

Fall 11-18-2009

Senate Meeting, November 18, 2009

Academic Senate
Illinois State University

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Academic Senate Minutes
Wednesday, November 18, 2009
(Approved)

Call to Order

Senate Chairperson Dan Holland called the meeting to order.

Roll Call

Senate Secretary Susan Kalter called the roll and declared a quorum.

Approval of Minutes of November 4, 2009

Motion XXXXI-42: Senator Marquis, seconded by Senator Stewart, to approve the Academic Senate Minutes of November 4, 2009.

Chairperson's Remarks

Senator Holland: About two weeks ago, we had a meeting here on campus of the Council of Illinois University Senates. This is an organization that a previous chair and Distinguished Professor, Curt White, formed in which the chairs and any other officials of all the senates in the state get together to discuss issues of concern to all of the universities. There is movement right now to make it more formal, especially in the current climate, for providing a voice for the senates from across the state. If you or a colleague have anything that you think might be of interest to us, please submit it to me and I would be happy to bring it to the group at the next meeting. This time we had 7 of the 12 campuses represented, which, considering the time of year, was pretty good.

Student Body President's Remarks

Senator Spialek: I wanted to clarify some of the remarks I made at our last meeting regarding the calculator rental that Student Government will be piloting next semester. When asked whether it is a rental program or are we lending the calculators, I must have implied that students would have to pay a certain amount of money to rent the calculators for that period of time and then they would get the money back. That is not the case. Students can go to Milner and, just like checking out a computer, they can receive a calculator. The time period for how long they can have it is still being discussed, but right now they are looking at around four weeks and then you would have to return the calculator. If you don't return the calculator, the student would have to pay a pretty hefty fine. Those calculators will be free to students and there will be three calculators on hand for students if they are just going to Milner and they forgot their calculator.

At our Student Government meeting last Wednesday, we passed a resolution for a student art initiative called State Your Art. It deals with the school pride component that we ran on for really improving the campus atmosphere. Students will be able to submit artwork. It could be ISU related or if they are just artists themselves, they can submit that. There will be a jury of members from University Marketing and Communications along with Student Government and someone from the University Galleries. They will jury the artwork and the winners will have their artwork displayed in certain buildings on campus for an entire year. The unveiling of that art will happen on Founders Day. If you have students that you think would be interested, we will begin advertising for that when we come back from Thanksgiving break and then when we come back from winter break, students can submit their artwork in a pdf form at the end of January. Again, the artwork would be unveiled in mid February.

Administrators' Remarks

· **President Al Bowman**

President Bowman: The State of Illinois is among the top ten states with the most severe financial problems. We have been talking about the long reimbursement cycle. The university has not seen any reimbursement for GRF since July 1. We continue to cover payroll and other operating expenses out of tuition payments and unrestricted cash. We will continue to do that. We are being obviously very cautious in our expenditures knowing that the state's reimbursement cycle is likely to lengthen, but that cautious approach has served us well, as has our conservative approach of taking on long-term debt. You are seeing media reports of other public institutions around the state that are having cash flow problems. The issues affect each campus differently depending on their revenue streams, their operating expenses and a host of other factors. So the reports you are hearing really don't reflect our circumstances on campus, but we have to be very cautious.

The NCAA issue today is graduation rates for all universities across the country. Athletics has not released our official numbers, but I will tell you that five of our teams had graduation rates for the 03 cohort at 100%. Graduation rates for Athletics as a whole are right on par with the rest of the campus.

I want to thank T.Y. Wang for being the chair of the University Advancement vice presidential search. That group had its first meeting today. The complete membership on the committee hasn't been seated yet, but as soon as the Senate completes its process, we will have a couple of faculty members to join that group. We hope to have that position filled by May 1. It is possible that since that may fall within the academic year, it could be somewhere between May 1 and July 1. University Advancement is in good shape. We are not looking for a change agent. A lot of the processes that we struggled with during the Comprehensive Campaign have been retooled. There have been some staffing changes that I think have made that unit stronger. This time we will look for a pure fundraiser. We want someone with higher education experience, but they don't necessarily have to have stood for tenure and lived in our world, but we do want someone who understands the culture of higher ed and has a track record of raising money for a university.

