

University Senate Executive Committee
Special Meeting
October 14, 2014
8:00 AM, Cherry Hall 203A

Members Present:

Heidi Álvarez
Ashley Chance Fox
Margaret Crowder
Laura DeLancey
John Gottfried
Rick Grieve
Jennifer Hanley
Kate Hudepohl
John Khouryieh
Gayle Mallinger
Evie Oregon
Julie Shadoan
Nicki Seay Taylor

Guests Present:

Barbara Burch
Robert Dietle
Lance Hahn
Angela Jerome
Molly Kerby
Andy Mienaltowski
Patricia Minter
Eric Reed
Betsy Shoenfelt
Aaron Wichman
Deborah Wilkins

Members Absent:

Lloren Foster

A quorum was present.

Chair Crowder called to order a special meeting of the WKU University Senate Executive Committee following a formal written request per the Senate Charter from the majority of the SEC members on October 13th. The primary purposes of this October 14th special meeting included ratifying the minutes from the October 1st special meeting and drafting a response to the letter from Dr. Betsy Shoenfelt regarding the faculty regent election that was sent via "faculty-all" email on Sunday evening.

Following a review of the minutes from the October 1st meeting, a motion to approve the October 1st minutes by Kate Hudepohl was seconded by Jennifer Hanley. There was no discussion. The minutes were approved.

Chair Crowder said the next task is to respond to the faculty-all email that was sent out on Sunday evening by Dr. Betsy Shoenfelt, who made specific requests regarding the faculty regent election. Crowder stated “the SEC has not taken it lightly.” She then explained that the SEC spent considerable time discussing issues related to the regent election at the October 1st meeting. The SEC is tasked with eligibility issues and with creating the initial ballot. The SEC voted unanimously on the ballot, as reflected in the minutes. The members of the SEC have been transparent and diligent with our task.

Vice Chair Hanley stated that she was diligent about following the guidelines and made sure the SEC was represented as a whole. It was a unanimous decision to follow the State Statute and WKU’s Human Resources policy.

Chair Crowder said that she informally checked with an attorney, and the informal opinions of the Attorney General are not legally binding. This was considered on October 1st. Whether the SEC body is happy with this or not, we cannot go against the existing policy and current statute. This issue is something we can consider in the future; we can pursue changes or an official statement from the Attorney General.

Kate Hudepohl pointed out that we discussed eligibility prior to discussing candidates on October 1st, and this is an important element. Our determination was objective.

Julie Shadoan pointed out that the only candidate who considered accepting the nomination agreed with and acknowledged the Human Resources policy.

Chair Crowder cautioned that we need to draft a response to the faculty as a whole, and that additional comments from the floor need to be restricted to new information.

Aaron Wichman thanked the SEC for their service; we all share the belief that we are vested in the university faculty. With the state statute, if $A = B$, then $B = A$. It says that no person shall be “employed”; not “elected.” Wichman then asked if there was a meeting at 3:15 on October 13th. Chair Crowder responded that the SEC body got together to request a meeting, per the Charter guidelines. Wichman stated that he encourages a logical response.

Question: Why are we wanting to change this if Staff Regents tried to run and this was not brought up then?

Pat Jordan could not run for Staff Regent again because her daughter worked at WKU (and no longer does). Tamela Smith married a faculty member and was then told by the General Council that she could not run for re-election as Regent.

In 2012, two staff regent candidates were disqualified because they had spouses employed at WKU; only one person ran.

Deborah Wilkins stated that the opinions arose after these situations came out. Boka's mother worked at the child care center. Wilkins wrote to the Attorney General then.

Julie Shadoan said that the point is not the statute. The Human Resources policy is an employee policy and does not apply to students.

Deborah Wilkins argued that nothing in the policy refers to "regent."

Jennifer Hanley suggested rereading the wording of the Human Resources policy.

Julie Shadoan reread the Human Resources policy and added that this is within the purview of the Board of Regents. It defines conflict of interest. She added that one cannot put someone on a board and then take their voting rights away.

Deborah Wilkins said that faculty and staff vote on their own salaries every year.

Julie Shadoan said that these things are very much entangled with the policy. We can make recommendations to Human Resources. The policy is very controlling.

Chair Crowder said this is in the purview of the SEC to make the decision. The HR policy disallows spouses. It is not the General Council's decision to make; the SEC determines the ballot based on statute, policy, and guidelines.

