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**EAST CAROLINA UNIVERSITY FACULTY SENATE
FULL MINUTES OF FEBRUARY 25, 1992**

The Faculty Senate met in special session on Tuesday, February 25, 1992, at 2:10 p.m. in the Mendenhall Student Center, Great Room.

Chair John Moskop called the meeting to order at 2:12 pm.

Absent were: Chancellor Eakin (in Chapel Hill), VCHS Hallock, VCSL Matthews, George (Aerospace), Singhas (Biology), Pinkney (Counseling Center)

Alternates present were: Denny for Sykes (Continuing Education), Campbell for DeJesus (Economics), Gallagher for Snow (Human Environmental Sciences), Chowdhury for Reaves (Industry and Technology), Woodside for Daugherty (Math), Fletcher for Pennington and Markello for Pories (Medicine), Thompson for Reiser (Sociology and Anthropology)

Agenda Item III. Special Order of the Day

A. Committee on Committees, Doug McMillan

Doug McMillan (English), Chair of the Committee on Committees presented the first reading of the charge of the proposed Honors ~~Degree~~ Program Committee. (Please refer to the February 25, 1992, Faculty Senate Agenda for the proposed committee charge.) The Senate will be asked to vote on this proposed committee following the second reading on March 17, 1992. Harris (Foreign Language) questioned if Part 4. of the Committee on Committee report pertained to the College of Arts and Sciences Curriculum Committee. McMillan responded that it referred to all appropriate curriculum channels.

B. Proposed Revisions to Appendix D and Appendix L

(Please refer to the January 28, 1992, Faculty Senate Agenda for the proposed revisions to the appendices.)

Chair Moskop indicated that there was a request to interrupt debate at 4:20 because several senators needed to attend other meetings.

The meeting began with discussion of Professor Ferrell's (History) proposed amendment of February 18, 1992, to substitute for Section III.C.4.c. (page D-9, lines 18-23) the following paragraph: "It shall be the practice of ECU not to re-employ faculty with fixed-term appointments for extensive periods of time beyond their initial date of employment. Re-employment of a faculty member with a fixed-term appointment beyond six years in a state-funded position in order to avoid the awarding of tenure is a misuse of this category of appointment. Persons who are employed primarily as athletic coaches or clinical instructors are excluded from this provision."

Joyce (Physics) stated that he wanted to speak in favor of the spirit of the amendment. Since 1940, the AAUP has stated that the probationary period for tenure-track faculty should not exceed seven years. They also state that "with the exception of special appointments clearly limited to a brief association with the institution, and reappointments of retired faculty members on special conditions, all full-time faculty appointments are of two kinds: 1) probationary appointments; 2) appointments with continuous tenure." This has been reaffirmed a number of times -- the latest, in 1986.

Joyce went on to state that since the Code reserves the right to convey permanent tenure to the President and the Board of Governors and, therefore, there being no automatic tenure, the framers of Appendix D in the 1970's carefully built in a six year probationary period. These six years plus a possible terminal year kept ECU consistent with AAUP standards. To be consistent with the standard in regard to special appointments, called fixed-term, the framers built in the six year cap.

Joyce stated that he conceded that there was some abuse of these positions and of the people filling them. Such abuse is not inherent in our present Appendix D but confined to those who would avoid the dictums of the document -- or look for a loop hole in it -- or not read it. No letters of non-reappointment need be sent to these colleagues. The Code clearly states that, for these positions: "(The) term shall be set forth in writing when the appointment is made, and the specification of the length of the appointment shall be deemed to constitute full and timely notice of non-reappointment when that terms expires." Protection of academic freedom and effective faculty governance is offered by these standards.

Joyce further stated that individuals who hold indefinitely renewable appointments and who function like regular and ongoing full-time faculty members, but who have no prospect of tenure because of the way their position happens to be defined, serve with their academic freedom in continuous jeopardy. The teachers who must go, hat in hand, every year (or every two years, or every three years) indefinitely into the future, to ask if they may stay, are not teachers who can feel free to speak and write the truth as they see it. Not surprisingly, the more cautious among them are likely to avoid controversy in their classes or with the deans and department heads on whose good will they are dependent for periodic reappointment. The institution may express its commitment to protect their academic freedom, but to those whose appointment may not be renewed solely at the administration's discretion such a commitment may seem of little value--and best not tested. The contagion of insecurity restricts unorthodox thinking, while the rising number of non-tenure-track faculty reduces the cadre of those faculty members--notably those with tenure--who are uninhibited in advocating changes in accepted ideas and in the policies and programs of institutions at which they serve.