· **Provost Sheri Everts**

Provost Everts: New freshmen applications continue to look good, particularly in regard to high-achieving students. We have received 1,132 applications from students with a 28 or higher ACT score. Currently, the average ACT for admitted students for fall 2010 is a record 25.2. Academic Affairs' public budget presentations are scheduled for March 23 and 24. The fiscal year 10 consolidated annual report and the fiscal year 11 planning document guidelines are available at the Provost's website. I would also mention that Vice President Layzell has graciously agreed to kick off some of those sessions with a campus overview in regard to budgeting. That will be a return to what previously occurred several years ago. The library dean search is progressing. Campus visits are being scheduled in early December for finalists. The times, dates and locations for open forums, in addition to finalist names and CVs, will be available shortly.

· **Vice President of Student Affairs Steve Adams**

Vice President Adams: The residence halls close at 2:00 p.m. this Saturday and they will reopen at 2:00 p.m. on Sunday, November 29. We are keeping some halls open for those who will not be going home or are unable to go home because of living long distances away. So Hamilton-Whitten, Atkin-Colby and Wilkins will open for the current residents of those halls. All of the doors will be locked and there will be 24-hour security as far as getting into the halls during the week that classes are suspended.

Regarding H1N1, we have seen a really significant downturn in students who have been reporting flu-like symptoms to Student Health Services. You may recall that I reported two weeks ago that we had a high water mark for a week of 153 students who had reported that they had the flu to Student Health Services. That was

about mid-October. Then it went down to 112. Then it went to 79 and then last week, 49. Of course, that doesn't mean that the numbers are not larger for those students who have flu-like symptoms. These are the tallies that are being kept at the health service. We were notified by the McLean County Health Department that we would be given an initial shipment of 2,200 doses of the H1N1 vaccine. Those doses were delivered and we determined that we would have a flu shot clinic last Sunday. We administered 600 doses in the first 45 minutes. I want to thank those volunteers who made this clinic run like clockwork. After a noon to 6 p.m. timeframe, we had administered 970 doses. It seems to be trend. The vaccine got to us later than what we had anticipated. I think that as we see the numbers going down, there is less a sense of urgency on the part of the students. We still have about 1,200 doses left in the shipment and we will have an announcement tomorrow with regard to how students who still desire to get a shot can do so. I would ask that you not call Student Health Services. Those announcements will be put out via email blasts and notices on websites, etc. Those shots will probably be given on an appointment basis for the rest of the semester. At this point, we have no idea if we will get anymore vaccine, so for these 1,200 doses we have left, we will try to get the word out and try to get these administered before the semester ends.

Senator Marquis: I had a question about the halls closing. You said that the south side is basically going to remain open.

Vice President Adams: Yes.

Senator Marquis: There was a comment made at our meeting on Wednesday that the International House in east campus is going to close as well and most of those students are study-abroad students. I was wondering why the decision was made to move the International House to east campus from south campus.

Vice President Adams: The decision was made as many as nine or ten months ago that the International House wanted to move into Manchester. The international students were advised and the administration of the international studies program was advised that that would be the case. So those students are being helped to move into local homes or go home with friends or do anything that they can to find a place. We were aware of that; we made the international office aware of it and they made the decision to move this year. This will be the only year that that will be the case. From now on, we will make the decision to keep Manchester open in the future.

· ***Vice President of Finance and Planning Daniel Layzell***

Vice President Layzell: I want to thank all of those who have come out to the two public forums that we have had so far this week for the Campus Master Plan planning process. We have had a good turnout and have been receiving good input through that. We have one more forum, which is tomorrow in Ballroom D of the new Marriott Hotel. We have been posting five discussion questions at each of these forums and we also have these questions on the Master Plan website in survey format. For those of you who have not been able to make it to a forum or have been to a forum and have additional thoughts, I invite you to go to that website and submit remarks via the survey. For students in particular, I have had email conversations with Senator Spialek about additional opportunities to provide student input at this stage of the process. He and I will be meeting later this week to talk about what we can do to facilitate more student input. The only facilities-related announcement I would make is that the student recreation facility remains on track. They are pretty close to having it closed in so that they can continue to work on it through the winter.

