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Minutes of the Regular Meeting of the Academic Council

Thursday, April 24, 2003, 3:31-4:50 PM

The minutes of the March Council meeting were approved as written, by voice vote, without dissent.

Announcements

Nancy Allen (Medicine), Chair of the Council: "I wish to welcome especially the new members of the council since this is the start of our new year for council membership. Particularly for those of you who are new to the Council, but really for everyone, I would just remind you of a few Academic Council basics. You have the campus and e-mail addresses, phone number and fax numbers in microscopic print at the top of your agenda. Please feel free to contact us in the office or come visit us on the 3rd floor of the West Union Building if we can be of any help to you at any time. When you do wish to speak, please identify yourself and your department or school. We keep that as part of our record and enter that into the minutes so that if there is something that is incorrect in the minutes you can correct it. Please also remember to initial the attendance sheet which comes around at each meeting. We usually send those around after about 15 minutes or so, so that those who come in a little late will be able to mark their attendance. We do keep track of attendance (as our bylaws state) so that you can flunk out of the Academic Council after 3 consecutive unexcused absences. If you do know that you will be away for a particular meeting just let us know in advance and we keep track of excused absences.

"Most of you have read about the Presidential Search Committee, but for the record let me announce the faculty members who have been appointed by the trustees for this committee: Sara Beale in the School of Law will serve the vice-chair of the committee, Jeffrey Krolik in Electrical and Computer Engineering, Prasad Kasibhatla in the Nicholas School of the Environment, John Simon in Chemistry, Philip Stewart in Romance Studies. I [Nancy Allen] will serve ex officio, as chair of this council.

"At 5:00 today or thereabouts, after the conclusion of our regular council meeting, Trustee Bob Steel — who will serve as chair of the Presidential Search Committee — will join the Executive Session to get faculty input into the search. We hope that many of you will stay for that discussion and provide your comments so that the search can include the voice of the faculty. We will provide a transcript of the comments to the search committee, to help in their deliberations. The entire search process will be one of the most important university endeavors over the coming decade.

"We will have one other announcement or statement by the Provost and the President after the President arrives. What I would like to do now is adjust our agenda slightly and call on Joel Huber who is chair of the President's Advisory Committee on Resources to present an annual report on that committee's work.

Annual Report of the President's Advisory Committee on Resources (PACOR)

Joel Huber (Fuqua, Chair of the committee): "This is a committee that is going out of existence so I felt it my duty to give you a little bit of its history. It's called the President's Advisory Committee on Resources and it developed in the early 1990s out of a real fear that the resources of the university were being allocated inappropriately. This came from the notion I think of Duke being such an effective profit center. That is, during this time ... the schools that can raise their own funds did well and they grew. So you have Medicine, you have Fuqua, you have Law — all doing quite well in this context. But schools that couldn't [raise their own money] in fact did not do well. Keith Brodie was the president at the time, and he felt that this was not right. So monies were determined for various projects, typically by some form of subsidy. That is [the administration] had the power at the bank, and lots of deals were cut. We were part of some of those deals and we saw some of them — and effectively trust was gone. I mean things were happening. Things were working, but they weren't working in a way that was ... transparent to all involved, [which meant] there was distrust..." Some people felt they were being badly treated, while others were being well treated. All agreed this was a bad way run a first-rate university.

"PACOR at that time reported to Keith Brodie because it was important to have input as well as oversight. [Then and now] faculty, deans and students, members of the administration — all are part of PACOR. The goal... is to provide broad-based input on the ways Duke's resources are allocated. Part of that was oversight and validation. That is, PACOR today looks at the financial plans and OK's the looks of them and validates them. But the other part is bottom up..."

If people are confused about PACOR, the way to understand us is to see some of the things we have done in the last year. There is a PACOR website [<http://www.oit.duke.edu/pacr/>], with the agenda and other public documents. Minutes are available only through password. (This effort is part of a movement to centralize records, so they are not lost forever in someone's file drawer.) "Let me talk about the things that we discussed so you get a sense of what went on..."

