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Faculty Senate Minutes - October 7, 2003

USM Faculty Senate

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The University of Southern Mississippi

Faculty Senate Meeting

October 7th, 2003

Union Hall of Honors

2:00 p.m.

Members Present and Those Represented by Proxy (listed in parentheses):

College of the Arts and Letters:
Amy Chasteen-Miller, Phillip Gentile, Kate Greene, Stephen Judd, Tony Lewis (Margot Hall), John Meyer, Bill Powell, Bill Scarborough (Kate Greene), Paula Smithka, Mary Ann Stringer, Susan Malone (Gary Stringer)

College of Business and International Development:
James Crockett (David Duhon), David Duhon, Trellis Green, Mark Miller (John Meyer)

College of Education and Psychology:
Taralyn Hartsell, Janet Nelson (Joe Olmi), Jay Norton (Elizabeth Haynes), Joe Olmi, John Rachal, Janice Thompson

College of Health:
Joyous Bethel (David Beckett), Margot Hall, Bonnie Harbaugh, Susan Hubble (John Meyer), Amal Khoury, Kathleen Masters (Bonnie Harbaugh), Stephen Oshrin (Kate Greene), Mary Frances Nettles (Amal Khoury)

College of Science and Technology:
David Beckett, Randy Buchanan, Peter Butko, Ray Folse, Mary Dayne Gregg (Peter Butko), Myron Henry, Gerry Mattson, Gail Russell, Alan Thompson (Amy Chasteen-Miller), Denis Wiesenburg
University Libraries:

Mary Beth Applin (Sherry Laughlin)

USM Gulf Park:

Darlys Alford, Kathy Davis, Shadad Naghshpour, Pat Smith (Myron Henry)

Members Absent: (none)

1.0 Call to Order: Meeting called to order at 2:02.

2.0 Approval of September Minutes (moved/seconded/passed)

3.0 Approval of Agenda (moved/seconded/passed)

4.0 Old Business

4.1 Draft Faculty Handbook: Process and progress

Dr. Henry noted progress from where the draft process started in late June. There has been much discussion and progress associated with all sections of the draft as related to the current handbook. The process has proved to be challenging, but much progress has been made with compromises having been made. Dr. Henry further applauded the SHAC for their work noting that the composition of the Faculty Handbook Committee in part resulted from the work of the SHAC. The composition of the standing committee (Faculty Handbook Committee) includes three faculty members (one appointed by the President, one appointed by the Faculty Senate Executive Committee from outside the Senate, one from inside the Senate), a Chair, a Dean, a representative from the Provost’s Office and a representative from the VP of Research and Economic Development for a total of seven members. The representation is one that more broadly represents the faculty at the University. Dr. Henry reported that Section 11.3 (termination of tenured faculty) posed the greatest challenge to the SHAC. Dr. Henry went on to report that the current draft of the Handbook regarding this section did not allow appeal or appropriate due process for faculty. The SHAC, represented by Gary Stringer, offered comment regarding the strengths and weaknesses noted in the original draft of the faculty handbook offered by the current administration. The section that poses the greatest concern of the Senate and the SHAC is Section 11.3. Current recommended section is too
cluttered, lacks uniformity, and does not impose significant measures of accountability at the highest levels of the administration. Based on the concerns noted by the SHAC, the Senate Executive Committee and the Senators as a body, an alternative was proposed (see attached document). The alternative 11.3 section was moved/seconded/passed (42 yes; 1 no). Mark Miller, speaking as liaison from the AAUP, noted the unanimous support of the Senate version of 11.3 by the AAUP membership. Several Senators offered comment that Section 11.3 was a critical issue for fear that someone who has different political views, not one who engages in inappropriate behavior, could be terminated without due process. Other Senators noted that the key issue in the matter was due process and not academic freedom. The timeline for implementation of the Faculty Handbook is January 1, 2004, as opposed to August 2004 as was indicated previously by the Administration. The Senate EC will seek clarification at the next meeting with the President as to why this is the case. All comments and suggested changes regarding the current handbook draft must be in to the Deans by October 28. In summary, much discussion from the floor was related to the topic of Section 11.3 and due process. A follow-up motion was made to submit a draft transmittal letter which goes to the Deans regarding the vote taken by the Senate regarding the alternative 11.3, in addition to revisions to Sections 10.4 and 12 and faculty status of Library faculty. The motion was made, seconded, and passed unanimously. Dr. Henry stressed that other suggestions should go through respective deans/departments. The SHAC and the Faculty EC will make a statement of support for the suggested changes indicated at this meeting.