Committee Reports:

Academic Affairs Committee:

Senator Stewart: Senator Gudding wasn't here today. I was guess chair of the committee. We talked about a change in policy, General Requirements for Graduation, Section J, policy 2.1.9. We were going to bring a Sense of the Senate Resolution, but it was decided by Exec that we should bring a policy change recommendation. We will be bringing that sometime early next semester. We are also forming a committee to examine textbook affordability and we are closer to the composition of that committee.

Administrative Affairs and Budget Committee: No report.

Faculty Affairs Committee:

Senator Liechty: Our most important piece of business was to welcome Senator Monahan back to our committee. We talked about the Honorary Degree process. That was a concern that was brought to us by Vice President Custer. We will be working on that at least for the next session. At some point, we will have recommendations to bring to the Senate for ratification.

Planning and Finance Committee:

Senator Fazel: Tonight, we had a meeting with Vice President Layzell about the Master Plan.

Rules Committee: No Report.

Action Items:

11.05.09.02 University Professor Policy - Revised (Faculty Affairs Committee)

Motion XXXXI-43: By Senator Liechty to approve the University Professor Policy. The policy was unanimously approved.

10.28.09.01 Code of Student Conduct - Revised (Executive Committee) (In 11/4/09 Senate Packets)

11.09.09.01 Code of Student Conduct – 1 Item Revised

Senator Holland: There has been one change to the document since it was brought to you as an Information Item. There was a fairly good consensus at the last meeting that for academic integrity cases, the University Hearing Panel will be composed of one student and two faculty members.

Motion XXXXI-44: By Senator Holland to approve the Code of Student Conduct as amended.

Senator Harris: If you look at Article 4, Section A, there is one piece of language that makes that clause overwhelming to the student population meaning that it extends the jurisdiction past the point the university should have. The clause states that when the behavior of a student is deemed to threaten the health, safety and/or property of any individual or group, which doesn't specify specifically the university community; especially with the semi-colon, it is indicative of it being an independent clause. That means that if I am in China doing something inappropriate, then you would be allowed to have sanctions in regard to that. The part that is even more troubling is if you look at page 15, Article 6, Section A, it allows the Vice President for Student Affairs to give penalties without a due process hearing. According to the U.S. Supreme Court in 1961, this is completely unjustified. The Supreme Court in *Dixon vs. the State*, the Alabama State Board of Education said that due process has to be justified and formal rules have to be followed. What we argue about tonight is due process itself. Back to Section 4, Article G, it says formal rules of due process, procedure and/or technical rules of evidence applied in criminal cases or civil courts are not used in this campus disciplinary process even when the recommendations can be as severe as removing someone from a place that they stay if they are considered a danger to the university or expelling them from the university. The U.S. Supreme Court in several state decisions after 1961 has ruled that as specifically unjustified.

Motion XXXXI-44: By Senator Harris, seconded by Senator Marquis, to strike the language in Article 4, Section A, that states when the behavior of a student is deemed to threaten the health, safety and/or property of any individual or group.

Senator Mackey: I don't see the purpose of this amendment. I think that the university does have the right to intervene when any person's health, safety or property is at risk.

Senator Bagnuolo: I think that by striking this language, you are taking away the ability of the university to maintain order amongst its student population. If you look back at page 1, Article 2, there is a quote that says "when individual behavior conflicts with the values of the university, the individual must chose whether to adapt his or her behavior to meet the needs of the community or leave the university."

Senator Marquis: I think that the university would still be in power to have control over its students, especially when it reflects the ISU community. The sentence after that says when it substantially affects the university community. I think that extending it out from the university community, it starts to become an ethical grey area. I think that is what this amendment is aimed at. I think that students would still be safe with the amendment that is proposed.

Senator Spialek: I would encourage you to vote no on this amendment. Goal 5 of *Educating Illinois* is that ISU will promote a healthy, safe campus. Removing that language is completely contradictory to the vision our campus has set through *Educating Illinois*. I don't see where you draw the line at where a person is.

Senator Van der Laan: I share Senator Harris' concern, particularly about the language and I do think it needs to be revised. What concerns me is the matter of jurisdiction...how far the arms of the university reach. I don't like that we would have the arms of the university extend so far. The reach of the university needs to be specified. I have no problem with the language as it is written as it addresses university activities. However, if a student is doing something illegal in Bloomington or Normal or Arcola, those police will deal with the criminal activity. The university does not need to deal with that kind of activity. In addition, this word "community", I believe someone said, is the campus. How far does the community extend. As Senator Harris pointed out, this could mean China or it could mean anywhere. I certainly wouldn't want anyone reaching into my life when I might be on vacation.

