple BOT committees. That said, Beauvais recommended that we push to ensure that the BOT is not so diminished as to hinder its effectiveness.

Terry reminded India that the importance of faculty representation on the BOT was demonstrated recently during the BOT’s workshop about tenure policy. India agreed and said she can’t imagine the BOT would cut BOTH faculty representatives. One maybe.

⁵ Gavin assumes this means he should continue distributing drafts to all the members before the minutes are considered for formal approval.

⁶ Beauvais supplied the web link on 23 January: <https://www.aaup.org/article/faculty-members-boards-trustees#.WmdFXUtrzdV>.

India said that there is a bill filing deadline of Feb. 8. Weird things can happen with last-second amendments, but we might have a better idea what the proposed legislation looks like after the deadline.

Update on Tenure Policy

Bruce asked India for any updates on how the proposed new policy on tenure was making its way around the BOT. India reported that “the process was proceeding” -- that the language is currently under review by the General Counsel’s Office. The goal is to have language in front of everyone by the end of January. Then allow four to six weeks for faculty consideration.

Gretchen reported that with the retirement of our Provost last month, UTC may be suffering from a lack of communication. How long does UTC have to incorporate new tenure policy language into our Faculty Handbook? India suggested that Fall 2019 would be the most likely deadline. Fall 2018 seems like too much of a push. She said that included in the policy language would be some indication of how and when the policy is to be incorporated in the handbooks.

Beauvais reminded India that some sort of workflow table would be helpful to update our handbooks. The columns for the table might include such headings as the new board policy (including when it goes into effect), where the policy would fit into the various handbooks, and who is responsible for overseeing the update. Terry responded that such a table would help the UFC explain the changes to our senates.

Policy on Free Speech

Gretchen said she saw a draft of the free speech policy in October and assumed the BOT voted on it in November, but she couldn’t find a published version of the policy on any UT website. India said the policy should be on the BOT website (or at least in the November minutes of the BOT), but she’ll check to make sure.⁷ Gretchen also wondered if each campus needed to include the policy in our handbooks. India responded that the policy applies to UT system-wide, but that each faculty handbook would indeed have to restate the policy.

Other items from Academic Affairs

India reported that one of main things that the legislators were concerned with include the quality of our teacher education programs, especially regarding elementary education. There is talk about how we might offer teacher warranties, offering to provide free additional education to teachers failing to deliver required professional skills.

Congressman Jimmy Duncan was inquiring about the need to cap tuition rates charged by state universities. But since UT schools have so greatly limited tuition increases recently, there’s not much to complain about. Besides, THEC now has the authority to impose tuition caps.

⁷ Gretchen later found the posted policy on the UT website (<https://universitytennessee.policytech.com/dotNet/documents/?docid=268>)

Terry asked India for a list of other things she anticipates will be taken up by state legislators. India did not expand on the list offered in the December minutes of the UFC.⁸

Terry asked if individual UT campuses should craft policies on guns on campus. India recommended we wait and seek guidance from Anthony Haynes. Some fights we need to let others fight for us. Pay attention to the legislative updates Anthony distributes on Fridays. Bruce reminded us that last year state legislators considered 163 bills affecting higher education, but that only one was passed. On the other hand, India reminded us that this was an election year and our politicians might be more concerned this year in getting bills passed. Teacher education may be the most high-profile issue on the docket and might generate more than the usual number of bills.

More on Teacher Warranties

Phyllis spoke recently with Valerie Yancey, associate director for health sciences in the UT Office of Government Relations and Advocacy. Valerie described the possibility that the university system might be held responsible for the poor performance of Tennessee's public-school students on standardized exams. The universities might have to guarantee student success on these exams. Phyllis expressed concern that it's one thing to guarantee the performance of our graduates on licensure exams; it's quite another to have to guarantee grade school student performance. India agreed, likening the situation to one where UTHSC would be held responsible for their graduates failing to teach archaeology. Phyllis responded that UTHSC is known for its success rate when it comes to their graduates passing their board exams on the first try. She said she could see how universities might be held accountable for the performance of their graduates on such exams, but going beyond that seems "a bit ridiculous." India said that there are many metrics that might be considered in evaluating teacher performance, and agreed that it's important to employ several of these metrics given the influx of students whose native language is not English.

India said that some legislators are considering the notion of forcing state universities to offer some sort of guarantee for our graduates, providing supplemental education if those graduates prove deficient in their profession. Even now, the TBR Chancellor offered a warranty for certified graduates of TCAT (Tennessee College of Applied Technology) programs. Graduates in the plumbing program, for instance, would be eligible for additional free training at a TCAT if they did not live up to the expectations of employers. This warranty idea is attractive to legislators, and such an arrangement might be mandated for teaching licensure programs in the state. Our job is make sure we avoid an "us vs. them" situation. The UT system needs to work with local and state agencies to ensure we produce successful teachers. We must convince legislators that we are making timely progress; otherwise, they will start "legislating all kinds of things."

After speaking with his colleagues in education at UTK, Beauvais reported that such legislation is coming out of ALEC (American Legislative Exchange Council), a "conservative legislative think tank."

Beauvais pointed out that at UTK all graduates of their teacher education program are required to have disciplinary expertise, demonstrated by having bachelor's degrees not just in education but in Math, English, etc. This usually requires five years of full-time academic work, but the results are good. He wondered if this is typical of other teaching certification programs in the UT system. India responded

⁸ See (<https://academicaffairs.tennessee.edu/wp-content/uploads/sites/9/2018/01/UFC-Minutes-20-Dec-2017-Final.pdf>) pages 3 and 4.

that it was not. There are post-bac certification programs, but nothing quite like what UTK offers. Typically, UT education students enjoy four years of study towards a degree in education. Gretchen reported that at UTC all the STEM education students have degrees in the STEM major. Gavin confirmed that UTC Art Education majors also have a degree in the discipline (BA in Art: Art Education).

Beauvais is concerned that legislators will try to mandate certain reforms in UT schools of education rather than allow us to institute sensible best practices. He proposed that we rely on Anthony to help us respond appropriately to these legislative efforts. Our colleagues in education especially need to be informed and on the front lines.

India said that anyone really interested in this matter can attend a webinar on February 24, during which Eddie Smith (Republican representing TN district 13) will host a roundtable discussion.

India suggested that for the UFC meeting in February we invite someone from Anthony's team to join us. Terry asked India if it would make sense to invite Valerie to our meeting too. Phyllis offered to approach Valerie on behalf of the UFC, if need be. Bruce will follow up.

The meeting was adjourned at 5:30 PM EST.

Next called meeting: 24 January 2018

Next regular meeting: 21 February 2018

Respectfully submitted,
Gavin Townsend
UFC Member