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Senate Meeting, December 5, 2012

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Academic Senate Minutes
Wednesday, December 5, 2012
(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 7, 2012

Motion XLIV-31: By Senator Stewart, seconded by Senator Hoelscher, to approve the Senate Minutes of November 7, 2012. The motion was unanimously approved.

Chairperson's Remarks

Senator Holland: The big news on campus is that our beloved president has announced his eminent retirement. He has made the comment that he would stay until a replacement is found, so the idea that has floated around is that we have a few failed searches. Faculty, we are going to have a Faculty Caucus tonight. We are going to have to start putting together a search committee. We need to determine how to select the appropriate members of that search committee.

Student Body President's Remarks

Senator Manno: On Sunday, December 9, SGA will host its fourth annual Club Milner dance party. It will be just outside of Milner where students take 10 minutes away from their studies to de-stress. Also on Sunday through finals week, we will be passing out study bags. We will host a food drive in cooperation with the Off-Campus Student Association. I want to mention the love and support that I have heard from students about President Bowman. There is just a general love for him. You will be truly missed and we are so proud to have had you as president.

Administrators' Remarks

• ***President Al Bowman***

President Bowman: I have really been touched by the outpouring of support for me and my family over the last nine years. The entire 34-year career here just couldn't have been any better. I couldn't be more proud of where ISU is today. I plan to be a part of the campus for a long time. I plan to move into an office back in my department and teach an honors colloquium in the fall. I just feel the need to dial down my stress level. I am going to be here until the next president is in place and we will work together on the transition.

I wanted to talk about the pending fiscal cliff. The motivation to come to a compromise is very strong. If it does happen, the Pell Grants are an entitlement, so those would be protected, but if nothing were done following October, Pell Grants would be cut down from \$36 billion to \$24 billion. Research funding could be affected. There are a number of programs like work-study, TRIO; those would automatically be cut by 8% in January. I think that there will be a compromise.

There was a meeting on campus today with staff members from the IBHE and the board has hired an interim executive director. The prospects for next year are that unless a major solution to pensions and Medicaid, we will likely see a reduction next year. I am hopeful that some sort of compromise will be reached. The staff members from the IBHE told us today that the pension payment for the State University Retirement System this year was larger than the appropriation for higher ed operations. That is not sustainable.

The public presidents have written a letter to the legislative leaders and the governor. It addresses Senate Bill 1673. That bill is getting the most attention on pension reform. There are some parts of it that make sense to us, but there are a lot of problems with it. So the letter addresses some of those issues.

Senator Fazel: President Bowman, it is evident that you are committed to shared governance. It comes across that you truly believe in faculty and student participation and you respect all of us.

President Bowman: I think that is one of the reasons we are doing so well. We all have decided what kind of university ISU is and our strategic plan reflects input from the entire campus.

Senator Dawson thanked President Bowman and initiated a standing ovation for him.

- ***Provost Sheri Everts***

Provost Everts: I would like to join the rest of the Senate in thanking President Bowman for the opportunity to learn from him, but also for his years of service to this institution. As we compare our enrollment numbers for the fall of 2013 to this time last year, we see tremendous gains again. Our total freshmen applications received are up 27%. Our admitted students are up 24%. Our ACT average is steady at 24.8 and our average GPA is up to 3.56 for incoming freshmen. Our applications for underrepresented students are up 52% across all categories. Specifically, we are up 31% for American Indians/Alaskan Natives. African American applications are up 63% and Hispanic applications are up 43%. For admitted students, underrepresented students are up 57% across the board: 38% in American Indian/Alaskan Native, 71% in African American students and 54% among Hispanic students. Last Friday, we had our globalized campus conference. It was a great success and attendees requested a second conference.

- ***Vice President of Student Affairs Larry Dietz***

Senator Dietz: I would also like to express my gratitude to President Bowman. This is a bit of a stressful time with finals. I would encourage students to take advantage of the opportunity to blow off some steam that Senator Manno mentioned, but also to look out for folks who may not be fairing so well right now. Remind them that we have a good counseling center. Today we awarded the Neal R. Gamsky Quality of Student Life Award. The gentleman that received it this year was Jason Vasquez of the counseling center.