Senator Stewart: While I sympathize with Senator Harris' motivation of protecting the rights of students, if you take away the power of the university to remove that student from the community, you are not protecting that person's rights; you are threatening the health and safety of everybody else on campus.

President Bowman: I can't think of a single university that has a code of conduct that doesn't extend to student behavior off campus. The courts have held two things; one, that universities have the right to establish codes of conduct; and, two, they have the right to enforce those codes off campus whether it's here or in China. It is a routine matter and I can't imagine an institution not saying to its student body, you have chosen to be a part of this community, these are the standards that govern your behavior and we will enforce them wherever you are. We have court cases that back it up. Students have sued universities on this very basis and students have never won.

Senator Harris: Regarding the last statement, I am not sure of the validity of all of that statement.

President Bowman: You are questioning the validity of what I just said?

Senator Harris: Only the courts portion. The research that I have done indicates that the lawsuits themselves protect the university from the liability of students' actions that our outside the jurisdiction of the school. The strike specifically is "any individual or group". The next portion says 'which substantially affects the university community.' I believe with the amendment, you still have the jurisdiction for the university to protect each individual student without specifying any individual or group's safety. The words "university community" are defined in the beginning. If I am in China and on a debate trip, then the university does have that jurisdiction. The only part that troubles me is the language before that because it extends past that jurisdiction. The university can intervene when I am not dealing with the university. That is not a reflection of the university; that is a reflection of my privacy.

President Bowman: Why don't we have Chuck McGuire come and address that because that is just not true. We have the legal right to enforce our behavior code whether you are away from campus on private business or personal business.

Senator Harris: I am not saying that you don't have the legal right to enforce that. I am saying that the language specifically that is outlined here gives you the jurisdiction past the right to protect the university's name and those students. Any action that a student takes becomes the university's jurisdiction to descend upon it.

President Bowman: That's right; that is what I am saying.

Charles McGuire, Assistant Provost: The courts are unanimously in back of the university's right to govern the behavior of students off campus. This is addition to criminal behavior for which they might be subject to criminal sanctions. In a number of court cases from all over the United States that involve behavior of students off campus dealing with areas that are no way related to the university, the university has the right to make sanctions for the purpose of protecting its mission, students and its constituents. Part of the reason for that is that universities have been held liable in civil court for the behavior of students that injures other students off campus of which the university has been notified previously.

Senator McMahon: I do agree that there should be some kind of off campus jurisdiction. The kind of jurisdiction is in question. If a student does get in trouble, they have the right not to affiliate with the school.

Senator Mackey: I encourage everyone to vote against this amendment. These guidelines are just in place to protect the students and the integrity of the university.

Senator Briggs: I would like some clarification of "substantially". Perhaps you can give me some examples of when an activity substantially affects the community.

Vice President Adams: We have with us Anne Newman, Director of Community Rights and Responsibilities and Rick Olshak, Associate Dean of Students.

Rick Olshak, Associate Dean of Students: "Substantially" is a subject word that invites a judgment call of professionals that are given the authority to enforce the code of conduct. Anytime that the university can draw a nexus between the behavior in question and the educational interests of the institution, then the university has the ability to affect its jurisdiction. If there would be any question about that at the local level, we certainly have the ability to call on the Vice President's office and General Counsel to make a determination as to whether or not the code should be extended.

Senator Thompson: To me, the most salient point is the words “may impose”. This language gives the institution the option of imposing sanctions. It doesn’t require the institution to impose. Granted, giving someone the power to impose discipline could be abused, but one has to weigh that against the problems when one ties the institution’s hands and takes any power away. In my mind, there are enough checks and balances in our culture that the risk of any sort of systematic abuse would be very minor, but the risk of preventing the institution from imposing sanctions when sanctions are clearly called for is a much greater risk, so I suggest we vote against the amendment.

Senator Kalter: It is precisely the language that is included is the reason that I oppose this amendment and favor the language itself, so I would also urge people to vote against the amendment. The language reads, “when the behavior of a student is deemed to threaten the health, safety and/or property of any individual or group”. It is precisely because it talks about those threats to health, safety and property that I think that this is important. I wrote down the Dixon case that you cited. We did have legal counsel look at this fairly thoroughly, so I would expect that they would have checked that and seen that it would pass muster.

