Members Present:


Members Absent:

Charlene Burns, Paul Butrymowicz, Bruce Dyvik, Robert Erffmeyer, Robert Hooper, Rose Jadack, Susan Mc Intyre, Tarique Niazi, Scott Robertson, Lorraine Smith, Lois Taft, Troy Terhark, Rebecca Wurzer

Guests:

List on file in Senate Office

The regular meeting of University Senate was called to order by Chair Harrison at 3:03 p.m. on Tuesday, November 9, 2004 in the Tamarack Room of Davies Center.

I. Without objection, minutes of October 26, 2004 meeting of University Senate approved as distributed

II. Chancellor’s Remarks

- Items from Board of Regents meeting last Thursday and Friday
  - Andrew Soll presented regents’ 2005-07 biennial budget request at last senate meeting
    - Was good budget request given lingering uncertainty about state resources
    - Had provision for 3% catch-up pay plan each year of biennium
  - Regents now approved adding 2% more for 5% pay plan increase each year
  - Held lot of discussion about implications – impact on tuition, state GPR contributions to support pay plan and financial aid, additional positions for biennium
  - Don’t know impact yet, although reported in some newspapers that regents set tuition – they did not
  - Won’t know anything about governor’s budget recommendation until February
    - Then legislature will go to work, which can continue for several months – could be June
  - Regents did not come to firm decision on tuition, but continue to urge state to be partner in process and come up with its fair share
  - They believe we cannot lose additional ground on competitive salaries for faculty, staff and academic leaders – reaffirmed that in not very popular times
  - Regents also supported domestic partner benefits for faculty and staff
    - Tied to importance of remaining competitive at recruiting and retaining faculty and staff
    - Domestic partner benefits may end up like state support for health insurance in first six months of employment did a few years back
• Was statute change to allow health insurance coverage from date of hire, but cost picked up out of base budget
• Post-tenure review procedures, passed by senate last spring, celebrated and approved by regents
  • Impressed by clear and elaborate process
• External public now weighing in on discussion related to religious service piece of service-learning that will be considered later in this meeting
  • Made USA Today yesterday morning; also Leader-Telegram letter to editor giving chancellor’s email address
• Is serious matter – have requirement in place that students fulfill service-learning obligation as part of experience here
  • Premise is that service experience here will lead to propensity to engage in service when they leave
  • Have heard from students still serving in communities because important program added dimension to liberal education not present in many regional public universities
  • Only four or five in country require service-learning
• Will take time to sort through complex issue
  • Will listen carefully today and eventually come up with good decision by “fearless sifting and winnowing” as carved into Bascom Hall on University of Wisconsin – Madison campus

III. Chair’s Report – Chair Harrison
• Guests please sign in
• Some important discussions concerning curriculum held at last faculty representatives meeting – please review items in written report on baccalaureate expansion and concept of integrated enrollment planning
• Next meeting of Faculty Representatives is November 19, 2004 in Madison
• Next Board of Regents meeting is December 9 and 10, 2004 in Madison

IV. Academic Staff Representative’s Report – Senator Wilcox
• Will meet in Madison on November 18, 2004
• Summary of meeting between ASPRO and budget director of Department of Administration included in Academic Staff Representative’s written report
  • Concern was budget director’s request for what catch-up would cost if offered only to faculty, and memory of four other catch-ups
    • In three, academic staff were separated and either received nothing or considerably less
    • Fourth was 1%
  • ASPRO representative felt concern about alterations to pay plan structure could be laid to rest for now
    • Believes vigilance necessary when pay plan goes to OSER for recommendation to JCOER
    • This is first step in very long process
  • Academic Staff Representatives working on resolution supporting and endorsing Board of Regents proposal to provide 5% salary increase for faculty and academic staff each year of biennium
    • Also endorses regents’ policy of equal pay plans for categories of academic staff and faculty
    • When finished, will bring copy forward to this group

V. Unfinished Business
Resolution Opposing Definition of Marriage Amendment

MOTION by Vice Chair Gapko to postpone this motion indefinitely seconded.