- ***Vice President of Finance and Planning Dan Layzell***

Senator Layzell: I would like to say thank you and congratulations to Dr. Bowman for his many years of service. We have begun the long-range financial planning process. In January, we will be announcing some campus consultation activities to get input. We did finally receive the rest of the fiscal year 12 appropriation. We have not yet begun receiving the funding for FY13, but we have been told by the state that we will start seeing checks in the mail this month. We will get our fall MAP payment probably in January. There is a new proposal with regard to pensions, House Bill 6258. It is on the General Assembly website. There are two primary components. The first is for employees hired before January 1 of 2011 and then those hired after. For those hired before January 1, the cost of living would only apply to the first \$25,000 of the employee's pension if they do not receive social security and the first \$20,000 if they do receive social security. No one would receive a cost of living adjustment until age 67 or five years after they retire. Under this proposal, the retirement age would increase. Employees 46 and older would retire at the current retirement ages and statuses. Employees 40 to 45 would have to wait an additional year than current retirement ages to receive full benefits. Employees between 35 and 39 would have to wait an additional three years. Employees 35 and younger would have to wait an additional five years. There will be an increase in contributions. Employee contributions would go up by 1 percentage point in FY14 and then 2 additional percentage points in FY15. The salary that would count toward pensions would be capped at the higher social security wage base or the employee's salary when the bill becomes law. Employees hired after January 11 would go into a cash balance plan; the details are to be fleshed

out. In terms of the schools and colleges, we would be expected to take over the employer's normal cost, which is now paid by the state at the rate of 5 percentage points per year until we reach the full cost.

Senator Stewart: Any update on the release of funds for the Fine Arts Complex?

Senator Layzell: We had a meeting with staff from the capital development board. We are beginning to sketch out what needs to be done to hire an architect and an engineer. They believe that the release of the funds is eminent.

Committee Reports:

Academic Affairs Committee:

Senator Gizzi: The committee had a discussion of the Reinstatement Report, which will come to the Senate as an Advisory Item. We also talked about the schedule and process for the General Education revisions. It should be making its way to the Executive Committee by mid-January.

Senator Horst: Is your committee addressing the Monday, Wednesday, Friday scheduling issue that the Executive Committee saw a few months ago?

Senator Gizzi: The committee had a discussion about that a while back, but it's pending until the spring. The provost and I need to have a conversation. There was no action proposed by our committee; it was just an overview.

Administrative Affairs and Budget Committee:

Senator Kalter: I am genuinely sad that Dr. Bowman is stepping down. It has been an incredible privilege to serve with you and to learn from you. I don't feel like that learning curve is over yet. I would still like to absorb your way of doing things. The committee talked about the Presidential Commentary Report, which will be the last one for Dr. Bowman.

Faculty Affairs Committee:

Senator Horst: The committee will send forward the Athletics Council Report to the Executive Committee. We completed another draft of the Academic Freedom Policy and the Shared Governance Policy. We will forward that to Lisa Huson for consultation on that. We had more discussion about the AAUP Report on Financial Exigency, which will be released in January.

Planning and Finance Committee:

Senator Rich: For the last few years, this university has enjoyed a golden era in challenging times. A healthy share of that is due to who President Bowman is, so I thank you personally and for my colleagues. The committee has received the responses from the vice presidents for last year's Priority Report. Tonight we had as our guests Provost Everts, Mardell Wilson and Vice President Layzell to talk about potential revenue generating opportunities.

Rules Committee:

Senator Fazel: Tonight, we had as our guest, Vice President Dietz, Brent Paterson and Wendy Smith to discuss the Student Code of Conduct. We had a fruitful discussion. We are going to receive the code after the break. They are going to make minor revisions and send it back to us. We also discussed the smoking policy that we are going to present to the Senate tonight.

Action Items:

10.04.12.01 ***Athletics Council Reporting – Blue Book Revision (Faculty Affairs/Executive Committees)***

Senator Horst: The basic problem that existed was who the Athletics Council reported to. In one place the Blue Book indicates it reports to the Faculty Affairs Committee and to SGA. In the Athletics Council description itself, it only reported to SGA. We changed it to where it would report to both.