Senator Kalter moved the question. The Senate, by roll call, voted to end the debate on the amendment. By voice vote, the motion by Senator Harris was not approved.

Senator Harris: I have a question for Dr. McGuire. When you spoke specifically about the cases, did the courts rule that the university had a liability or was it the students’ actions independent of the university?

Dr. McGuire: It was the university’s prior knowledge of the students’ activities.

Senator Harris: That made them have the liability?

Dr. McGuire: Yes.

Senator Harris: In Article 4, Section G, it states that the formal rules of due process, procedure and technical rules of evidence applied in civil or criminal courts are not used in the campus disciplinary process. What requirements of evidence will UHP or CR&R use when they make the decision? Is it only the preponderance of evidence that the university provides?

Dr. Olshak: The university is not here to enforce criminal law and is not qualified to determine that a crime has taken place. Therefore, criminal rules of evidence are irrelevant to the proceedings. We are here to enforce university regulations. What has been consistently held is that universities have a reasonable right and responsibility to consider any information that a reasonable individual would consider in making a decision.

Anne Newman, Community Rights and Responsibilities: If you look at some of the cases, especially after Dixon, as well as federal orders, they basically state that formal rules of evidence have no place in an educational process. The process that we have is educational by nature.

Dr. Olshak: That is a Western Missouri decision that Anne is addressing. The court ruled that to tie the university’s hands in that way “renders institutional control impotent.”

Dr. Newman: We do offer process protections to students. In the Code of Student Conduct, if you look specifically at the content and the rights that we give students in our process, we extend past those to our

students. Our process is educational. We care about the students that go through our process and we want them to be treated fairly.

Senator Harris: What does the university mean by a preponderance of evidence when it later speaks about the UHP reaching a decision?

Dr. Olshak: The technical definition is what is more likely than not to have taken place.

Senator Mackey: I sit on the hearing panel. We are required to write a finding of fact. That is all of our reasons for finding whether or not the student was in violation. So we are not just arbitrarily picking a decision out of a hat. Also a student has the right to not only bring forth their own evidence, and there is actually a fourth person that comes to the meeting, and if they have a conflict with one of the people that is sitting on the panel, they have the right to ask that that person not sit on the panel.

Senator Glascock: Are there cases that involve non-criminal activity?

Dr. McGuire: None that come to mind. There is always a criminal issue. The cases have involved hazing, stalking and the like. They are not only violations of university policy, but also violations of criminal policy in the community as well.

Senator Bagnuolo: One of my two concerns stems from Article 3, Section W, where it defines a university-related event. It says that the term university-related event means an activity on or off campus that is initiated, authorized or supervised by the university or a registered student organization. In Article 10, Section D, where it talks about registered student organization cases, it says student organizations are collectively responsible for any actions committed by members that serve to reflect upon the organization as a whole or upon the university community. Disciplinary action against organizations is separate from disciplinary actions taken against individuals and the facts of an incident may necessitate action against both an organization and its individual members. The amendment to that part is to consult the Student Organization Procedures Guide for registered student organization conduct procedures. My concern is where the line is drawn when an organization is responsible for its members. I think that these two define it differently. I have looked for the Student Organization Procedures Guide and I couldn't find it anywhere. So I am trying to figure out if one member out of 100-person organization were to break a law, would that then reflect on the entire organization. Would that organization be held responsible for one member's actions?

Senator Holland: I can hazard a guess on that. Keep in mind that one student might represent five or six different RSOs.

Senator Bagnuolo: That is where my concern comes from. If I were to do something illegal, would every organization I participate in be reflected upon? I don't think it's clear in either of those two.

Dr. Newman: The reason that the Student Organization Procedure Guide is not posted anywhere is that the Code of Student Conduct has not been approved yet. The procedure guide has been approved by SGA and as soon as the code passes, then it will be posted. If one student is involved in something, it is not necessarily a registered student organization violation. We have specifically set up our policies and procedures to investigate student organizations to determine what exactly happened, how did it happen, who was involved and then take all of that information to determine if an organization could be responsible for it. If so, then it would go into the process.

Senator Van der Laan called the question on the original motion. There were objections, so the debate continued.