- There was a proposal by Provost Peter Lange to standardize cross-school teacher compensation. So, if I'm in the Business School and go to Psychology and teach a course, I get compensated \$10,000. That's a standard amount. Good things and bad things about

PACOR's Job

- President's Advisory Council On Resources
- Developed out of a real fear that resources were not allocated appropriately in the university
 - Faculty, deans, students and members of the administration are and continue to be represented
 - Goal is to provide broad-based input on the ways Duke's resources are allocated
 - And to provide oversight and validation
 - Agenda is both top-down and bottom up

Actions in 2002-2003

See our website at
<http://www.oit.duke.edu/pacr7>

Discussed and ratified cross school teacher compensation
Parking and campus aesthetics
A/S task force report
Financial planning given the market performance
Formula budgeting process

General goals

Increase the transparency of the financial budgeting process
Push decision making and responsibility down to people closest to the action
Develop ~~predictable as possible~~ **Wither PACOR?**
A new University Priorities Committee (UPC) will combine the financial aspects of PACOR with the strategic and operational aspects of the Academic Priorities Committee (APC)
Technical financial issues will be managed by a subgroup of UPC
Combining the strategic and the financial aspects of important decisions will result in better decision making for Duke

that, but that came before our committee, was actively discussed and ratified by our group.

- Parking — I don't know of an existing committee that that doesn't have parking come before it. We got it as well, perhaps via Tallman Trask's interest in campus esthetics — cars are anathema to some people (unless you have the right kind of car...). And so we discussed that. Good news! There is a big lot that the Medical Center controlled, and now it's jointly controlled.
- The Arts and Science Task Force Report caused a lot of consternation. It made the *New York Times* as well as the local papers. We had Phil Cook come in and talk to us about that.

These are the sort of the bottom-up issues that people said we needed to talk about. By and large we found the staff extremely open: willing to work with us and explain why things were done the way they were.

Then there were a group of top-down things for which PACOR is responsible. Each year there is a general question about the strategic plan and financial planning, especially now given the fact that the stock market has tanked recently. I'll give you more information on that in a moment, but the question is, what do we do about it? One of the things our group considered was what to do if things got worse — moderately worse, or much worse. And finally, we looked at the formula-budgeting process which is the bane of every dean's existence.

Let me talk now about the general goals of PACOR and how these will continue. The first goal of PACOR was to increase the transparency of the budgeting process. Duke from long tradition liked to hide things — most people do — but making the process more public has helped a great deal. I actually have been very pleased by the responses of the staff. Tallman [Trask] and Peter [Lange] have pushed hard to bring information out into the open.

The second objective was to change the orientation of the administrative process. Duke, I think, also was oriented from the top. What I've seen in 20 years is a real change: Duke is now much more bottom up. Areas, departments, groups should be in charge of their own destinies, and the job of the university, the administration, should be to help them out. And I think that's where we are moving.

The third problem is the Deans' dilemma: Deans have a really tough time with budgeting, process because they don't (or didn't) have the freedom to be wrong. If you don't have money you fire people left and right. It's a real mess. In practice that rarely happens, of course, but those are (ostensibly) the rules: You're never supposed to have a deficit. What Tallman and Peter have tried to do, is develop a process which allows deans to predict what they will get from central administration — and have some cushion when they make mistakes. That's really important if we want our various units to take a chance once in a while. We have been pleased with the way this process has worked.

The final point is about investment flows. I suspect all of you know this, but 3-4 years ago the annual return on Duke's endowment was 50%. This was a big shock to everyone. Duke being a very conservative place, so we didn't pay out this increment all at once. Instead of 50%, the endowment increased its payout by just 10%. And the next 3 years the return on the endowment was below 5%. It was a loss each year including this year. Obviously stabilizing cash flows to the units is really important, and I think it is something we've done well. You are probably aware that Stanford University used the alternative policy ('if we have the money let's spend it') and is now announcing draconian cuts. We hope we don't have to do that. In fact, we hope that Duke can use the kind of money that we have to move forward during the downturn.

My last point concerns PACOR's successor. "All of you know, from the good work of John Simon, that there will be a new University Priorities Committee (UPC) which will combine the financial aspects of PACOR with the strategic and operational aspects of the Academic Priorities Committee. So there are now two committees, one of which is strategic and the other financial. They are going to be combined and there will still be a subgroup within the UPC that deals with some technical aspects, but I think that's appropriate. I think this is the way to go. We had a lot of trouble on our side dealing with the money issues when we weren't supposed to talk about the strategic ones. And the strategic people had a ball being able to say here's the strategy if it doesn't cost us anything. So now those two are together and I think that's as it should be. And I'm also very pleased by the atmosphere in the university, in terms of getting [information] from these committees listening to them, being very open to them. I don't think that will always be the case. It certainly wasn't the case 10 years ago. It may not be the case in 10 years. And so we have to be vigilant, but I am here to report that it is very positive so far..."