Debate
• Board of Regents already acted on domestic partners part of this – made motion to find out whether body wants to pursue sending rest of message to various people

Vote on Motion: Motion PASSED. Motion 41-US-01 postponed indefinitely.
V. Reports of Committees

- **Executive Committee – Chair Harrison**
  - At last meeting
    - Deans Christian and Rhoades outlined proposal on University General Education Committee membership in response to charge from senate – will be on senate agenda for November 23, 2004
    - Discussion continued about size of senate and senate committees
  - Next meeting November 16, 2004
    - To continue discussion of language for senate size and specific senate committees

- **Faculty Personnel Committee – Senator Wick**
  - Next meeting November 16, 2004 – agenda includes motions concerning
    - Voting in personnel actions
    - Initial contract periods
    - Functions of the Faculty Personnel Committee
    - Faculty transfer language
    - Summer workload language; and
    - Updates on eleven other issues being investigated

- **Academic Staff Personnel Committee – Senator Wilcox**
  - Meeting on November 19, 2004
    - Looking at handbook language dealing with performance review of academic staff

- **Academic Policies Committee – Senator Syverson**
  - Started review of College of Business; will continue at next meeting on November 16, 2004

- **Physical Plant Planning Committee – Senator Bredle**
  - Next meeting November 15, 2004
    - Primary item on agenda is six-year long-term outlook

- **Budget Committee – Senator Smith**
  - No Report

- **Compensation Committee – Senator Wick**
  - Next meeting November 15, 2004 – agenda includes discussion of
    - Analysis of 2004-2005 pay plan distribution
    - 2005-2006 promotion award policies
    - 2005-2006 pay plan policies
    - Post-tenure review salary adjustment policies
    - Department chair stipend policies
    - Overload and per-credit payment policies
    - Summer salary policies

- **Nominating Committee – Senator Whitfield**
  - No Report

- **Technology Committee – Senator Dwyer**
  - No Report

VI. Special Reports

**Update on Diversity – Associate Vice Chancellor Barrett**

- Here for update on Plan 2008 – system-wide initiative to improve access and success of minorities on campus
  - In particular four minority groups – African-Americans, Southeast Asian, Hispanic, and Native Americans – both students and faculty and staff
  - Plan due to system on December 15, 2004; link to draft report to be distributed next week
  - Asking for ways, as campus community of scholars, teachers and learners, to work together to best achieve shared outcome of making sure all students receive best possible education on this campus
  - Best practices conference about decreasing achievement gap (improving retention and graduation) of students in groups above pointed at need to focus on what goes on in classroom
  - Who is teaching, what is taught, how it’s taught, things related to general education and diversity requirements
Would like to find ways to do differently rather than just adding on to what already doing
Not just inviting people to come and be just like us, but to impact way we do things
Focusing on two goals in second phase of Plan 2008 – increasing graduation and retention rates and
developing more comprehensive and meaningful assessments for goals of Plan 2008
To look at things more in depth than just numbers – want to change nature of what we do on campus to
make sure everyone gets best education possible
Not only in terms of minority students, but our majority students too

VIII. Miscellaneous Business
A. Motion from Faculty Personnel Committee (FPC)
   Chair Selection – Senator Wick
   • Last year, handbook review committee asked for clarification of language in procedure for selecting
department chairs and director of libraries
   • Motion, brought forward from FPC essentially calling for limiting search and screen committee to faculty in
departments, defeated in senate
   • FPC reconsidered issue; now bringing forward this motion largely attempting to open process to include all
staff in departments for anything not specifically assigned to search and screen committees
   • Activities of search and screen committees themselves open to University Faculty, meaning faculty and
academic staff with faculty status

Motion 41-FP-01
Moved and seconded by the Faculty Personnel Committee (4-1-1) that the following changes to the Faculty
and Academic Staff Handbook, Twenty-first Edition, Chapter 5 Selection of Department Chair and
Director of Libraries be approved:

