

**1996-97 UNIVERSITY OF MINNESOTA No. 1  
FACULTY SENATE MINUTES**

**OCTOBER 24, 1996**

The first meeting of the Faculty Senate for 1996-97 was convened in the 25 Law Building, Minneapolis campus, on Thursday, October 24, 1996, at 3:15 p.m. Checking or signing the roll as present were 130 voting faculty members, 4 ex officio members, and 4 nonmembers. Professor W. Andrew Collins, Vice Chair, presided.

**I. FACULTY AFFAIRS COMMITTEE  
JUDICIAL COMMITTEE  
TENURE SUBCOMMITTEE**

*Regulations Concerning Faculty Tenure*

**Action**

**PREAMBLE**

The Faculty Consultative Committee proposes the following Resolution, which is a modified version of the Judicial Committee proposal.

**MOTION:**

To approve the following Resolution, as follows:

**RESOLUTION (1)**

**WHEREAS** the Regents of the University of Minnesota are currently under a cease and desist order preventing them from changing or negotiating about terms and conditions of employment regarding faculty members in units in which collective bargaining and severance elections are pending; and

**WHEREAS** the University of Minnesota Law School is currently the only academic unit in the University not covered by the cease and desist order; and

**WHEREAS** no circumstances within the Law School require immediate revisions to the existing Tenure Code; and

**WHEREAS** elections to be conducted by the Bureau of Mediation Services among faculty members within the next several months will determine which, if any, portions of the faculty will be represented for purposes of collective bargaining and therefore which faculty members will ultimately be governed by a common Tenure Code; and

**WHEREAS** appropriate discussion of proposed Tenure Code revisions for the Law School cannot take place without knowing whether the Law School will ultimately have a tenure structure independent of other units;

**THEREFORE BE IT RESOLVED:**

1. That the Faculty Senate strongly recommends that the Regents of the University of Minnesota take no action regarding any revisions of the Tenure Code to be applicable to the University of Minnesota Law School until all of the elections to determine collective bargaining structures at the University have been resolved and an appropriate consultative process with faculty has been conducted; and
2. That, if the Regents, despite this recommendation, insist on taking action now with regard to Tenure Code revisions for the Law School, that they:
  - o (a) Reject the Reagan/Spence proposal because it impairs academic freedom, denies due process and impedes appropriate change in the University;
  - o (b) Adopt the Tenure Code revisions recommended by the Faculty Senate in May and June 1996, which were themselves the product of substantial compromise of interests between the faculty and the administration.
  - o (c) Regard Dean Sullivan's proposal as a good faith effort at finding a reasonable compromise. The Faculty Senate finds that the Sullivan proposal has some merit and might be considered by the Faculty Senate and the Board of Regents at an appropriate time, although the Senate continues to prefer the proposals originally presented to the Regents in June.

**FOR INFORMATION:**

The following Resolution was approved by the Senate Judicial Committee on October 22, 1996.

**RESOLUTION (2)**

**WHEREAS** the Regents of the University of Minnesota are currently under a cease and desist order preventing them from changing or negotiating about terms and conditions of employment regarding faculty members in units in which collective bargaining and severance elections are pending; and

**WHEREAS** the University of Minnesota Law School is currently the only academic unit in the University not covered by the cease and desist order; and

**WHEREAS** no circumstances within the Law School require immediate revisions to the existing Tenure Code; and

**WHEREAS** elections to be conducted by the Bureau of Mediation Services among faculty members within the next several months will determine which, if any, portions of the faculty will be represented for purposes of collective bargaining and therefore which faculty members will ultimately be governed by a common Tenure Code; and

**WHEREAS** appropriate discussion of proposed Tenure Code revisions for the Law School cannot take place without knowing whether the Law School will ultimately have a tenure structure independent of other units;

**THEREFORE BE IT RESOLVED:**

1. That the Faculty Senate strongly recommends that the Regents of the University of Minnesota take no action regarding any revisions of the Tenure Code to be applicable to the University of Minnesota Law School until all of the elections to determine collective bargaining structures at the University have been resolved and an appropriate consultative process with faculty has been conducted; and
2. That, if the Regents, despite this recommendation, insist on taking action now with regard to Tenure Code revisions for the Law School, that they:
  - o (a) Reject the Reagan/Spence proposal because it impairs academic freedom, denies due process and impedes appropriate change in the University;
  - o (b) Not adopt the incomplete Sullivan proposal as it stands now because, although it might provide the basis for a possible alternative solution, it fails to offer a comprehensive review of the Tenure Code and would prolong this period of uncertainty which is demonstrably harmful to the well-being of the University; and
  - o (c) Adopt the Tenure Code revisions recommended by the Faculty Senate in May and June 1996, which were themselves the product of substantial compromise of interests between the faculty and the administration.