Nancy Allen: "Thank you Joel.. There will still be an APC, which is going to be called the Academic Programs Committee and that will carry on the programs aspect of the old Academic Priorities Committee." Nancy Allen then called on Provost Lange to deliver a statement jointly with the President:

Statement by Provost Lange and President Keohane on Free Speech in a Troubled Time

Provost Lange: "In recent weeks the President and I have heard concerns from the faculty and others, particularly from people who are not American citizens, about a feeling of unease to whether they can be at ease in expressing opinions in the current climate. While no incidents have been brought to our attention, the concerns prompted us to make a statement before the semester ends. And I want to deliver that statement on behalf of the president and myself now:"

Times of war test a university's ability to meet its responsibilities to its own community and to society at large. If we are thoughtful and attentive, the ways we rise to these challenges and opportunities can reaffirm our mission. As war and terrorism have come to dominate public consciousness these last two years, many faculty members have had to balance our daily tasks of teaching and research with less conventional but no less important ones: bringing faculty expertise to bear on the larger public debate, and using our specialized knowledge to contribute to our students' education, particularly as their interest becomes intensified and focused by the war.

In troubled times, the character of debate on campuses and elsewhere changes, as the issues become matters of life and death for our own citizens, as well as those of other nations with whom we are allied or in conflict. Here again, universities have a special opportunity and responsibility to be places where free and open debate can flourish, where the values that we know to be fundamental, values for which we often fight — including the freedoms of thought and speech — can and must be embodied in daily practice.

Too often, wartime subtly encourages us to draw tighter boundaries around our community, to redefine what it means to be 'one of us.' We may find ourselves, even unintentionally, recalibrating our sense of those with whom we are comfortable, those to whom we are willing to extend the privileges of belonging. Members of our community who are not U.S. citizens may come to feel that their voices are less welcome here, their rights less secure. Yet it is precisely at such a moment that our diversity becomes most important. How can we understand and refine our opinions about vital issues except through argument, persuasion, and the clash of contrasting perspectives?

If we too narrowly constrain our definition of community, if we fail to champion the free and open expression of multiple viewpoints regardless of the citizenship of the speaker, if we turn

our back on others who bring new knowledge to the debate, we will have betrayed our mission and undermined our credibility. In such times, then, we must reaffirm our diversity and resist the temptation to close ranks around the familiar.

As this academic year draws to a close, we believe that the faculty and the students of this university have done well in maintaining the breadth of our community discourse, fostering public discussion and debate, and bringing to bear on the issues of the day the expertise which we house and foster. Now many among us are preparing to leave — for the summer, for new opportunities beyond Duke, or simply to set aside our normal teaching roles to dedicate ourselves to research or other pursuits. As our minds turn to other things, wherever they may be, it is important that we continue to support the values of free and open speech that Duke embraces, and that we remain committed to expanding our understanding of a complex world through openness to those of many different backgrounds and perspectives.

"This statement will appear tomorrow in the *Duke Dialogue*..."

Revised Policy on Emeritus Faculty

Nancy: "Thank you Peter.. The next item on the agenda is a resolution and vote on the revised Policy for Emeritus Faculty. The minutes in the packets reflect the discussion from the last meeting. For the benefit of new members I'll mention the changes addressed by the Provost and discussed with ECAC since the last meeting. A couple of specific changes. The language under 'computer services' has been updated based on comments here last month to eliminate '70 mb' of the file space to 'an appropriate amount of space', considering that this number may change over time. Regarding parking (since we always must mention parking!), the Provost has graciously agreed, I think with help from Tallman Trask, to remove the student-rate permit cost to emeritus faculty. The Provost has generously offered to [continue to] subsidize the cost of parking for emeritus faculty, and will review this part of the policy in 2006. There are minor language changes under *space* which were made to clarify that office and lab space for emeritus faculty will be made available when possible, and that the appropriate librarians will do their best to accommodate the needs of emeriti for ongoing scholarly work... The Executive Committee of the Academic Council now offers [the following] resolution:"