Page 5.78

4. Selection of Department Chair and Director of Libraries
   All Department Chairs and the Director of Libraries are appointed by the Chancellor of the University.
The Department Chair is directly responsible to the Dean of the College in which the department is situated
and represents the department in the administration of the University (FS 1/80).
   a. Procedure for Selecting Department Chairs and Director of Libraries
      1) The instructional staff of a department shall be informed in writing by the Dean of their College
         that a Chair is to be selected and appointed.
      2) The Dean shall meet with the instructional staff of the department to initiate the selection process
         by:
         a) Reviewing the nature and responsibilities of the office of Chair.
         b) Suggesting useful criteria.
         c) Informing the department of any constraints that might impinge on the selection process.
         d) Determining a target date for completion of the selection process.
      3) The faculty of University Faculty of the department and instructional and/or research academic
         staff with faculty status or a committee selected by and from the University Faculty faculty and
         instructional and/or research academic staff of the department shall formally organize as the
         Department Chair Search and Screen Committee with an elected chair and secretary.
The committee shall:
   a) Determine whether preference is for selection:
      1. from within inside the department,
      2. from without outside the department, or
      3. from either within inside or without outside the department.
   b) Formulate criteria to be used in selecting the Chair.
   c) Arrange with the Dean to publicize the vacancy and to solicit applications.
   d) Review and evaluate all applications.
   e) Interview and evaluate candidates for the position.
f) Submit to the Dean of the College the name(s) of one or more individuals whom the committee recommends to be considered for the position of Department Chair. When more than one individual is recommended, the committee may, if it chooses, rank the individuals recommended.

g) Solicit suggestions and information from all instructional staff of the department throughout the entire process on matters relating to the selection of the Department Chair.

4) The Dean of the College shall evaluate the candidate(s) recommended by the Search and Screen Committee and submit his/her recommendation to the Provost and Vice Chancellor, along with a copy of the recommendation from the committee. The Provost and Vice Chancellor will in turn evaluate the candidate(s) and submit his/her recommendation to the Chancellor along with copies of the recommendation of the Dean and the committee.

5) If after administrative review none of the recommended candidates is appointed, the Chancellor shall notify the Dean of the College who shall reconvene the Department Chair Search and Screen Committee. The committee will then reconsider its earlier decisions and recommendations, and as necessary and appropriate, may solicit and evaluate additional candidates prior to submitting another recommendation as described in section a.3.

6) Upon the recommendation of the Department Chair Search and Screen Committee, the Dean of the College, and the Provost and Vice Chancellor, the Chancellor shall appoint a Department Chair. At the University of Wisconsin – Eau Claire, an appointment to the administrative post of Department Chair is a limited appointment under the terms of UWS 15. (US 10/91)

b. Procedures for Selecting Acting Department Chairs and Acting Director of Libraries 5

In the event that an acting Department Chair is to be appointed by the Chancellor of the University prior to the selecting of a permanent Chair, the Dean of the College where the vacancy has occurred shall:

1) Announce to the instructional staff of the department that an acting Chair is to be appointed, describe the circumstances requiring the appointment, and indicate the anticipated length of the appointment.

2) Solicit advice from the instructional staff University Faculty of the department concerning possible candidates to fill the vacancy.

3) Make recommendations to the Provost and Vice Chancellor of the University Academic Affairs who shall in turn make recommendations to the Chancellor of the University.

5 The procedures for selection of the Director of Libraries are the same as those for selection of Department Chair except that the Library serves as the department, and the Assistant Chancellor Associate Vice Chancellor for Academic Affairs, to whom the director reports, holds the responsibilities described for the Dean. The Assistant Chancellor Associate Vice Chancellor for Academic Affairs will make his/her recommendation to the Provost and Vice Chancellor along with the committee’s recommendation. (US 10/91)

6 While departments may choose to develop internal provisions for limiting the term of the chair, these provisions are informal and not binding on the Chancellor. (US 5/9/98)

7 “Faculty” means persons who hold the rank of professor, associate professor, assistant professor, or instructor in an academic department or its functional equivalent in an institution.

Debate

- What about departments which unfortunately have more academic staff than faculty?
- Organizational changes have broken up some of those departments – not aware of any departments that actually have more academic staff than faculty
  - Same issue brought up last year as part of justification for motion defeated by this body
- As my department searched for a chair, purposely wanted involvement of academic staff and instructors
  - Previous language allowed us to do that, this does not
- University Faculty includes academic staff with faculty status, but not academic staff without it
- Feel instructional academic staff just as involved with much to say about selection of chairs – colleagues feel same way
- Academic staff often have more access to and feedback from chair than from Department Personnel Committee
● Seems important for departments to be able to make this choice rather than mandate no academic staff without faculty status on search and screen committees for chair selection

Without objection, motion postponed until the next meeting for a vote.