Senator Bagnuolo: I would like to make an amendment to Article 9, subsection B, page 20. Where it says registered student organizations have the right to have an advisor present at all disciplinary meetings or hearings, my recommendation would be up to three advisors because in Section D of that article, it says that registered student organization may have up to three representatives in attendance at a meeting, including advisors in parentheses, as if they could have additional advisors. When you look at the rights of an accused party or the aggrieved party, both of them have the right to have three advisors in their disciplinary hearings. I feel that it would be appropriate for RSOs to have the same right.

Motion XXXXI-46: By Senator Bagnuolo, seconded by Senator Ruedig, to Article 9, Section B, for RSOs to have the right to have up to three advisors present at disciplinary meetings or hearings.

Senator Thompson: Would there be any wisdom in saying ‘up to three’ or would the language ‘one or more’ be better.

Senator Bagnuolo: I said up to three because it fits in with the aggrieved party’s and the accused party’s rights.

Senator Mackey: I would like to make a friendly amendment because it says no more than three, including advisors, on page 21. So I think it should be up to two.

Senator Bagnuolo: If this amendment is approved, then I would ask to amend the other section you are talking about.

The friendly amendment was not accepted and the motion by Senator Bagnuolo was approved by voice vote.

Senator Bagnuolo: I want to make a follow up amendment to Article 9, Section D, that the registered student organizations may have up to five representatives at a meeting, including advisors. Then, later on in that paragraph, it says one additional advisor present for a total of six representatives in attendance. What that will essentially do is give the RSO the ability to have up to three advisors and two representatives of the organization. The only reason it says six later is when it is an international organization and they have an international advisor.

Motion XXXXI-47: By Senator Bagnuolo, seconded by Senator Marquis, to revise Article 9, Section D to read “up to five representatives” instead of three and “for a total of six representatives” instead of four.

Senator Mackey: Do you think it’s really necessary to have five people sitting there instead of just the most qualified three or four. I think that it may get a little crowded and chaotic. I would like to make a friendly amendment to say four.

Senator Bagnuolo: I will again say no. Technically, the advisors in attendance are unable to speak, so they won’t all be talking. They can only advise the students present. By having five, you are allowing two student representatives and three advisors, potentially four if it’s international. When you are talking about student organizations, some of them have in access of 100 members and it is only fair to have at least two students in the room.

Senator Bagnuolo's amendment was approved by voice vote.

Senator Colaric: For Article 4, Section A, page 5, I would like to make a friendly amendment stating that students and registered student organizations may also be held accountable for conduct off campus when a physical arrest is made that affects the university community. The reason that I would like to make this friendly amendment, as stated before, it is typically criminal activity that the university goes after. If those students are involved in criminal activity, then they are arrested for those charges. I think that makes it more specific and I think it also applies to the section that reads "deemed to affect the health, safety and/or property of any individual or group".

Dr. Olshak: I would object because just because you are not caught and arrested doesn't mean we don't find out about it.

Senator Holland: Can you make an actual motion? Then we need a second.

Senator Colaric: I move to strike the language that says when the conduct demonstrates disregard for person or persons; when the behavior of the student is deemed to threaten the health, safety, etc. I would like to strike that and make a friendly amendment that states when a physical arrest is made that affects the university community.

Motion XXXXI-48: Senator Holland did not accept the amendment as friendly. Senator Colaric, seconded by Senator Marquis, made a motion to strike and amend as stated above.

Senator Gifford: The assumption that only those offenses that result in a physical arrest would have an impact on the university community is incorrect. I think ultimately the university's interest extends even beyond the borders of the United States. We rely on schools throughout the State of Illinois and we rely on schools outside the country to take our students in some instances and it is based on reputation alone. Any kind of behavior that can have an affect on our study-abroad students, on our majors who are student teaching...even if you are not arrested, it doesn't mean it won't have a negative affect.

Senator Hoelscher: I would be in support of what Senator Gifford just said in the sense that our stakeholders are many and they are not just our students. They are everyone and parents are included in that as well. I think our responsibility extends far beyond our students to our reputation, our future value, our keeping our students and ourselves safe and healthy.

Senator Woith: I am not certain arrests or criminal cases would be appropriate for everything because in nursing and health care, negligence and malpractice are civil cases. I could conceive of possible incidents with students in a hospital or clinic setting that might get into more of a civil case.