RESOLUTION TO ADOPT CHANGES IN THE POLICY FOR EMERITUS FACULTY

Following presentation and discussion of the proposed Policy for Emeritus Faculty at the March 20, 2003 Academic Council meeting, and after further discussion with the ECAC and subsequent revisions, the Academic Council endorses the Policy for Emeritus Faculty dated April 9, 2003 to become effective immediately. This policy will replace the current section on emeritus faculty in the next edition of the Faculty Handbook. The Academic Council commends the Provost for recognizing the value of emeritus faculty to the university community and for strengthening this policy which will help active emeritus faculty to remain engaged in their scholarly and scientific fields.

The motion was made, seconded and passed without dissent.

Elections for the Executive Committee of the Academic Council (ECAC)

Nancy Allen: "Thank you Peter for all your work. We will move on now to the elections for the Executive Committee of the Academic Council. As you know members of the Academic

Council Executive Committee.. are normally elected for two-year terms. Each year some members finish their terms and new members are elected.

"Before we proceed I would like to acknowledge the ECAC members who have completed their two-year terms: Marjorie McElroy from Economics, who could not be here with us today, and Fred Nijhout of Biology who will be giving one of our later reports today. I also wish to thank Ann Marie Pendergast who completed a one-year term on ECAC. I thank those three plus the continuing members: Paul Haagen in Law, Michele Longino in French and Francophone Studies, and Barry Myers in Biomedical Engineering. They are all present here if you wish to speak with them. For today's election we've identified Professors Kristine Stiles and Roger Barr to act as tellers for the election. They will distribute and collect ballots. When the votes are counted I will announce winners later in the meeting. In accordance with the Academic Council bylaws, you have received with your agendas brief descriptions of each of the candidates who was nominated. The bylaws state that ECAC should prepare a ballot with two nominees for each position, and circulate that ballot in advance of the meeting where we take a vote. All of the nominees did agree, after some discussion, e-mailing back and forth, arm twisting and so on, to be included on the ballot and are, I assure you, willing to serve.

"I'll read the names of the candidates and ask each to stand when I read your name: James Bonk in Chemistry, Joshua Socolar in Physics, Julie Edell from Fuqua, Ann Marie Pendergast in Pharmacology and Cancer Biology, Peter Feaver in Political Science and Frederick 'Fritz' Mayer from Public Policy Studies and Political Science...Also according to the bylaws, I'll call at this time for any additional nominees by petition presented from the floor..." None being offered, the vote continued, with the following results, announced later in the meeting:

New members elected to ECAC:

Joshua Socolar (Physics)

Ann Marie Pendergast (Pharmacology and Cancer Biology)

Frederick 'Fritz' Mayer (Public Policy Studies and Political Science).

Parental Leave and Tenure-Clock Relief Policy

Nancy Allen: "Now we'll move on the next item on the agenda which is the Parental Leave and Tenure Clock Relief Policy. I call on Provost Lange to give us an overview of this policy."

Provost Lange: "This is a policy which has been in the works for many months and it represents in many ways how the best [kind of] interaction between the administrative leadership of the university and the faculty can work to make something richer and smarter than was originally proposed." The policy originally arose as we became aware that our maternity-leave policy had not been re-examined for many years. There have been many changes over the years, and there are new pressures regarding both parental leave and adoption. We became aware of these changes last spring — so that's about 12 months ago — in part because the President sent me one of her little notations, with "note this" up in the corner. I had routed to me a paper that had been sent to her noting these deficiencies, written with that perfect clarity and moral suasion that undergraduates sometimes affect with respect to our maternity leave policy.

So we decided to examine these issues. Then, last summer while on a boat on vacation, I got a cell call saying there is a faculty member going berserk because she has adopted a child and discovered she is not eligible for the same kind of maternity leave as a birth mother. "I responded 'Isn't that interesting, because that's the same issue we're going to work on.' So we began to work on a policy. And the policy which you have before you is a long evolution from that

starting point based on feedback between the administration and various faculty groups both formal and informal.

"Let me just outline for you briefly what some of the major changes are. They are in the policy and the head section in italics. But I'm going to just briefly review [them] in case you didn't get to read them fully.