B. Motion from Academic Staff Personnel Committee

**Academic Staff Personnel Committee Membership Report** – Senator Wilcox

● Motion written to accomplish three things
  ● Committee would include Academic Staff Representative-Elect
  ● Language to create academic staff representative-elect put them on this committee, but committee language not changed
  ● Clarifying Academic Staff Representative, since now elected from senate, would be one of members elected from senate
  ● Under functions, worked with FPC to make language clearer and parallel to what FPC bringing forward

**Motion 41-AS-01**

Moved and seconded by the Academic Staff Personnel Committee (9-0) that the language in the *Faculty and Academic Staff Handbook* (3.14) regarding the membership and functions of the Academic Staff Personnel Committee be changed as follows:

3. **The Academic Staff Personnel Committee**
   a. Membership: The committee includes nine members: four academic staff senators, one of whom is the **Academic Staff Representative** and one of whom must be instructional academic staff, elected by the academic staff members of the Senate, four academic staff, one of whom must be instructional academic staff, elected by the academic staff, at large, and one administrator selected by the Chancellor. **During a year when an academic staff member of the Senate has been elected to serve as Academic Staff Representative-elect, that person becomes an ex officio (and voting) member of the committee, increasing the number of members on the committee to ten.** Three seats must be held by instructional academic staff members and five seats must be held by administrative or professional academic staff members. Members shall serve three-year terms. **If the term of the Academic Staff Representative, on the Academic Staff Personnel Committee expires, then he/she becomes an ex officio (and voting) member of the Academic Staff Personnel Committee for the remainder of his/her term of office as Academic Staff Representative.**
   b. Functions: The Academic Staff Personnel Committee shall consider and recommend policies affecting the academic staff in regard to status, salary, indefinite appointment, promotion, and working conditions. It shall also consider and recommend the practices and procedures for implementing those policies and serve as the **primary agent for recommending** revisions and amendments of the UW-Eau Claire Academic Staff Personnel Rules.

Debate
● This changes University Senate Constitution – since all members of senate own that constitution, all can vote

MOTION by Senator Freymiller to **suspend the rules to take action today** seconded and PASSED by two-thirds vote.

Further Debate - None

**Vote on Motion 41-AS-01:** Motion PASSED without dissention.

C. Motion from Academic Policies Committee (APC)

**Proposed Revision of Service-Learning Guidelines Report** – Senator Syverson

● Issue controversial in APC
● Detailed written report distributed with senate packet
Although policy in force for almost two years after approval by Academic Affairs Advisory Committee for Service-Learning (AAACS-L), recognized in 2004 such policy changes must go through shared governance process
  - Thus, proposed revision to service-learning guidelines forwarded to APC
  - Coming out of APC (by vote of eight for, two against) without any changes
  - Synopsis of UW-Eau Claire service-learning requirements if proposed changes were approved contained in printed report
  - Points discussed by committee not listed as pros and cons because committee members looked at same issue and came down on opposite ends of pros/cons spectrum
  - Note that University of South Dakota now accepts partisan political activity at any time
  - Response to questions on content of report
    - One such project approved since determined restriction hadn’t gone through shared governance
    - Service-Learning Center now directed by provost not to approve additional such projects
    - Provost indicated proposed revision in accordance with system legal counsel’s interpretation of law, both at state and federal level
    - System legal counsel unavailable for teleconference for this meeting; willing to attempt hookup for next meeting
    - Prudent to act in accordance with system legal interpretation
      - If in violation of law, but following system legal advice, state attorney general would defend us in court
      - If not following what system legal tells us, we are on our own
    - If proposed revision not voted upon positively by this body, will have to take that up with system legal

Motion 41-AP-01
Moved and seconded by Academic Policies Committee (8-2) that the following language be inserted into the service-learning guidelines:

Please note: Religious instruction, religious proselytization, conducting religious services, or projects requiring a specific religious belief or affiliation are not acceptable as service-learning experiences, since they are generally viewed as constituting a violation of the Establishment Clause of the U.S. Constitution.