Motion XLIV-32: By Senator Holland to approve the changes to the Blue Book in reference to the reporting of the Athletics Council. The motion was unanimously approved.

10.25.12.02 *Planning and Finance Committee Membership - Blue Book Revisions (Rules Committee)*

Senator Fazel: There are some minor changes to the Planning and Finance Committee's membership. At this point the Chairperson and the Secretary of the Senate are listed as members of the Planning and Finance Committee. But for the last several years, only the chair has served on that committee and the secretary has served on another committee. We are changing the language to reflect that and adding one faculty member.

Motion XLIV-33: By Senator Fazel to accept the proposed changes regarding the Planning and Finance Committee membership. The motion was unanimously approved.

Information Item (May be Moved to Action):

11.16.12.01 *Smoking Policy and Map – Revised (Rules Committee)*

Senator Fazel: This policy was approved by the Senate in the spring semester. At that time, we determined we were going to have an implementation team starting in the spring semester of 2013. The committee has met. Students are putting together a program for implementing the policy. The momentum is there to go ahead and do this for the spring semester, but we received a memo from the University Counsel that according to law, we have to change some of the statements in this policy. That is why it is urgent. If we don't have major issues with the changes—most of them are legal issues that we have to incorporate in the document. That is why we have it on the agenda as 'may be moved to action'. I am hoping if there are no major concerns, we could question and debate it tonight so that we could move forward. If we don't approve it now, we won't be able to implement it in the spring. The students may be gone and the momentum may be gone.

The title of it was the Smoking Policy, but now it is Smoking and Tobacco Use because the document also addresses tobacco use. The major reason for revising this policy was because of an act that would forbid smoking and tobacco use in laboratory schools. After that, there is a preamble about what this policy complies with. Legal Counsel has told us which Illinois act this policy complies with.

The other major change is that we had identified some other major areas such as parking garages so that people would have some shelter, but according to University Counsel, parking garages are buildings according to the Illinois Act. That is why we crossed out smoking in parking garages. We are not going to have designated smoking areas anywhere. We are just going to have smoking receptacles where smoking is allowed. We crossed out 'where smoking is an integral part of a theatrical production' because we cannot smoke in buildings.

We realized that Environmental Health and Safety was the body that initiated the original Smoking Policy. Therefore, we have added them to the implementation team.

Senator Horst: Can you tell me what language was added to the compliance section?

Senator Fazel: On the fifth line—refrain from smoking in the outlined areas—that has been changed to prohibited areas. Also, if a member of the campus community observes a violation of this policy, he/she may inform the individual of the policy. If that individual should continue to smoke, he/she may be subject to discipline or cited for a violation of a state law and fined. State law says if you violate this policy, you may be fined. That is why that language has been added.

Senator Kalter: I think we have two typos. In that part that you just quoted that he/she may be subject to discipline, it goes on to where people can go if they have a problem. It says students to “he”. I think you mean to “the” Dean of Students Office of the Community Rights and Responsibilities. I think it should be the Community Rights and Responsibilities Office under the Dean of Students Office.

Vice President Dietz: I would agree with the language that Senator Kalter is suggesting.

Senator Lessoff: There was a rationale debated in the Senate concerning the public health benefits of prohibiting smoking in the quad. Was that rationale enough to justify the constraints that have been put on people? Also, it states that he/she may be subject to discipline or cited for a violation of state law and fined. That implies that cases of violation of this policy can be brought to some hearing panel. In theory, a campus policeman could give somebody a ticket and I am wondering what the campus police think of that.

Senator Fazel: We discussed the compliance for a long time. How can we enforce this policy was a major issue. The conclusion was that people would have to refrain themselves. We don’t want to take anybody to the police; we don’t want to take anyone to a committee, but through communication, promotion and providing spaces for the ash receptacles, then people would feel the peer pressure. That language about the fines was added by Legal Counsel because that is a part of Illinois law. We are expecting optimistically that they will comply.

Ms. Wendy Smith, Legal Counsel: The only reason I added the fines section is because a person who is complaining can go to the Public Health Department and ask for fines to be imposed. So I thought it was a bad idea for people to think that nothing can be done.