4.2 Other handbook changes

The status of IHL Board mandated post tenure review was not discussed in the new handbook as reported by Dr. Henry. The SHAC did not push the issue during the draft discussions. There was additional discussion regarding Section 8.6.3 in that the FAR seems to be “required.” Other sections in the draft handbook that were discussed (but, no action was taken) included definitions of terms (malfeasance, contumacious conduct and inefficiency) listed in the current draft, Section 2.11 indicating that the President has power to approve, appoint, and dissolve advisory bodies, thereby, diminishing the role of such advisory bodies on campus, and the failure of the section on sexual harassment to include statements related to sexual orientation. In summary, Dr. Henry suggested that if our recommendation(s) is (are) not included, the Senate would have to determine subsequent steps that could be taken.

4.3 Indirect cost recoveries

David Beckett reported that in the meeting of the Senate EC with the President, he philosophically agreed with David in that indirects are key to faculty productivity. He further reported that there was good discussion regarding keeping indirects in the hands of faculty; Subsequent to that conversation, David reported reading a memo from Dr. Dvorak received by his department instituting the 40% decrease in indirects to the department. The situation stands as is (40% decrease in indirects to departments).

4.4 Update on FAR

Stephen Judd reported that the major question remains; is the FAR an activity report or an evaluation tool? The FAR Committee has asked for a letter from the Provost to clarify this major issue. Other questions that remain include: can the FAR be tailored to the activities of specific faculty? Will it be accessible continuously? To whom will the FAR be made available? If the FAR is made available to someone outside the university, faculty should be made aware of that. When will it go online (early November)? He further reported that the FAR Committee is charged with creating a preamble to clarify
that it is a tool is designed to supplement the departmental evaluation process and not replace such. Other comments were made by Senators regarding the space available for comments/answers, etc.

5.0 New business

5.1 Community Service Day Initiative

Virginia Kittrell was introduced by Dr. Henry to report on the Community Service Day Initiative (Polish Your Piece of the Rock). That date is set for Friday, November, 7, and volunteers are sought to engage in service to the University such as landscaping, painting, etc. The event will be coordinated by Physical Plant and Residence Life. It was further reported that details would be forthcoming.

5.2 Other

Paula Smithka reported that the Master’s program in Philosophy is on the “chopping block.” In light of the comments made by the Provost at our fall retreat, this seems a contradiction. Concerns were expressed that no programs would be cut as related to the reorganization of the colleges by the Administration. Dr. Henry indicated that this issue would be brought to the President at the next meeting of the Senate EC and the President.

Additionally, two other issues were mentioned: teaching loads; specifically, the 12-hour teaching load expectation conflicting with the expectations to conduct research and/or generate external funding and low pay for adjunct professors. The Senate EC will address these with the President/Provost at the next meeting.

6.0 Officers’ reports

6.1 President (reported earlier in the meeting)

6.2 President-Elect (reported earlier in the meeting)

6.3 Secretary

Joe Olmi reported on the new Senate minutes format. The change was favorably received by the Senate membership. The format used in the September minutes will be used from this point forward.

6.4 Secretary-Elect (no report)

7.0 Committee reports

7.1 Academic and governance (no report)

7.2 Administration and faculty evaluations (no report)
7.3  Awards

Headwae Award announcement was published this morning (October 7); The Committee will be meeting later this month (October) for other award announcements.

7.4  Budget

Mark Miller requested others to submit questions that could be asked of the Administration. Dr. Miller asked Senate officers to raise questions regarding “efficiency.” Questions were also raised regarding the status of summer school budget; new policy now can

7.5  Constitution and bylaws

Darlys Alford raised questions associated with Section 112 of Article 1 of the Senate Constitution related to representative composition of the Senate as related to the newly organized Colleges. Are part-time positions to be counted in the calculation of representatives for each college? The Committee will make such reapportionment decisions based on full-time teaching faculty. The Committee will clarify the situation at the next Senate meeting, in addition to the issue of “closed” meetings procedures.