Senator Mackey: Just because someone presents a complaint to CR&R does not mean that they want to press criminal charges against that person, but they want to see something done that impacts their home environment.

Senator McMahon: When you are arrested, you are having disregard for a person. You are threatening the safety, health or property of an individual or group and it is substantially affecting the university community, so I urge you to vote yes on this amendment.

Senator Stewart: It's an issue of individual rights versus community safety. I like the wording as it is in the document and I think it's a little too simplistic just to say if somebody is arrested.

Senator Hochhauser: I urge you to vote against this amendment. I think we need to leave the document open for CR&R to interpret student actions and to be able to enforce sanctions on students. Maybe they are not criminal activities, but they are probably activities that are harmful to other students or the community and I would hope we would have the trust in Student Affairs to make those decisions for us.

Senator McGinty: I agree with what Senator Hochhauser just said. I think that there are a lot of cases where an arrest hasn't been made where we, as a student population, would like CR&R to take disciplinary action.

Senator McGinty called the question. There was an objection, so the debate continued.

Senator ?: The reason I object is because I would urge you not to pass this amendment. I believe that the university should have the right to sanction us off campus. However, I think that the definition of substantially affecting the campus community at this time may be being over used and slightly abused. That is really an issue for CR&R. That may be an issue that many students are concerned about. I do think they have the right to sanction us if something does occur off campus, but we should take into consideration what exactly was done. There are students being taken to CR&R for a sip of alcohol and getting an under age drinking ticket. I don't think that really substantially affects our community.

Senator Volgman: I am going to have to agree with Senator Colaric that this language is a bit ambiguous and it is obviously causing a lot of confusion.

Senator Smith moved the question. Senator Colaric was asked to restate her amendment.

Senator Colaric: I would like for it to state that students or registered student organizations may be held accountable for conduct off campus when a physical arrest is made that affects the university.

By roll call vote, Senator Colaric's amendment was not approved.

Senator Harris: Is there any specific reason why in Article 4, Section A, I believe it's the third clause after it says 'individual or group', says "or" instead "and" when the activity substantially affects the university?

Dr. Olshak: That simply, in my opinion, indicates that it is a judgment call. It is simply indicating that the university gets to make a judgment as to whether or not its interests are substantially affected by the behavior in question.

Senator Harris: The reason I ask is because this, independently, would make it where it is not very specific, meaning that we would revisit the same debate about the jurisdiction. If you change "or" to "and", it seems like you would have that same jurisdiction no matter where that student is if it substantially affects the university.

Dr. Olshak: I think it's a matter of interpretation. I don't know that there is a hard and fast answer to this.

Dr. McGuire: If it says "and", you have to prove them both.

Senator Harris: The criminal cases that we have been talking about or the cases in which the university is

supposed to have jurisdiction. It seems if you can join them, the school, under those circumstances, would be able to prove that anyway.

Dr. Olshak: I think what I am hearing inherent to that is some assumptions about what the university should be able to do as opposed to simply providing the university the flexibility to make a determination based on the facts presented to it. The university is not in the position of the police department to go out and collect the information necessarily. We are responding to the facts that are provided to us and making the best decision that we possibly can given only the information that is provided to us. I don't think I can say it any better than that.

Dr. McGuire: There are two alternative clauses as it is right now. You've got the health, safety and property on one side and the interest of the university on the other. It is a question of can you prove either rather than both of them.

Senator Van der Laan: I would like to offer a friendly amendment and that is wherever the word community is used in the document that it is clarified as the university community. That would make me more comfortable with the whole document.

Senator Kalter: I would like to see each and every instance of that so I know that is exactly what is intended.

Senator Holland: Keep in mind that this is a living and breathing document. What you are seeing in front of you right now is two years of effort going through SGA, CR&R, passing legal muster. It has gone through lots of hoops before it ever showed up here. I know for a fact that there are already proposed changes to it.

Senator Van der Laan: I can clarify why because in some of the discussion we have had tonight, in certain cases we use university community and in other places we simply use the word community. That's too wide open for me. As I said, I would feel much more comfortable and we have really been defining community as university community in all of our discussions tonight.

Senator Holland: Without actually going through line by line and finding every instance of community, I am not sure that we can accept it as a friendly amendment. If you would like to make it an actual motion, we can address it that way.