[Approved by the Senate Judicial Committee: 15 yes, 1 no, 0 abstain]

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The following Resolution was approved by the Faculty Affairs Committee and Tenure Subcommittee on October 17, 1996:

**RESOLUTION (3)**

**WHEREAS,**

the Board of Regents has sent to the Faculty Senate two proposed drafts of modifications to the Regulations Concerning Faculty Tenure to be applicable only to the faculty of the Law School and has requested a response by November 1,

**RESOLVED,**

1. The Faculty Senate is committed to the principle that there should be one uniform tenure policy for the University of Minnesota. In view of this principle, and with the greatest respect for the good will shown by those who have proposed compromise policies, the Faculty Senate cannot accept or approve of any tenure policy to be adopted for one unit such as the Law School.
2. The Faculty Senate renews its support for the current Regulations Concerning Faculty Tenure and for the amendments and interpretations forwarded to the Board in June of this year as the most appropriate and desirable set of amendments.
3. Having reviewed the proposal prepared by certain Regents, and having received the report of the Tenure Subcommittee, the Faculty Senate finds that this proposal would impair academic freedom, deny due process, and impede change in the University. The Faculty Senate therefore concludes that adoption of that proposal would be damaging to the University and urges the Board of Regents not to adopt it.

4. The Faculty Senate thanks Dean Sullivan for making a good faith effort at finding a reasonable compromise. While maintaining its continuing preference for the proposals originally presented to the Regents in June and its support for a University-wide tenure policy, the Faculty Senate recommends that the Sullivan proposal be considered by the Faculty Senate and the Board of Regents at an appropriate time.
5. The Faculty Senate affirms its support for the right of the faculty to decide the question of collective bargaining without inappropriate interference.

[Approved by the Faculty Affairs Committee: 6 yes, 5 no, 1 abstain]

Approved by the Tenure Subcommittee: 3 yes, 1 no, 1 abstain]

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The following Resolution was also approved by the Faculty Affairs Committee on October 17, but not by the Tenure Subcommittee:

**RESOLUTION (4)**

**RESOLVED,**

The Faculty Senate is committed to the principle that there should be one uniform tenure policy for the University of Minnesota. If special provision is desired for a particular unit, this must be done within the framework of the University-wide policy.

In view of this principle, and with the greatest respect for the good will shown by those who have proposed compromise policies, the Faculty Senate cannot accept or approve of any tenure policy to be adopted for one unit such as the Law School. Under these circumstances, it would be useless to comment on the details of the proposals for the Law School. Since the Regents have requested the Faculty Senate's comments on these proposals only with regard to their applicability to the Law School, we are unable to consider them in any other light.

[Approved by the Faculty Affairs Committee: 7 yes, 4 no]

Rejected by the Tenure Subcommittee: 2 yes, 3 no]

**DISCUSSION:**

Professor Andrew Collins, Vice Chair of the Faculty Senate, called the meeting to order and reviewed a number of the rules and procedures of the Faculty Senate. He then recognized the chairs of the Tenure Subcommittee and Faculty Affairs Committee to provide some introductory comments.

Professors Feeney and Dempsey reviewed the sequence of tenure activities during the past six months, concluding with the most recent action in which the Board of Regents, at its October meeting, remanded to the Faculty Senate for consultation two tenure proposals (the Sullivan I and Reagan/Spence proposals). The Tenure Subcommittee, Judicial Committee and Faculty Affairs Committee considered a number of issues before preparing the above resolutions:

1. Would formal consultation on the proposals result in loss of further consultation opportunities?

2. Would the Faculty Senate's failure to consult on the proposals be viewed as obstructionist behavior by Legislators and the public?
3. Would deliberations on isolated Tenure Codes geared towards single units be
4. Is it appropriate for the Faculty Senate and its committees to be involved with policies dealing with individual units?
5. Would action taken by the Faculty Senate trigger feuds among the faculty in light of the other deliberations that are taking place simultaneously?
6. Would action by the committees be viewed, unintentionally, as in favor of or against collective bargaining?