7.6  Faculty Welfare

John Meyer will recommend part-time pay, summer employment pay, the “Thursday” situation, and the final exam calendar.

7.7  Government relations (no report)

7.8  Technology

Taralyn Hartsell met with chief technology interim officer, Jill Beneke, to ask questions regarding the technology officers for each college and who will serve as liaison between iTech and each of the colleges. The individual college technology officers are to function as an advocate for their particular college. Another issue briefly discussed included intellectual property ownership and joint ownership of created class and online class materials.

7.9  Ad hoc committees/liaisons (no report)

(David Duhon requested prayers for two of the Senate’s past Presidents; Jesse Palmer and Don Cabana, as they were in ill health.)

8.0  Adjournment:  4:45 p.m.
Approved Faculty Senate Handbook Proposal:

**Faculty Senate proposed replacement for Section 11.3 in the draft Faculty Handbook.** The draft termination procedure for tenured faculty that follows is very close to and adapts features from The University of Mississippi termination procedure (e.g., the Tenure and Promotion Appeals Committee and the University Committee on Academic Freedom and Faculty Responsibility), as well as from Section 11.3 in the draft Handbook currently being circulated. The Ole Miss policy may be accessed from their homepage through links to the Faculty Handbook.

### 11.3 TERMINATION PROCEDURE (Draft 10-10-03)

#### 11.3.1 Board policy. Board policy provides for the possibility of terminating the contract of a tenured faculty member— or of a non-tenured faculty member prior to expiration of the term of appointment— for malfeasance, for academic inefficiency, for contumacious conduct, or for cause. Such action by the Board will be considered only upon the recommendation of the University President and only after the institution has afforded the affected faculty member rights of due process. In light of these requirements, the following procedures apply in all cases in which the University proposes to terminate a tenured faculty member or a non-tenured faculty member prior to the expiration of his or her term of employment. These procedures do not apply to cases in which the appointment of a non-tenured faculty member has expired or will expire by its own terms and the University elects not to renew or extend the term of the appointment.

#### 11.3.2 Presidential authority. Only the President can formally initiate termination proceedings. The input and advice of other administrative officers, faculty members, or other institutional entities constitute only recommendations to the President.

#### 11.3.3. PRESIDENT INITIATES TERMINATION PROCEEDINGS. IF THE PRESIDENT DETERMINES THAT IT IS IN THE BEST INTERESTS OF THE UNIVERSITY TO INITIATE TERMINATION PROCEEDINGS, THE PRESIDENT WILL SO INFORM THE FACULTY MEMBER BY REGULAR MAIL AND INCLUDE A WRITTEN RATIONALE FOR HIS OR HER DECISION. AT THE SAME TIME, THE PRESIDENT WILL ALSO ADVISE THE CHAIR OF THE TENURE AND PROMOTION APPEALS COMMITTEE IN WRITING THAT DISMISSAL OF THE FACULTY MEMBER IS CONTEMPLATED, STATING THE GROUNDS ON WHICH SUCH A DISMISSAL WOULD BE RECOMMENDED TO THE BOARD OF TRUSTEES AND REQUESTING THE RECOMMENDATION OF THE TENURE AND PROMOTION APPEALS COMMITTEE. (THE TENURE AND PROMOTION APPEALS COMMITTEE IS COMPOSED OF ONE TENURED FACULTY MEMBER REPRESENTING AND ELECTED BY EACH ACADEMIC DEGREE-GRAZNTING COLLEGE AND ONE TENURED FACULTY MEMBER ELECTED BY FACULTY FROM THE UNIVERSITY LIBRARIES.) THE PRESIDENT MAY RELIEVE A FACULTY MEMBER OF CERTAIN RESPONSIBILITIES WHILE HIS OR HER CASE IS UNDER CONSIDERATION, BUT WILL NOT IMPOSE SUCH MEASURES UNLESS THERE IS SUBSTANTIAL REASON TO BELIEVE THAT
IMMEDIATE HARM IS THREATENED BY THE CONTINUANCE OF THE FACULTY MEMBER IN HIS OR HER DUTIES.