Joyce noted the possible ambiguity in the term "clinical instructor" and VCAA Springer's concern about consistency in the policy. He then moved to amend Section III.C.4.c, by inserting the words "beyond six years" after the word "appointment" on page D-9, line 20 and by adding a footnote #3 after the word "prohibited" on line 23 to read: "Exceptions to this restriction for classes of positions or specific positions may be made with the approval of the Faculty Senate and the Chancellor. In the case of a needed emergency exception, the Chair of the Faculty may rule on the exception in the name of the faculty. These exceptions will be reviewed on an annual basis."

Hough (Faculty Assembly Rep) questioned as a point of order if this were an amendment to the document or an amendment to Ferrell's amendment. Chair Moskop stated that Joyce's motion was in order as a secondary amendment to Ferrell's proposed amendment. As a motion to substitute, Ferrell's amendment proposes to strike out the existing paragraph under III.C.4.c. and insert a different paragraph in its place. Under Robert's Rules, the paragraph to be struck out (as well as the paragraph to be inserted) can be perfected by a secondary amendment.

Joyce (Physics) stated that if Appendix D did pass and go on to the Board of Governors, it may be twenty years before this issue is discussed again. He further stated that this new amendment would give faculty local flexibility to define and have faculty input and control over these classes of positions.

Spickerman (Math) referring to the last sentence of the proposed footnote that reads, "These exceptions will be reviewed on an annual basis." He questioned who would be reviewing exceptions annually. Joyce (Physics) responded that several things would need to be done as a follow-up if this passed. One thing was to develop some guidelines and then to charge a committee, probably the Faculty Welfare Committee with keeping up with this. Spickerman questioned if whether the name of the committee should appear in the amendment. Joyce responded that the Board of Governors knows nothing

about our committee structure and it would not be necessary to put it in at this stage.

VCAA Springer questioned if each personnel issue would be on a case by case and person by person basis and open to debate in the Senate. Joyce (Physics) responded that the amendment related to classes of positions independent of persons in the position. VCAA Springer responded that specific positions would have to have someone in them. Joyce responded that he did not see it that way. The University could accept the term "athletic coaches" regardless of who filled that position.

Grossnickle (Psychology) stated that his interpretation related to a position and not a person. Grossnickle offered a friendly amendment indicating that these exceptions will be reviewed "on an annual basis by the Faculty Senate or an appropriate committee of the Senate." Joyce (Physics) stated that he would accept that as a friendly amendment.

Dorsey (Council of Academic Deans Representative) questioned whether, if this motion passed, there would be a six year cap. Joyce (Physics) stated yes.

White (HPERS) asked if any appointment beyond six years constituted an avoidance of the tenure track and if employment beyond six years automatically meant that an effort was being made to avoid a tenure track appointment. Was it possible to be employed beyond six years and not try to avoid tenure track? Joyce (Physics) responded that the statement is in the present Appendix D, but in last week's debate he heard of situations where employment beyond six years was necessary. Joyce stated it was not clear what was currently being followed. Last week the debate was for certain positions, such as coaches and clinical instructors to be employed beyond the six years. The burden would rest upon the person proposing that to show it was not for the purpose of avoiding tenure.

Sexauer (Art) stated he heard only one person who spoke against the six year cap, but there were various people in professional schools voicing concerns about how the six year cap affected their programs. The Joyce amendment is a solution that would satisfy the needs for a six year cap and also provide a means for the professional schools to retain valuable faculty members.

Bruner (Social Work) questioned whether if this motion passed, only positions beyond six years would be approved. Chair Moskop responded affirmative.