Senator Holland: Is there is a state statute that should be referenced about that point so that if people want to look that up, they can.

Ms. Smith: It’s the same one.

Senator Manno: One of the reasons we wanted to use more peer enforcement was because we really didn’t want the university police to go around giving tickets rather than saving someone’s life by someone else. Throughout our resources and benchmarking, the majority of the institutions that had smoking policies that were successful were more peer-to-peer interaction.

Senator Rich: What are the obligations of a supervisor responding to the notification of an aggrieved party?

Ms. Smith: There is nothing in the law that requires them to report it. It has been reported to them as a supervisor. The administrator I think is obligated to refer to the appropriate body for making that complaint. The supervisor has no more responsibility than to tell the person here is the policy; here is how you can take it further. I don’t think that there is an obligation in this policy to report the employee.

Senator Kalter: I thought that in Executive Committee that we had a copy of this that faculty, staff and AP all go to Human Resources. This copy appears to still have it split up with the Ethics and Grievance Committee for faculty. Is that intended?

Ms. Smith: It’s not a legal question, so it can go either way.

Senator Kalter: So the copy we have here is the one that the Rules Committee intends.

Senator Fazel: Yes.

Senator Horst: The inclusion of the word discipline really changes the tone of the conversation. Last year when we approved this policy, we were talking about the community coming together to create a non-smoking environment.

Vice President Dietz: Under exceptions to the policy: Smoking and the use of smokeless tobacco may be permitted in the university-owned private residences. Am I correct to assume that we are not talking about places that have shared ventilation systems like the residence halls?

Senator Manno: Right.

Senator Cox: In regard to the disciplinary aspect of the policy, I see room for arbitrary application of some of the disciplinary channels that might be taken if supervisors are not obliged but have the discretion to report their employees or students reporting students. I don't see a fair application of the policy and perhaps an erosion of the spirit of cooperation.

Senator Fazel: I did not like the language about disciplinary action or fines, but Illinois law states that if somebody smokes, this could happen to them.

Senator Holland: This is a state law for any non-smoking area?

Senator Fazel: Exactly.

Senator Holland: So this would already be in effect whether we write it in policy or not for somebody smoking in a building or any other place currently. Effectively, the only thing this policy is doing is expanding the area that we have decided is non-smoking. So the discipline is already there.

Senator Fazel: It's the Illinois law's language. Am I correct Wendy?

Ms. Smith: With the discipline, there are a lot of policies that say if you violate a university policy, you may be subject to discipline. If this is going to be a university policy, then you could be subject to discipline.

Senator Fazel: I think the fine is a part of the Illinois act.

Ms. Smith: A fine is part of the law. Discipline is if you have a structure and someone violates it; you have to have some kind of way to deal with that, especially for the parts that are state law.

Senator Fazel: After we passed this document last year, we said in two years the implementation team is going to come back and make a report. At that time, we would entertain any issues and would change the document accordingly. We are also having an email address: smokeless@illinoisstateuniversity for anyone with questions or concerns about this policy. The email would automatically be forwarded to members of the implementation team.

Senator Crowley: In the event of portraying a character, it can be very much in character to smoke. How might the theatre department be constrained?

Ms. Smith: There are six exemptions to the state law and that is not one of them. Electronic cigarettes may be an option. Also, you have to have a complaint about it to move forward.

Senator Ellerton: I understand how this policy is going to be publicized to the students. Has any thought been given to publicizing it for faculty and staff?

Senator Holland: There are plenty of ways faculty can be communicated with. You have got deans, department chairs; the Senate can send something. We have a provost and president who probably would be very happy to send notices.

Senator Fazel: We are going to have posters. We are going to have signs outside in some of the non-smoking areas. Students are going to have a demonstration at the beginning of the semester.

Senator Smudde: If there is something already in state law that covers this, I am not sure what the advantage is of this policy other than just expanding the area.

Senator Fazel: Right now, smoking is not allowed in any building. According to this policy, smoking would also not be allowed on the quad and also in the *In Exchange* project. Students did a survey and a lot of people complained that these are areas with heavy traffic and students wanted to make sure they could go from one class to another without being exposed to smoking.