Debate
- Motion is academic matter so University Faculty will vote
  - However, all may speak to motion
- First Amendment has three components: freedom of speech, freedom of the press, and freedom of religion
  - Political advocacy different than religious advocacy – don’t fall under same part of First Amendment
  - Establishment Clause, put together by founding fathers, not just to protect people from government, also to protect government from people
    - Very clear and unambiguous about relationship between church and state
  - Interesting that some people want a temporal reward for religious proselytization instead of its being its own reward
  - Must balance carefully – my department believes religious proselytization ban in service-learning necessary
    - Was ready to dump service-learning despite how important it is to university to abort this protracted fight – at this point, think fight is unavoidable
  - Wahhabism, Osama bin Laden’s particular credo, and satanic worshipers are religious groups – technically could get service-learning credit
  - Not comfortable with that

Amendment 41-AP-01-a1
Moved by Senator Ducksworth-Lawton and seconded that political advocacy be added to list of projects not acceptable as service-learning experiences
Debate

- Would be in compliance with Board of Regents’ Policy 89-8
  - States no political campaigning activity shall be engaged in during hours when an employee is expected to be performing his or her regularly scheduled university duties
  - Further, no officer or employee may solicit, or receive, or be involved in soliciting or receiving any contribution or service for any political purpose from any officer or employee of this state while on state time or engaged in his or her official duties as an officer or employee
  - Compliance with Board of Regents’ policy also brings into compliance with Section 18 of Wisconsin Constitution which argues that the treasury shall not be taxed for religious activity
  - Treasury is university faculty and administrative staff time, university computers, and university resources
  - Amendment clarifies protection of faculty ability to say no to these types of activities
  - First Amendment says the United States shall not establish religion; giving government money for religious activities is “to establish”
- Heard chancellor mention earlier getting our students fully involved – fully educated
  - This is community service, it is not academic
  - Instead of worrying who is going to sue who and when, turn students loose
    - Let them decide what is best for them
- Think consensus at APC meetings was not to pursue political advocacy ban at this point because broadens scope of and requires much more discussion
  - Easiest path was to address motion in front of us
  - Doesn’t preclude returning to political advocacy issue at later time
- Don’t see distinction between political advocacy and religious speech
  - Regarding point about Satan worshipers, wouldn’t want to support Nazism either
- Establishment Clause is what binds Bill of Rights onto states in Fourteenth Amendment – what gives federal government its power over states in certain areas
  - So relevant conversation here is First Amendment and Fourteenth Amendment
    - First Amendment says you may not establish religion
    - Fourteenth Amendment binds states to First Amendment
  - Terms are being used interchangeably and they should not be
- Establishment Clause says neither Congress, and by Fourteenth Amendment, nor any state shall pass any law respecting the establishment of religion
  - Interpretation of that is relatively simple – there is a wall of separation between church and state – sensitivities over it may not be as simple
    - Most submitted court decisions have set that view with exceptions, acknowledged by Supreme Court about sixty year ago, for programs that benefit children or other people in society
      - Such as busing children to parochial schools and social service functions
    - Pretty clear government cannot fund advocacy or establishment of religion, but can fund certain peripheral activities of religious institutions to benefit children or other people
  - Political advocacy doesn’t belong in same debate as there is no constitutional provision that limits political advocacy; in fact, constitution protects political advocacy
- System legal was never asked about political advocacy
  - Question originally brought forward by faculty member seeing a service-learning project on web asking for Catholic students to teach catechism
    - Ensuing discussion led to consultation with AAACS-L
    - Political advocacy not part of conversation
  - Perhaps it should be bounced off system legal given situations where lines might blur

MOTION by Senator Shoemaker that all further debate be postponed until an inquiry can be made to system legal counsel about adding the phrase political advocacy at the beginning of this note seconded.