- "First, maternity leave in the case of a pregnancy and birth that does not involve a serious health condition is no longer considered a temporary medical leave, but rather a temporary parental leave. We had collapsed everything under maternity leave under the temporary medical leave for reasons that I will not elaborate on, but which we have now overcome. Those reasons operated 12 or 13 years ago [but do so no longer].
- "Second, a one-semester or 3-month leave with pay is now granted as temporary parental leave to a faculty member in the event of birth of a child, the adoption of a child or the birth of a domestic partner's child.
- "Third, tenure-clock relief and non-tenure track contract extension is now available under a number of circumstances in addition to serious illness of a faculty member, including birth or adoption of a child in the faculty member's household, when a faculty member is required to act as the primary caregiver for a seriously ill parent, child, spouse or domestic partner, or when a faculty member suffers a death of a parent, child, spouse or domestic partner.

"Finally, in several places below there are special provisions.. .for the School of Medicine and the School of Nursing. This too is an extremely important feature of this policy. We believe that this is the first time that we have been able to hammer it out and it's really thanks to Dean Williams...and to Joe Coriess who worked with him and Ross McKinney, Associate Dean for Research, who is not here. Anyway, for the School of Medicine — working with Susan Roth, in particular, in my office who helped enormously on this — working through provisions so that we could bring the entire faculty, clinical, basic science and campus side, under one policy. And I think that is really in itself a wonderful statement of the way the campus has evolved.

"I also want to note that it [has been] extremely important that the chair of this Academic Council is a member of the clinical faculty. Because that was part of the thing, [Nancy] saying keep at it, keep working at it, don't give up. Or, I'm not going to touch this policy until you get it right. You know that Nancy never speaks that way, but still [we persisted until] we could get the entire faculty under one umbrella."

Discussion

Tom Nechyba (Economics): "I have only one question, about clarifying the adoption issue. In one case it says this applies to children under the age of 6. And I was just wondering, given that it often is more demanding to adopt older children, why the policy on temporary parental leaves is limited to under-six."

Provost Lange: "[The answer is] *school*."

Question: "Who is *the primary caregiver*?"

Provost Lange: "That's up to the determination of the family itself... We made a decision in this policy. Obviously, if faculty members wish to cheat, if I could use that [word], wish to operate at the margins of the spirit, would be a more polite way to put it, of this policy — they can do so. We explicitly chose not to undertake any kind of policing or intervention to assure that faculty members were living up to the spirit of the policy.. .So in a sense there is an honor system about this. If you are not the primary caregiver and you choose nonetheless to take ad-

vantage of the policy, you will have violated the spirit and letter of the policy. But we will not engage in steps that will be designed to pursue you. If however it were to come clearly to our attention, brought to our attention, we would probably have a discussion."

The faculty offered no comment either on the "don't ask, don't tell" aspect of the new policy, or indeed any other aspect.

Provost Lange: "I don't know — I take that as an affirmation...We've been working [many] months on this, so it's a rather a good feeling..."

Nancy: "Yes, thank you Peter. I also wish to thank Peter for putting up with me for putting pressure on you earlier in the year. I wish to thank the President for helping us with this combination of the Provost's efforts and Dean Williams' efforts. I wish to thank you, Dean Williams, Susan Roth, and Joe [Corless] and Ross [McKinney] and all of the committees who have looked at this... A lot of committees and a lot of people who have taken the time to put effort into this. I actually worked on the 1989 revision which was the first iteration of any maternity leave policy for the faculty. And I remember what that was like. So this is very much improved and I think much so by the numbers of people who worked on it. If there are not other questions or comments here, should you have any after thinking about it you can communicate those to me or ECAC or through the Academic Council office. We will review the comments and, as is customary for this Council in the case of any important issue like this which involves a policy change and changes to the Faculty Handbook, we will not vote upon the issue today. We will vote on it at the May meeting. So in 2 weeks we will come back, see if there are any additional comments and take a vote at that time with the idea then that the policy will be included in the Faculty Handbook this summer..."