Senator Smudde: I don't see the advantage. If the state law solves...

Senator Fazel: The state law only prohibits it in the buildings and 15 feet from the entrance to buildings. Students would like to make the entire quad smoke-free. *The law does not require us to make the quad smoke-free.*

Senator Cox: Are we being asked to carry the state law to the expanded areas? So, smoking on the quad is not regulated by the state, but we want to use the language and the disciplinary aspect that the state does control to those expanded areas?

Ms. Smith: You would need to either make a distinction that state covered areas are subject to discipline and fine and non-state covered areas are not. Or you have to leave it the way it is. You couldn't just delete the language.

Senator Cox: I wonder if that complicates the committee's recommendations to separate the spheres in terms of disciplinary action...to say that those within the state's purview still abide by this policy and those that we have expanded to the quad and other areas are not going to be subject to the same kind of oversight.

Senator Fazel: I like your suggestion and I agree with it because when it comes to the areas that the state has prohibited, there might be fines or they might go to the police. But it is our quad area, which is our choice. Then we could do that without a fine.

Ms. Smith: It makes it difficult from an enforcement standpoint for the quad area.

Senator Fazel: From the beginning, the idea was that we don't want to enforce it. That's not the way to go for the quad, but it would be based on peer pressure and students promoting this.

Motion XLIV-34: By Senator Fazel to move the item to action.

Senator Weeks: I think the legal review has shifted the emphasis from persuasion to enforcement and I feel like the very laudable persuasion can go ahead any time. I don't feel good about going ahead without further reflection of what seems to me comes across very differently.

Ms. Smith: I think that the addition of the compliance, first paragraph, last sentence, He or she may be subject to discipline or cited for violation of a state law and fine, was put in there for notice requirements. That could easily be taken out and the other parts that if we implement them without would put us in violation of the

laboratory school law. I think the part that has been debated can continue to be debated without an illegal policy being implemented, which is something that will happen if we don't vote on it because it has already been passed. The laboratory school and the exemption sections will not be in there. We are essentially passing a policy that says you can smoke in parking garages, which is completely illegal. If the main problem is he or she may be subject to discipline, that's more of a notice requirement. It won't make the policy legal or not illegal if you take it out.

The motion to move the item to action was approved.

Friendly Amendment: By Senator Horst to remove 'subject to disciplinary'. Senator Fazel accepted the amendment.

Senator Lessoff: Does this amendment mean that students' efforts to stop smoking on the quad will go forward without disciplinary hearings?

Senator Fazel: That's right because it says violation of a state law. Certain parts of the quad we were told that these are gathering places and because of state law, you can't smoke there. In some other parts they can. It depends on where it's done. People cannot be fined for smoking just anywhere in the quad, but if they smoke somewhere that is against the law, they could be.

Senator Reifschneider: Where is the map in Springfield that shows where on ISU's campus is a public gathering place? Isn't that a problem?

Senator Fazel: The state cannot give us a map about where our gathering places are.

Senator Reifschneider: The quad is not under the jurisdiction of the law.

Ms. Smith: The section about public places is under is section 30: Designation of other non-smoking areas can be made by any employer...and that is where it has public gathering places. By wording the policy this way, you are still preserving the fact that that allows you to do it, but it wouldn't be a violation of state law. The part that says public places allows the employer to expand the law, but it doesn't make it a violation of the law.

Senator Holland: So it makes it purely peer pressure for anywhere on the quad and state law anywhere else.

Senator Reifschneider: To clarify, I cannot be fined for smoking on the quad.

Ms. Smith: Correct.

Senator Rich: Now that we have eliminated any form of discipline, in the paragraph that follows that, do any of these parts of the university have any role whatsoever?

Ms. Smith: Yes, because you can still be disciplined if you violate state law. If you are smoking in a building, if you are smoking within 15 feet, if you are smoking on laboratory school property, you could be disciplined.

The Smoking and Tobacco Use Policy was approved.

Adjournment

Motion XLIV-35: By Senator Hoelscher, seconded by Senator Stewart, to adjourn.