Debate

- Postponement would also apply to main motion since amendment has to be taken care of first
• Speak against postponement
  • Have two weeks before motion will be voted on
  • Lot of people here would like to hear this important debate
• Don’t see merit in postponing
  • Clear that political advocacy and original text of motion are two separate issues
  • Should address amendment now – can always bring political activity back up at later date
• APC discussed political advocacy at length
  • Decided nothing would preclude bringing that question back through shared governance
  • Also felt advisory committee needed time to have conversation on that matter
• Amendment may not be withdrawn as now owned by body - may be defeated to bring us back to full discussion
• Brought amendment forward because I know this is controversial and needed to be discussed
  • Heart is with main motion – do not want to be an obstructionist

**Vote on motion to postpone:** Motion DEFEATED without dissention.

**Vote on Amendment 41-AP-01-a1:** Amendment DEFEATED.

**Continued Debate on Main Motion**
• Have spoken against this as feel it is somewhat heavy handed; also not sure language has been carefully considered
  • Are two sides of issue and we are not lawyers; haven’t received much guidance from system lawyers
  • Could focus our attention on wording – how revision might be better stated
  • Service-Learning website indicates faculty/staff mentors play critical role in ensuring projects are beneficial experiences fitting the students’ particular situation – requirement is met when students pass an approved course or faculty/staff mentors sign off on project
  • Whether or not proposed revision passes, still have right not to sign off on projects supporting certain activities
  • In original senate discussion of service-learning in April of 1994, Chair Sipress pointed out that if you can require a foreign language to understand other cultures, you can require service to understand other aspects of society – that is basic premise
  • Important that new language does not eliminate potentially good opportunities
  • Feel service spirit is important and somehow we are moving away from that
  • Catalogue says service activities are conducted in and meet needs of community and that acceptable experiences may include on and off campus activities or volunteer internship or employment opportunities
    • Volunteerism is given a separate category in this statement – a listed item different than the rest
      • This is a non-credit option outside an academic course setting
      • Seems to separate it from argument that we are in violation of Establishment Clause
        • Don’t believe intent, nor function, of that clause is to prevent anyone’s volunteer activities
        • Volunteerism means you can choose
      • Have heard arguments about Wahhabism and Satanism – we shouldn’t worry about those issues, should worry more about faculty or staff who would sign off on those activities
  • When first received this official motion, figured it was a no brainer – of course we have to uphold this ban
    • Was hearing it violates freedom of religion
      • Along with freedom of religion comes freedom from religion
    • Religion can be polarizing issue – can separate people who might otherwise be good friends, acquaintances, colleagues
    • If we allow religious proselytization and religious instruction, then UW-Eau Claire must be willing to accept across the board – including extremes
      • Best approach is to say no, which lets us off the hook of forcing consideration of extreme options
  • Wondering who am I to set up some new policy against advice of system legal team
    • None of us is a lawyer
    • Question is whether legal counsel has entire context of our guidelines – that all religious service-learning experiences would be either banned or accepted
• Maybe just seeing proposed language is not enough
• System legal has seen most everything you have in front of you – senate packet, a letter from Dr. Syverson, responses he received, and his personal communications with additional agencies
• Drs. Syverson and Tallant have teleconferenced with system legal counsel
• One of members of AAACS-L, during year studied this issue, was a constitutional law expert – Dr. James Tubbs
  • First language proposed to system legal was not as short nor as harsh sounding
  • Indicated desire to support faith-based organizations short of these three areas perhaps putting university at risk
• Were advised to stick with this language from legal perspective
• System legal did have context of service-learning requirement complete with other activities we wished to support
• Remind people that service-learning is a graduation requirement even though there is no credit
• Would like to appeal to you as university members to think about what the modern university should be
  • Raises big warning flags for me when hear of people who wish to take ideas out of the university
  • Even though not comfortable with certain things taught at this university, firmly believe they should be taught here and those voices heard
  • When one particular set of ideas taken out of the modern university, raises other warning flags
  • When First Amendment of U.S. Constitution is raised as justification for taking ideas out of modern, public university, that raises even more flags
  • When dean candidates come for interviews, I ask a single question of all candidates to see if they are committed to protecting freedom of speech on campus
  • Interested in making sure we have a vibrant university
• This proposal concludes with “since they are generally viewed as constituting a violation of the establishment clause of the U.S. Constitution”
  • What is that?
  • Doesn’t sound like very good legal justification
  • Have read this and heard via speaker phone that system legal stands behind this, but have not seen supporting written documentation
  • Why not?
• Was troubled, so contacted first amendment nonprofit watchdog groups that specialize in constitutional law – Foundation for Individual Students Rights in Education (FIRE) and the American Center for Law and Justice (ACLJ) – handout distributed
  • FIRE has put together guide that discusses religious liberties, especially in higher education
    • Challenge you to look at first couple of chapters of that guide written for non-lawyers
    • FIRE’s best legal opinion summarized by that guide
    • Also stated if motion passed, any student discriminated against by such policy should collect documentation and submit case to FIRE
  • ACLJ responded with five page legal evaluation of proposed revision to service-learning guidelines
  • Evaluated material submitted to APC by Center for Service-Learning in light of past Supreme Court cases
    • Some things mentioned in letter from ACLJ include
      • “Where, however, the University takes a religion-neutral stance with respect to the types of community service students may engage in, the University is not violating the Establishment Clause, but complying with it.”
      • The Establishment Clause of the Federal Constitution does not require UW-Eau Claire to pass this the service-learning proposal. “Consequently, the proposed amendment’s assertion that the Establishment Clause requires its adoption is simply untrue. In fact, far from complying with the Establishment Clause, there is very good reason to think that the amendment, if adopted, would violate it.
    • ACLJ lawyers argue that Free Speech issues associated with the service-learning proposal are probably even more serious than Establishment Clause issues
Some students might do environmental education and be able to get an academic check-off for that, but other students doing same sort of teaching from religious stewardship standpoint would not meet service-learning requirement