President Keohane: "I just wanted to express my own gratitude for the support that you hear for this policy and the people who have worked so hard to bring it about. I also wanted to note, because some of you may have questioned this, that one of the issues that the Women's Initiative Steering Committee has been looking at is that although we have had maternity benefits for faculty which are now made clearer and deeper, we have not had paid maternity leave for staff. And, just so you don't wonder, this will be one of the high priorities for the Women's Initiative to provide support for maternity/family leave benefits for staff as well."

Extension of Eligibility to Serve on the Academic Council

Nancy Allen: "... We will move on now to the extension of eligibility to serve on the Academic Council. I call upon Fred Nijhout, who is the ECAC vice chair, and who thankfully took on this task of continuing some unfinished business that we had earlier in the year."

Fred Nijhout: "This is an initiative that was started by ECAC about two years ago.. .by Peter Burian. The intent was to extend eligibility to serve on the Academic Council to nontenure-track faculty. These are faculty members who are currently eligible to vote.. .but are not .. .eligible to serve. The motivation, outlined in the handout that you have, is that most of the growth in the faculty in the past ten years at this university has been in the non-tenure-track ranks. These are voices that we should pay attention to; they should be heard.

"The.. .table [see figure below] shows what the numbers are. They average out at just over 20% of the faculty at the university. So let me very quickly read through the recommendations that we have proposed. These are for discussion-only today. As Nancy pointed out, any vote on this will cause change in the bylaws and will not be taken until the May meeting.

"The first recommendation is that if action is to be taken, it has to be on the basis that people with a given title and meeting common requirements should be eligible as a class. This establishes a principle, basically. And it's intended to get around earlier recommendations by the

respective dean to be eligible to serve on the Council, [which] seemed to be an administrative headache — quite unworkable...

"Recommendation B is to ensure that candidates for election to serve on the Academic Council have a significant commitment to the university. Eligibility should be restricted to candidates who are at least in their third continuous year of service as a regular-rank faculty member at the time of their nomination. This is again to ensure that people will have a long-term commitment to the university. It also addresses concerns that ...some divisions or some departments might choose to elect individuals who maybe have very short-term, one-year temporary appointment at the university.

"The final recommendation, C, is that in order to preserve the independence of the Council, and to ensure that faculty representation is by members with unambiguous academic freedom, no more than one non-tenure track member may be elected from any division in the university — except that the division of Clinical Sciences, which has a large number of non tenure-track faculty, may permit election of up to 4 non-tenure-track representatives. This is a rule that attempts to achieve a balance between two opposing forces — [one is] the wish to have proportional representation, and the other is the recognized need to safeguard the independence of the Academic Council by limiting the membership of those whose freedom to speak on unpopular issues may not be guaranteed by tenure.

James Rolleston (Humanities): "Could you say a little bit more about this phrase "unambiguous academic freedom," which seems to stand out, considering, of course, that untenured faculty are quite often elected to the Council, and they are considered to have this freedom?"

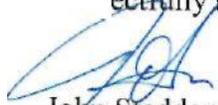
Fred Nijhout: We hadn't considered the untenured. What we were concerned about is that we should not have a very large number of people on the Council whose salary might be subject to the whims of people they are criticizing. It is somewhat different for tenure-track untenured faculty. I think that they have a greater protection than people who are truly on yearly or bi-annually renewable contracts."

Nancy Allen: "Thank you Fred. This is one of the topics Peter Burian and I discussed before he left for Italy in the summer last year, when I took over as chair of the Council. [It] was something that he wanted me to try to complete since it already had skipped the 2001-02 year. So we'll see if we can complete it next month. Then, because this will involve a change in bylaws, we will need to have a formal vote at the general faculty meeting in October."

There being no further discussion, the open session concluded and the Council went into Executive Session to discuss first honorary degrees and then questions and comments relating to the selection of the successor to president Keohane, these to be submitted in written form to the selection committee

Respectfully submitted

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John Staddon (Faculty Secretary)

Academic Council Elections January 2003

	Tenured/ Tenure Track	Non-Tenure Track	Total	Number of Reps. By
Humanities	139	51	190	10
Social Sciences	161	41	202	10
Natural Sciences	163	41	204	10
Divinity	24	7	31	4
Engineering	77	21	98	10
Environment	38	8	46	6
Law	36	6	42	5
Clinical Sciences	602	614	1216	10
Nursing	24	11	35	4
Business	84	15	99	10
Basic Sciences	150	51	201	10
Total	1498	866	2364	89