Wilkins said "if there is a formal, legally binding opinion..." and Chair Crowder interrupted by saying "there is not a formal opinion; we have to abide by the Statute. This is the task of the SEC. We have been diligent, and our decision is made."

Robert Dietle, with a new item, said to be careful about the non-nepotism policy. Dietle mentioned former faculty regent Ray Mendel, whose wife was employed by WKU – the threat was that they would audit his wife's accounts, and he finally gave in.

Wichman brought up a hypothetical situation of someone being gay and asked what if someone uses it against you?

Dietle responded that he knows if you are a regent and you say no, they are not very pleasant. He things as we move forward and think about whether or not to change it, that this is a consideration.

Wilkins interjected with a profanity and said that when the 1998 issues arose with the board, WKU wrote to the Attorney General to ask questions. Dr. Mendel threw a fit. Had she gone through with it, she suspects she would have received the same letter she received in 2013.

Dietle asked that Wilkins maintain professional language.

Hanley pointed out that if this came out in 1998, this Human Resources policy that we are discussing came out in January of 1999.

Question from Dr. Shoenfelt: "Do you agree that all policy parallels the state?"

Shadoan responded "they contain similar language, but our policy goes further."

Crowder reiterated that only new information will be considered.

Question: "Who gives us the power to disqualify a candidate?"

Hanley: "The Handbook says that the SEC finalizes the ballot." This was discussed with due process, due diligence, and prior to any discussion of candidates. Eligibility was included in all of the nomination letters. Claus Ernst was clear in his email that he does not meet the requirements. He was unable to attend today.

Molly Kerby said "I was not disqualified. I declined the nomination... No one was disqualified... If I have to recuse myself, my college, my department, my spouse, then I do not have a voice. I might fight this after the fact so that I can run. I read through everything from Deborah Wilkins, and the idea of recusing oneself would be bad."

Someone brought up that candidates feeling they cannot be eligible (ie. female, skin color, etc.)

Wichman said someone should not decline with justification.

Crowder stated "if they decline the nomination, there is nothing else the SEC can do but put the one person on the ballot who accepted. The SEC cannot force someone to accept a nomination, regardless of their reasons for declining. Our reading of the statute was separate from the ballot. We had one person who accepted the nomination. We need to draft our response." Crowder added that she appreciates the visitors.

Crowder said that we need to put forth some language. We should include a copy of the minutes from the October 1st meeting. We held a special meeting to ratify minutes and address questions from the floor. The minutes were ratified with no discussion. We had quorum, with one member of the SEC absent. 13/15 were present (Loren Foster was absent, and the other is an empty spot from Gordon Ford that was never filled). Having met and deliberated on... Suggestion was to address specifically what Dr. Shoenfelt asked us to do. There is no one to reinstate because no others accepted nominations. We debated eligibility requirements and interpreted the state statute and human resources policy. The Senate may choose to address this in the future. We are bound by the current language of the Human Resources Policy 4.3202 and the State Statute KRS 164.360(2). While we have been informed that a formal statement from the Attorney General has been requested, we do not have it now, nor do we know if the Attorney General has been provided a copy of WKU's Human Resources Policy to consider. The election will go on.

This is for the future; conversation about “shall not be employed” what the language means. The SEC concluded that it is a strict requirement. “Shall” in a statute has a strict meaning.

Crowder read the first portion of the response. Hanley asked if anyone from the SEC has anything to add. It was suggested that making a short and to the point blanket statement would be a good idea.

The minutes to this meeting will be approved at the next SEC meeting and will be posted on the website.

Hanley made a motion to draft the response to Dr. Shoenfelt’s October 12, 2014 letter to faculty all (2nd Mallinger). A friendly amendment by Shadoan: “Dr. Shoenfelt asked specifically for a response.” The motion was approved as amended. John Gottfried had to leave. It was asked if anyone had specific language to include in the response. DeLancey and Hudepohl suggested keeping it simple, and the Senate can talk about it on Thursday at their meeting if they want to. Shadoan made a motion to allow approval of the SEC response to Dr. Shoenfelt to be approved over email (2nd Hanley). The SEC voted unanimously to approve the response via email.

Motion to adjourn by Ashley Chance Fox (2nd Jennifer Hanley).

Respectfully Submitted,

Heidi Álvarez
Secretary