So not talking about act of education, but about viewpoints present within that education

Have lawyer-written summary, footnoted and supported by case load, indicating Establishment Clause does not require adoption of proposed revision, which raises more constitutional difficulty than it allegedly solves

Frustration has been not seeing anything from system legal on why proposed revision supported

Without evidence to suggest what we have been doing is in violation of U.S. Constitution, seems only way to come out of this as a university without seeming to squelch religious activity and freedom of speech is by including a disclaimer statement saying even though we approve a service-learning project based on criteria, we do not endorse activities conducted or views expressed

Favor keeping service-learning requirement as broad as possible

Not afraid of other ideas present at university; if disagree with them, not going to say ideas should be illegal

Fundamental question is whether willing to stand up for rights of other people to be able to speak as well

Do have right to say anything you want; do not have right to have government pay for it

That is why this is not a free speech issue

This is about government resources, government credit, and government payment for religious activities – government monies to religious organizations have been shown to be establishing religion

Wisconsin’s Constitution, Section 18, prohibits use of state funds for religious activity, religious services, or religious proselytization – the language is very clear

Politically conservative ACLJ, advertising that it wants to destroy wall of separation of church and state, not a neutral non-profit

There is plenty of information on internet – most of it contradicts ACLJ

Why do we want to create this vulnerability?

Locke v. Davey says if your state constitution bans using state money for religious purposes, you are protected from lawsuits

Jefferson, Adams, and Washington did not want their tax money to go to churches they did not believe in – that is why they put First Amendment in Constitution

Out of curiosity, went to FIRE and ACLJ websites

Challenge rest of you to do so and determine the objectivity of those organizations

System legal counsel has reviewed documents from two organizations – FIRE and ACLJ

Advised provost not to be concerned about those interpretations because of erroneous assumptions involved

FIRE and ACLJ aware of Section 18 of Wisconsin Constitution and Locke v. Davey; had entire APC packet

MOTION by Senator Wick that the motion be postponed indefinitely seconded.

Debate

Reminds me of discussion about make-up of University General Education Committee – rather divisive

Are two strong opinions – have heard convincing arguments both ways

Worried we are trying to make a decision when we aren’t in a position to do so

Hope can come up with something behind scenes that is more unifying than dividing

If postpone indefinitely, ban as official printed policy would not exist because it has not gone through governance process

Provost indicated it may not be official policy, but if administration advised that we are in violation of state law, we will most assuredly put ourselves in accordance with that law

Vote on Motion to postpone indefinitely: Motion DEFEATED by vote of University Faculty.

Without objection, motion postponed to the next meeting.
X. Announcements

- Public affairs reporting students have a class assignment to do a story on this topic
  - They need an audio story; ask indulgence of those they approach for interviews to offer them freely
- Next meeting November 23, 2004

Meeting adjourned at 5:00 p.m.

Wanda Schulner
Secretary to the University Senate