Atkeson (History) stated the administration asked for flexibility and various people have argued they are losing good faculty members. Further, people are hired on an unrestricted basis to teach introductory courses. There are some exceptions. People without a doctorate degree are also being hired without any experience to teach freshmen. It is very difficult for a fixed term person to go see the Chancellor or Chair and say "I think, I have been had." This is something a fixed person does not do, but rather what a tenured person may do. The tenure track person does have some protection built into the position. The administration is currently moving toward expanding the number of fixed term positions. Atkeson further stated that he understood that the General Administration has mandated 10% of the positions to be fixed terms. This percentage could go even higher. He continued with the fact that we are being asked to fix something that is not broken. Expediency is not necessary at this time. Expediency and the right thing are seldom the same thing. At this time, at this University, it is not necessary to remove the six year cap we have had since 1975.

Givens (Allied Health Sciences) stated that in his school, fixed term persons taught graduate courses or were running a clinic in speech pathology. Many of the people in this body do not understand the problems

that he is referring to or clinical positions. He indicated he would speak in favor of this if the departments in professional schools were given Senate privileges as the departments in the College of Arts and Sciences were.

Wilson (Faculty Assembly Rep) stated that he learned while chair of the Senate how different the world looks in professional schools. This amendment would meet the needs of the professional schools and departments. The professional schools indicated they need some flexibility and this would allow those schools to define what they need as well as what is mandated by the professional schools' accreditation processes.

Engelke (Nursing) asked if the Faculty Senate would get involved when someone reached the six years. If so, the Faculty Senate is involving itself in personnel issues which may conflict with other issues at the department level.

Holte (English) stated that the English Department is in favor of the proposed Appendix D as it now stands and believes it is in the best interest of 120 sections of the freshmen English class.

Gallagher (Human Environmental Sciences) asked who would bring these exceptions to the Senate and then wouldn't the Senate be put in a position to decide whether or not a program could seek accreditation.

Worthington (Medicine) stated that he opposed the amendment because the Senate should not deal with personnel actions that could be handled in the departments. In addition, the Faculty Senate does not meet all year, and this poses a problem. The Chair of the Senate could handle these matters, but it does not seem appropriate for one person to do this during the summer.

Hough (Faculty Assembly Rep) stated that the personnel issue is not up for consideration, but rather the position. The decision is about how many positions are available, not the personnel in those positions.

VCAA Springer stated she wanted to clarify one major issue about the debate. She stated that she has been in institutions that were effective and that were in accord with the AAUP principles and no one is more in favor of AAUP regulations than she is. The Faculty Governance Committee, when they set a six year cap, was saying a fixed term appointment should not be used to avoid tenure. The problem now is a confusion of issues. On the one hand, we are talking about fixed term people and on the other hand, we are talking about an arbitrary cut-off or firing date of six years. We are going to have fixed term people always or until the General Administration tells us differently. She went on to say that she is finding difficulties, as were administrators in most professional schools, not with fixed term appointments, but that firing is done on the basis of longevity instead of quality. No recognition of the quality in the position is provided, but when they reach the six years the faculty member is fired. That is the problem. Fixed term appointments should be used in a very minimal way. The issue is not how many years we get to keep them. Used well and not used to avoid tenure, it is a good point to have fixed terms because it protects us. It allows the administration and personnel committees to avoid tenure track quotas. The argument though seems to be centering around the number six.

Wilson (Faculty Assembly Rep) questioned what is meant by the phrase "to avoid tenure track appointment or the awarding of permanent tenure". Hughes (Business) responded that when the faculty member has a set of conditions that warrants the extension of the contract it may be appropriate. Wilson then questioned how will the Senate know if the appointment is to avoid tenure. Hughes responded that there is no judicial group to bring this before. The Faculty Governance Committee did not believe anyone had tested

this before. This is a difficult area in Appendix D. We had this as an artifact of the document.

VCAA Springer, responding as a member of the Faculty Governance Committee, stated that the policies in the proposed amendment affirm tenure principles. If you should see a department or administration that states that 75% of the faculty members be in fixed term positions then you would know there is a problem and they are using this to avoid tenure.

Chowdhury (Industry and Technology) stated that they have had qualified faculty without the terminal degree who have had to leave. His school needs experienced people and many who are experienced and have the talent do not have the terminal degree.