Senator Kalter: I would be willing to go through the document line by line since I have it on my computer and look at community every single time and bring it back to the Executive Committee for a vote in a subsequent session. I think it's unwise for us to vote on something when we can't go through the actual document and see how that affects things. I would be perfectly willing to do that and bring it back if the Executive Committee brings it back.

Senator Van der Laan: The intent of my friendly amendment was to have you do precisely that.

Senator Holland: Let me try to clarify where we are right now. It is not a friendly amendment. Is this a motion that you would like to bring because this would affect a lot of things.

Senator Kalter: I believe that you can make a motion to refer it to committee.

Senator Van der Laan: That is what I would like to do.

Motion XXXXI-49: By Senator Van der Laan, seconded by Senator Rubashkin, to refer the document to the Senate Executive Community to change “community” to “university community”.

Senator Hoelscher: I would not be in favor of referring it to committee because I do not want to go through this debate again. I would be in fear that we would start over. I think that we are clear on where we are and I would be in favor of rejecting the amendment because I think it needs to come to a vote tonight.

Senator Mackey: If we do refer this to committee, we cannot pass this tonight, correct?

Senator Holland: That would be correct.

Senator Hochhauser: I also object to sending it back to committee. This document has been trying to get passed for two years. I think that this is something that we can approve and review again. Especially changing community to university community...I think it is one and the same.

Senator Owens: Since this is the Student Code of Conduct, I think it would be wise that we give it an extra two weeks so that the students can go back to our constituents and we can send out an email asking students' opinions on this document, so I encourage you to refer this back to committee.

Senator Spialek: If we continue to refer this back to committee...again, we can always make changes. The Student Government administration that looked over this document and approved it was Dave Horstein's administration. That was several years ago. I am just concerned that if we continue to refer this back, we are never going to have an approved code of conduct. I think that we should vote tonight and there are already proposals on the table for the next time the code of conduct will come up.

Senator Marquis: How often does the Student Code of Conduct come up for reapproval?

Senator Holland: Officially, every university policy comes up for review every five years. I am not sure if this counts as a university policy. I don't see a policy number on it, but it was last revised in 2002.

Senator Marquis: My concern is that the last time the Student Government had a chance to even approach the students about the revisions was over two years ago. No one who is sitting at this table was in the Student Government when it was reviewed the last time. While I think we should pass it now, I think that the review process should start right away as opposed to three years out if it is every five years.

Senator Holland: Most university policies are every five years or as needed, so that would certainly be something that you could do.

Senator Bagnuolo: As students, we have the ability to review and amend these things at all times. It is a matter of whether we want to work through the proper channels. Work through our student representation on the Executive Committee if you have an idea that you want amended. I think that it is extremely important that we vote on this document tonight.

Senator Thompson: I am a pretty fast reader and I did scan the document. I think Senator Van der Laan's point is well taken. There is a difference between the community and the university community, but if you look at the preamble, the preamble clearly indicates that any reference to community is going to be university community. I scanned as many pages as I could. I took some time, so I don't want you to think that it was cursory. I just don't see the word community without university very close by coming up. I think it is truly a

non-issue. I think that they are talking not about the community at large, but the university community.

Senator Kalter called the question. Senator Van der Laan withdrew his motion. Senator Harris moved the question to vote on the Code of Student Conduct, as revised. The moving of the question was approved.

Senator Holland: We are now going to vote on whether to accept the Student Code of Conduct with the two amendments that have been made of the up to three advisors present and the numbering changes that go along with that in Section D. There was also one thing that I had intended to change from the last meeting, but I forgot to put it in. On page 6, Section A1, Safety Regulations: Including, but not limited to. People had requested at the last meeting to say “including behavior such as”. I am doing that as a friendly amendment.

The Code of Student Conduct was approved as amended.

Information Item:

11.02.09.01 Residency Status Policy (Academic Affairs Committee)

Senator Stewart: This policy has been edited to more clearly align with the catalog and to make it easier for students coming from out of the country and out of state to establish residency to come to ISU.

There were no questions concerning the policy and it will return to the Senate as an Action Item on December 9.

Communications

Senator Briggs: The faculty biannual at the University Galleries is a must see.

Adjournment

Motion XXXXI-50: The motion to adjourn was unanimously approved.