11.3.4 THE TENURE AND PROMOTION APPEALS COMMITTEE. THE TENURE AND PROMOTION APPEALS COMMITTEE SERVES AS THE INITIAL INVESTIGATIVE BODY. IT WILL CARRY OUT A THOROUGH INVESTIGATION AND MAY ATTEMPT TO HELP THE PARTIES REACH A MUTUALLY SATISFACTORY SOLUTION. IF THIS PROVES IMPOSSIBLE, THE COMMITTEE WILL MAKE ITS RECOMMENDATIONS TO THE PRESIDENT. THESE RECOMMENDATIONS MAY INCLUDE THE IMPOSITION OF SOME LESSER PENALTY THAN OUTRIGHT DISMISSAL. IF THE PRESIDENT ACCEPTS A RECOMMENDATION FROM THE TENURE PROMOTION AND APPEALS COMMITTEE THAT THE GROUNDS FOR PROCEEDING WITH THE CASE ARE INSUFFICIENT, THEN THE TERMINATION PROCEEDINGS END.

11.3.5 IF TERMINATION PROCEEDINGS CONTINUE. IF THE TENURE AND PROMOTION APPEALS COMMITTEE CONCLUDES THAT THERE ARE SUFFICIENT GROUNDS FOR PROCEEDING OR IF, UPON CONSIDERATION OF THIS COMMITTEE'S RECOMMENDATION AGAINST PROCEEDING, THE PRESIDENT STILL CONSIDERS DISMISSAL OF THE FACULTY MEMBER TO BE IN THE BEST INTEREST OF THE UNIVERSITY, THEN THE PRESIDENT WILL INFORM THE FACULTY MEMBER BY REGISTERED MAIL THAT A RECOMMENDATION TO THE BOARD OF TRUSTEES FOR THE TERMINATION OF HIS OR HER CONTRACT IS STILL BEING CONTEMPLATED AND ADVISE THE FACULTY MEMBER THAT HE OR SHE HAS 15 WORKING DAYS IN WHICH TO REQUEST IN WRITING A FORMAL HEARING. THE DATE OF THE HEARING SHALL BE DETERMINED BY MUTUAL AGREEMENT OF THE OPPOSING PARTIES, BUT IN NO CASE SHALL IT OCCUR EARLIER THAN ONE MONTH AFTER RECEIPT OF THE FACULTY MEMBER'S REQUEST FOR A HEARING.

11.3.6 IF NO HEARING IS REQUESTED. IF THE FACULTY MEMBER DECLINES TO REQUEST A HEARING, THE PRESIDENT WILL FORMULATE HIS OR HER FINAL RECOMMENDATION FOR DISMISSAL AND FORWARD IT TO THE BOARD OF TRUSTEES, ACCOMPANYING THE RECOMMENDATION WITH THE OPINION OF THE TENURE AND PROMOTION APPEALS COMMITTEE.

11.3.7 IF A HEARING IS REQUESTED. IF A HEARING IS REQUESTED, THE FOLLOWING PROVISIONS APPLY.

(A) IT IS THE RESPONSIBILITY OF THE PRESIDENT TO PREPARE A FULL STATEMENT OF THE GROUNDS FOR THE PROPOSED DISMISSAL AND DELIVER IT, VIA CERTIFIED MAIL, TO THE FACULTY MEMBER CONCERNED AT LEAST ONE MONTH BEFORE THE DATE SET FOR THE HEARING. THIS COMMUNICATION MUST INCLUDE THE OPINION OF THE PROMOTION AND TENURE APPEALS COMMITTEE.
(B) THE HEARING SHALL BE CONDUCTED BY THE UNIVERSITY COMMITTEE ON ACADEMIC FREEDOM AND FACULTY RESPONSIBILITY. (THE MEMBERSHIP OF THIS STANDING UNIVERSITY COMMITTEE CONSISTS OF ONE TENURED PROFESSOR ELECTED FROM EACH DEGREE-GRANTING COLLEGE AND ONE TENURED LIBRARIAN, THE MEMBERS SERVING THREE-YEAR STAGGERED TERMS TO ENSURE CONTINUITY. THE ELECTION IS CONDUCTED BY THE FACULTY SENATE, AND THE NAMES OF NEW MEMBERS ARE FORWARDED TO THE PROVOST BY JANUARY 1 OF EACH YEAR.)