Woodside (Math) stated that instead of classes of positions the unit could designate those positions that were difficult to fill. Then the Senate would not be talking about an individual but rather a position.

Harris (Foreign Languages) stated that he spoke in reference to academic and intellectual freedom last week and still believes that the six year cap is essential. Appendix D would provide faculty members with institutional identity and ethics, however what happened to the principles of diversity and internationality. Without the guarantee of intellectual and academic freedom as provided by tenure, these goals are empty words and window dressing. He further questioned what the University was wishing to convey, research versus service or University versus Community College. He then questioned if an institution with selective short-term memory could engage in long term planning and goal establishment. He also questioned if Appendix D structurally abridges the stated long-range goals of ECU and denies diversity and internationality. Harris spoke in favor of a six year cap on fixed term appointments as protection against the abridgement of intellectual and academic freedom as guaranteed by tenure. He wished to remain professionally and humanly responsive to an unknown future, not locked into systemic reflexive responsiveness to short-sighted, short-range views.

Thompson (Political Science) stated that removal of the six year cap makes very little difference in terms of the vulnerability of fixed term appointments. He requested that someone in favor of the amendment clarify how structurally the university would change and how academic freedom would be undermined in the long run with the removal of the cap. Joyce (Physics) stated that the six year cap is not arbitrary but tied in with the six year probation period and that a faculty member should not stay for more than seven years without being granted tenure. These fixed term appointments are increasing across the country and they are convenient.

Thompson (Political Science) stated that his concern was the comment that there will always be a certain number of fixed term appointments. He then questioned as to how these positions are affected by a six year cap and what are the long term effects of removing the cap. He stated that he keeps hearing a distrust of the administrators, but is there distrust with the faculty members who make personnel decisions on other faculty members who have been around ten years? The questions should not be on the credentials but on the person's ability to teach the students. One concern in removing the cap is that we should have some understanding of how this can be implemented. He prefers the amendment that posed a description of the positions because it would allow some review of the positions to determine if they should be continued.

Atkeson (History) stated that if we don't pose some form of control, when the current administration is gone, new administrators will have to interpret what we meant if there are no rules. The amendment allows the Schools of Medicine and Nursing to have needs for exceptions and the

amendment speaks to those needs.

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Jarvis (Music) stated that it does impose a burden on those who seek an exception and also a burden to have the exception reviewed annually. In that sense, the Senate is getting into the personnel aspect.

Donnalley (Library and Information Studies) responded that any action this body takes is only a recommendation and that the Chancellor could refuse it.

Bruner (Social Work) stated that a department/school gets fixed term appointments in two ways. It is either mandated by the General Administration or various units decide it is to be a fixed term position. Neither one of the reasons will be changed by saying that ECU will have one individual in that position for six years. We are saying that the position can exist but an individual can not stay in it for more than six years.

Gallagher (Human Environmental Sciences) stated that it puts a burden on the professional schools which are trying to grow. Many accreditation bodies state that someone must be a practicing professional if they are accredited as professional schools. The six year cap does not help in any way. If a person is not doing a good job you can fire them unlike the tenured person.

Taggart (Music) questioned if it was necessary for the administration to use the six years as the stick.

Givens (Allied Health Sciences) questioned if there was a fixed term, could a chair decide that that position should go beyond six years? Would the chair decide if it is being used to avoid tenure and who decides if and when it would go to the Senate for a decision?

Atkeson (History) asked for a point of order in that the amendment on the floor does not say anything about avoidance or proof of avoidance.

Bailey (Parliamentarian) stated that the question is whether Givens is addressing the amendment. The insertion of the words and the footnote is part of the amendment. The question is "who will decide" so it is appropriate.

Joyce (Physics) asked for a point of clarification, stating that those words are currently in our Appendix D. Traditionally, those words have meant there was a six year cap regardless of whether you were trying or not to avoid tenure.

Wilson (Faculty Assembly Rep.) stated that who does decide does not change the amendment. The amendment does offer a process for exceptions. Wilson questioned how a person can be qualified to teach graduate courses and in a fixed term position beyond six years but not be qualified to be tenured. He stated that it is a very different perspective for the professional schools who are active in keeping up with a designated practice as compared to the College of Arts and Sciences.