Professor Fred Morrison was then called upon to briefly review the differences in the three tenure proposals presently before the Faculty Senate. They include: the June 1996 Faculty Senate proposal, the Reagan/Spence proposal, and the Sullivan [I] proposal. Copies of his outline were distributed to senators. It is the understanding of the committees, said Professor Morrison, that the Regents' proposal that was presented at its meeting in Morris is no longer under consideration.

Next, Professor Virginia Gray, chair of the Faculty Consultative Committee, presented for action Resolution 1, which she described as a slightly modified version of the Judicial Committee Resolution.

**A motion to divide the Resolution into two parts (the whereas clauses and paragraph 1 as one part and paragraph 2 as the second part) was immediately called for and approved by a vote of 98-19.**

**The first part of the motion generated little discussion and was subsequently approved on a vote of 121-1.**

Part 2 of the Resolution produced considerable discussion with a wide variance of opinions expressed, some of which are highlighted below:

- The Faculty Senate should respond to the Regents request because no action can be construed as the Faculty Senate waiving its right to consultation.
- Consideration of the proposals does not violate the Status Quo Order.
- It is the opinion of the lawyers for the AAUP/UFA that the Regents action to submit the proposals for consideration IS in violation of the Status Quo Order. If collective bargaining prevails, it is in everyone's best interest to negotiate from the 1985 Tenure Code rather than with the proposal approved by the Faculty Senate in June.
- Faculty in the Law School are entitled to representation by the Faculty Senate.
- It would be in the best interests of the faculty to have the Sullivan proposal reviewed since it has not undergone any faculty review to date.
- The Faculty Senate should take no action at this time and convey to the Regents, Legislature, and public that it is willing to consider the proposals in a timely fashion. There is no compelling reason for the Regents to act on the proposal for the Law School at this time. For them to expect the Faculty Senate to provide a comprehensive review in two weeks time is unconscionable.

- The Faculty Senate conducted a thorough review of the Tenure Code last spring and provided the Regents with a number of substantive amendments in June, which were for the most part ignored. The Faculty Senate should stand behind its June proposal and reject all others.
- The only way the Board of Regents will listen to the faculty is through a union.
- The faculty cannot forever remain at polar extremes from the Regents. They must show that they have some willingness to consider something other than what was adopted in June. If the faculty can do that, then perhaps the Regents can also.
- There is significant mistrust of the Regents by the faculty and it is not clear what action, if any, the Regents can take at this time to regain that trust. They have ignored the Faculty Senate and violated the rich tradition of shared governance at the University.

**At this time a number of amendments were proposed to modify the language in Part 2 of the Resolution, and a motion to subdivide Part 2 (sections a and b from section c) was approved 103 to 7. Paragraph 2 (a) and (b), as amended, was then approved 95 in favor, 25 opposed, with 4 abstentions. Paragraph 2 (c), as amended, was approved 57 in favor, 51 opposed, with 5 abstentions.**

Following is the Resolution as approved, with the vote on each section noted at the end:

**FACULTY SENATE  
RESOLUTION**

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**THEREFORE BE IT RESOLVED:**

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2. That, if the Regents insist on taking action now with regard to Tenure Code revisions for the Law School, they:
  - o (a) Reject the Reagan/Spence proposal because it impairs academic freedom, denies due process and impedes appropriate change.
  - o (b) Adopt the Tenure Code revisions recommended by the Faculty Senate in May and June 1996, which were themselves the product of substantial compromise of interests between the faculty and the administration.
  - o (c) Not adopt the Sullivan proposal now because, although it may provide the basis for a possible alternative solution, it has not undergone a comprehensive review and this review would prolong the period of uncertainty which is demonstrably harmful.

**The Faculty Senate divided this question. It approved the Resolution as follows:**

- **The Whereas clauses and paragraph 1 were approved: 121 yes, 1 no.**
- **Paragraph 2 (a) and (b) were approved: 95 yes, 25 no, 4 abstentions.**
- **Paragraph 2 (c) was approved: 57 yes, 51 no, 5 abstentions.**

## **II. OLD BUSINESS**

**NONE**

## **III. NEW BUSINESS**

**NONE**

## **IV. ADJOURNMENT**

The meeting was adjourned at 4:30 p.m.

**Martha Kvanbeck**  
**Abstractor**