(C) IF, AT ANY TIME PRIOR TO THE HEARING, THE FACULTY MEMBER DECIDES TO WAIVE HIS OR HER RIGHT TO A HEARING AND RESPOND TO THE CHARGES IN WRITING ONLY, THE UNIVERSITY COMMITTEE ON ACADEMIC FREEDOM AND FACULTY RESPONSIBILITY SHALL EVALUATE ALL AVAILABLE EVIDENCE AND MAKE ITS RECOMMENDATION BASED UPON THE WRITTEN RECORD ALONE.

11.3.8 Rules Governing the Hearing.

(a) Right to Counsel. At the hearing, the faculty member shall have the opportunity to be heard in his or her own defense, and he or she shall be permitted to have an advisor of his or her own choosing who may act as counsel. Selection and compensation of counsel are the responsibility of the party desiring legal representation. If the faculty member intends to be represented by legal counsel, he or she must notify the president and the University Committee on Academic Freedom and Faculty Responsibility at least ten (10) working days prior to the hearing date.

(b) Witnesses. (1) The opposing parties are allowed to call witnesses. No later than ten (10) working days prior to the hearing the parties shall exchange a list of witnesses that each party expects to call to testify at the hearing, together with a summary of the testimony anticipated of each witness. (2) The faculty member and counsel and university shall both have the right to question witnesses, and to produce depositions from witnesses unable to be present at the hearing. (3) If there are charges of incompetence or failure to maintain professional standards of conduct, the testimony shall include that of faculty and others qualified to render a professional judgment. (4) Such hearings will not be open to the public, but observers from professional organizations shall be allowed to be present at the request of any of the parties concerned.

(c) Burden of proof. The University shall bear the burden of proving the grounds for termination by a preponderance of the evidence.

(d) Evidence. The University Committee on Academic Freedom and Faculty Responsibility is not bound by legal rules of evidence and may admit any credible evidence of probative value in determining the issues. The committee must, however, base its decision upon reliable and credible evidence.

(e) Transcript of hearing. A full stenographic record of the hearing shall be made available to the faculty member without cost to him or her.

11.3.9 Committee recommendation. The University Committee on Academic Freedom and Faculty Responsibility shall reach its decision by majority vote. The Committee shall produce
written findings and conclusions within ten (10) working days after the hearing and shall send a copy of its recommendation, together with its rationale, the vote count, and other supporting details, to the faculty member and the president. It is understood that the committee’s decision shall be a recommendation to the president.

11.3.10 Presidential conclusions and responsibilities. If, following this hearing, the President does not concur in the recommendation of the hearing body, he or she will remand the proceedings to the hearing body, stating the reasons for non-concurrence, and allow that body to respond to the reasons before taking further action. Following this response, if the President is still of the opinion that termination or dismissal of the faculty member is to the best interest of the University, he or she will forward such a recommendation to the Board of Trustees, together with the original recommendation and documentation from the Tenure and Promotion Appeals Committee, the recommendation of the Academic Freedom and Faculty Responsibility Committee, a record of the hearing, and such other documents as may be deemed pertinent, including the president’s statement to the hearing body and its response, should there be such.

11.3.11 Appeals to the Board of Trustees. The Board has the sole authority to terminate the employment of a tenured faculty member or to terminate the employment of a non-tenured faculty member during the term of the contract. It is the policy of the Board of Trustees to hear appeals of on personnel matters only after the faculty member has exhausted all due process rights and administrative remedies at the University. Review by the Board is not a matter of right, but rests within the discretion of the Board. If granted, Board review shall be on the record. No new evidence may be submitted on appeal. Appeals to the Board of other personnel matters shall proceed as set forth in the faculty appeals procedure in Chapter 12.

11.3.12 Dismissal due to reduction in force or programs. Faculty on continuous appointment who are dismissed for financial exigencies or for reduction of programs, academic units or administrative units shall be employed for a minimum of one full year from date of notification. Every effort shall be made to place faculty in other programs within the University before faculty are dismissed because of financial exigencies or for reduction of programs and units.

11.3.13 Dismissal for cause. Faculty on continuous appointment who are dismissed for malfeasance, inefficiency, contumacious conduct, or for cause may have their contracts terminated at any time; however, at the discretion of the institution and the Board of Trustees any faculty member's salary may be paid for a period of time.