Meloche (Business) stated that by adding, "beyond six years" it reads as if the administration can use fixed term beyond six years as long as they aren't doing it to avoid tenure.

Woodside (Math) voiced concern over situations when the chair of the personnel committee or the department chair would visit the offices of fixed term persons for the sole purpose of determining their vote on certain issues. Fixed term people may be afraid of voting. This voting may cause the fixed term person, even if they are here fifteen years, to be let go unfairly.

Pokorny (Nursing) stated that she did not believe the removal of the six

year cap would be exploiting a fixed term. The six year cap forces a choice. In the School of Nursing, fixed term persons are hired to free up the tenure track people to do research and publications.

Joyce (Physics) stated that he believes the Senate would be approving classes of positions and he would not want the Senate to get involved in personnel decisions. If, for example, a person is hired as a nursing professor without the terminal degree and in the period of that six years, the department sees that there is something special, the department could come to the Senate, with good academic freedom and faculty governance grounds, make a case for a position for that person. A department could do this before the six years limit is over. If the department didn't do that then they would run up against the six year cap and may lose the good person. It does place a burden on the professional schools, but it is one that they should carry. ECU should not let any outside accreditation agency dictate our faculty hiring policies. Universities across the country are objecting to specialized accreditation and it is for this very reason.

Chenier (Allied Health Sciences) stated that he agreed with parts of the amendment. His objection is at the level that the Senate would rule on fixed term appointments and he believed that should be done by the unit faculty.

The motion to amend page D-9 Section III.C.4.c, line 20 by adding the words "beyond six years" after the word "appointment" and adding a footnote #3 after the word "prohibited" on line 23 to read: "Exceptions to this restriction for classes of positions or specific positions may be made with the approval of the Faculty Senate and the Chancellor. In the case of a needed emergency exception, the Chair of the Faculty may rule on the exception in the name of the faculty. These exceptions will be reviewed on an annual basis by the Faculty Senate or an appropriate committee of he Faculty Senate." failed by a standing vote of 28 to 19.

The Senate resumed consideration of the motion made by Professor Ferrell at the February 18, 1992, to substitute for Section III.C.4.c., (page D-9, lines 18-23) the following: "It shall be the practice of ECU not to re-employ faculty with fixed-term appointments for extensive periods of time beyond their initial date of employment. Re-employment of a faculty member with a fixed-term appointment beyond six years in a state-funded position in order to avoid the awarding of tenure is a misuse of this category of appointment. Persons who are employed primarily as athletic coaches or clinical instructors are excluded from this provision."

Holte (English) called the question. The motion to the question passed by a vote of 36 for and 11 against. York (Academic Library Services) moved for adjournment. The motion failed. Harris (Foreign Languages) moved that the vote on the proposed amendment be done by a roll call vote. The motion failed by a vote of 13 for and 29 against. The motion to amend page D-9, Section III.C.4.c. failed by a standing vote of 12 for and 34 against.

Spickerman (Math) stated that the first part of section III.C.4.c. of page D-9, lines 20-23 is singular and the last part is plural. Hughes (Business) accepted as an editorial change to have the word "appointments" changed to "appointment" and add "a" after "avoid" on line 21.

Chenier (Allied Health Sciences) offered an amendment to the end of line 23 of Section III.C.4.c., page D-9 to read: "Any unit filling a faculty position through the use of consecutive fixed-term appointments must provide written justification as to why a tenure-track position should not be utilized. This justification must be approved by the unit faculty, the appropriate Vice Chancellor and the Chancellor." He stated that this amendment coincides with the differences he had with Professor Joyce's amendment.

Thompson (Political Science) questioned what happens between the faculty and the Vice Chancellor. Chenier (Allied Health Sciences) accepted as an editorial change the adding of the words "the appropriate dean" after "must be approved by the unit faculty."

VCAA Springer questioned if this was to be done annually for every fixed term appointment. Chenier (Allied Health Sciences) responded that it would be done for every consecutive fixed term appointment, so if the position was filled by faculty with one year contracts, it would be reviewed after the initial appointment. VCAA Springer questioned if that wasn't done when the personnel committee reviewed the appointment for a reappointment. Chenier responded that an appearance of redundancy may be appropriate. This should assure the faculty in the College of Arts and Sciences that there is concern with their needs and with any potential abuses that have occurred in the past.

Thompson (Political Science) stated that he believed that the reappointment form would have to be changed to include a clause as to why this is being filled with a fixed term and not a tenure track appointment.

Spickerman (Math) stated that there may be a certain amount of confusion in hiring or rehiring the same person in the same position for consecutive years. Chenier responded that he specifically used the term "position" and that is not a person. The question is why should this position still be fixed term and not converted to a tenure track position.

Grossnickle (Psychology) stated that his concern was that we may not have a tenure track slot or suppose we wanted to hire the person with a Masters degree. He questioned if this was sufficient justification for the continuation of the position. Chenier (Allied Health Sciences) responded that the department would have input from the faculty and if they believed the position should be converted to a tenure track, that is their opportunity to speak in this process.

Hughes (Business) suggested that the amendment needed further work because there are two different types of searches. One is the EEO which requires a nationwide search for tenure track positions and fixed term employment does not occur until March or April. If a request is submitted for fixed term and it is rejected, the position must remain open.

VCAA Springer voiced concern related to administration. One of these was what the faculty member would be willing to put in writing when he/she made these decisions on the positions. This is hard when a person is in the position.

The motion to amend Section III.C.4.c., page D-9, by adding to the end of line 23 the following: "Any unit filling a faculty position through the use of consecutive fixed-term appointments must provide written justification as to why a tenure-track position should not be utilized. This justification must be approved by the unit faculty, the appropriate Vice Chancellor and the Chancellor." failed by a vote of 12 to 29.

Hughes (Business) offered an amendment to be placed in Section III.C.4.c., on page D-9 as a second paragraph on line 25. It would read: "During the November meeting of the Faculty Senate, the Chancellor's Report is to include data reflecting the employment category of all faculty. For each department, the report will compare the current academic year to the average of the two base academic years 1988-1989 and 1989-1990. Comparisons will be included that are based on simple count, percentages, and percent changes for the total and each category of employment. Reported changes will be addressed on the basis of the effect on educational quality and consistency with the above paragraph." He stated that faculty members are concerned about the extent that fixed term positions expire in six years. Secondly,

who judges whether a unit or program should have fixed terms. That is best left to the units. Thirdly, the proper forum for discussion is this body. The Chancellor's report to the Senate each month addresses factors that influence this university. The Senate needs to get the information regarding faculty positions. Consequently, the Chancellor would report the categories of employment by departments, and that would be in terms of all instructional faculty whether they are fixed term or clinical faculty. It would then be presented to the faculty in terms of percentages of the whole or whatever way the Chancellor wants to present it. In addition, the Chancellor would present the % changes from the 1988-1989 and 1989-1990 academic years. This gives sufficient information to discuss the question of how much change is occurring in this university, and how many positions are being converted to fixed term. This gives us the kind of information we don't have and this puts the responsibility clearly on the shoulder of the Chancellor. The motion passed.

Thompson (Political Sciences) offered an editorial amendment to the wording of the amendment just passed. The wording should be changed so that the Senate would be able to see a trend because the further we get from the 1988 time period, the less meaning the data would be. Hughes (Business) accepted the editorial amendment.

Chair Moskop stated that the Senate had already passed the amendment so the editorial amendment would require a motion to reword.

A motion was made by Thompson (Political Science) to reword the now amended second paragraph of Section III.C.4.c. on page D-9, line 25 to read: "During the November meeting of the Faculty Senate, the Chancellor's Report is to include data reflecting the employment category of all faculty. For each department, the report will compare the current academic year to comparable data for previous ten academic years. Comparisons will be included that are based on simple count, percentages, and percent changes for the total and each category of employment. Reported changes will be addressed on the basis of the effect on educational quality and consistency with the above paragraph." The motion passed.

The meeting adjourned at 4:25 pm.

Respectfully submitted,

Frances Eason
 Frances Eason
 Secretary of the Faculty

Lori Lee
 Lori Lee
 Faculty Senate Secretary