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Minutes of the Regular Meeting of the Academic Council

October 24, 4:30-5:00 PM

The meeting began after the annual faculty meeting chaired by President Keohane. The minutes of the September 26 Council meeting were approved by voice vote, *nem. con.* as written. Nancy Allen (Medicine), Chair of the Council, opened the meeting by inviting everyone to a post-meeting reception arranged by the President and the Executive Committee of the Council. The event, in the Rare Book Room in Perkins Library, was to celebrate the 40th anniversary of the Academic Council.

Question for the President

From time immemorial (1980 or so), faculty have had the opportunity, via the Academic Council, to ask questions of senior administrators to which they have agreed to respond. The question this month, for the President, was as follows:

The October 6, 2002 issue of the Raleigh News and Observer carried a story by Bill Krueger and Chip Alexander entitled, *Schools bend NCAA rules*. In a sidebar to the article on page 16A, the paper listed violations that institutions in the region had reported on themselves. For Duke, they listed none, saying, "As one of two private schools in the ACC, Duke is not subject to public-records disclosure laws that govern state universities. Duke chose not to release its violation reports." The question is, why did Duke choose not to release these reports?

President Keohane offered a comprehensive response: "In order to answer this question carefully, I did a good deal of homework..." She worked with Athletics Director Joe Alleva and compliance officer Chris Kennedy. Kathleen Smith (Biology), Faculty Athletics Representative and chair of the Faculty Athletics Council, was also present.

President Keohane had discovered that there are, in fact, two types of NCAA rules violations: inadvertent and intentional. Violations in the first category, Type 1, are the subject of this question. They are regarded as relatively minor. The more important violations in the second category, Type 2, represent apparently intentional efforts to get a competitive or recruiting advantage.

President Keohane reported that only once in our athletic history has Duke committed a violation that has led to NCAA probation — i.e., a Type 2 violation — in the early 1970s, when the recruitment of David Thompson led an over-zealous Duke fan to buy him a sport coat.

However, every year, Duke, and all other Division I institutions, do report a number of secondary violations — in Duke's case, a handful each year.

"Such violations are usually a function of the complexities of the four hundred and ninety-five pages of NCAA rules, rather than any attempt to subvert the letter or the spirit of the rules. Most of the secondary violations have been in recruiting since recruiting rules are not only complex, but constantly changing. There are many rules governing telephone calls to prospects,

evaluations, academic credentials, permissible recruiting periods, visits to campus, correspondence and so forth, and they're subject to a continuous process of re-shaping. We're also bound by the interpretations issued by the legislative services staff at the NCAA national office when the application of a piece of legislation is unclear... the complexity of the legislation and its fluidity from year to year, all conspire to create a situation in which inadvertent violations may be almost inevitable."

What were Duke's secondary violations — violations parallel to the cases listed in the *Raleigh News and Observer*? Three have been reported to President Keohane: In the first case, a coach provided a rental car for the parents of a prospect during the prospect's official visit to campus. It is permissible to reimburse the parents for transportation from their home to the campus, including a rental car. But, it is a violation to provide a rental car to a prospect, or his parents, after they have arrived on campus by other means. The coach misunderstood the rule and didn't ask for clarification. But Duke declared the prospect ineligible, terminated recruitment of the prospect and asked the parents to reimburse the cost of the rental car (which they refused). Duke issued a written reprimand to the coach.

In the second case, a student host used entertainment money issued for an unofficial visit to buy a prospect a tee-shirt, despite having read and signed a form that explicitly describes permissible uses of the money — among which tee shirts are not included. Action: Duke disqualified the student from serving as a host in the future. We requested and received reimbursement from the prospect for the tee-shirt.

In the third case, during the U.S. Women's Open Golf Tournament in the Summer of 2001, two Duke golfers stayed in the condominium of a retired staff member of the Department of Athletics. Since there was inadequate hotel space in the community where the event was held, the organizers of the tournament requested that members of the community open their homes to the participants. In these circumstances, it never occurred to the Duke students that staying in a retired staff member's condo would be a violation of NCAA rules. But, the NCAA determined that it constituted an extra benefit and was, thus, a violation. Action: The players were declared ineligible. They had to reimburse the retired staff member for the cost of housing. There was an educational session held for the team covering benefit rules. Then, we requested and received restoration of students' eligibility.

President Keohane concluded: "...we don't see any particular purpose in reporting such violations because we are convinced that they are.. .minor... [I]f there are violations ... significant enough to be material to our athletics program, we will certainly inform the Council."

Academic Council 4(fth) Anniversary

Nancy Allen (Medicine) "I would like to devote the last portion of the meeting to a tribute to the Council. In September, Professor Emeritus Don Fluke and I discussed the idea after I had actually read his history on the Academic Council website.. .Then I realized that, yes, it's forty years since the Academic Council came into being, and it's been thirty years since the Christie report was passed. The Council meeting is brief this month, so we thought this would be a perfect time to reflect and to celebrate, particularly since we have a reception planned right afterwards.

"I think it is very helpful for us to understand our roots, and this is one way to educate new faculty and to remind those of us who have been here a while about the history. You might have seen the *Chronicle* article today by Andrew Collins, one of our Duke students. I think he did a fine job in researching some of the history. He put together some of the major events that I

didn't include in the written tribute [attached] because I just did decade snapshots.. our archivist Tim Pyatt and his staff have completed an initial archiving of Academic Council records going way back, but particularly including 1962 on...that is *17 feet* of records so if you all have an interest in reviewing minutes and old documents pertaining to the Academic Council, those are available in the archives."

Nancy Allen referred to the handout, distributed at the meeting, in which she described some of the issues active 40, 30, 20 and 10 years ago. The document includes a list of the members of the first Academic Council in 1962-63. Two of those stalwarts were present at the meeting: Don Fluke, Carl Anderson. The handout also included a list of former chairs and the former secretaries of the Council, as well as a list of Duke presidents during those times.

Allan Kornberg (Political Science), referring to the list of past presidents: "I wonder what happened to Keith Brodie — has he disappeared?"

Nancy Allen : "He didn't disappear. He should have been on that list. Actually, I spoke with Keith and he would have been here today also except..."

A voice: "He is at an undisclosed location..."

Nancy Allen: "He's at a undisclosed location at the NIH in a committee meeting.. He sent along his comments about the Academic Council affirming that it has played an important role in shaping the university." [The list of presidents has been amended.]

Nancy Allen (continuing): "Today I would like to honor and thank those individuals who have made this Council viable over the years. For this tribute we invited a number of key individuals to attend and I hope you will speak with them at the reception afterwards and ask them their thoughts about some of the historical events."

Former chairs of the Council stood and were acknowledged and applauded:

Donald Fluke, who served from 1969 -71,

Carl Anderson, 73-75,

Lawrence Evans 79-81,

Arie Lewin served from 82-86 — two terms.

"You got two terms and I think they banned that afterwards." (Nancy Allen)

Allan Kornberg 88-90,

Lewis Siegel 90-91,

Richard Burton 92-94,

James Siedow 94-96.

Nancy Allen: "As you see, several of these individuals have moved on to administrative leadership positions. I'd like to thank the current and former faculty secretaries: John Staddon, Tilo Alt and Don Fluke are here. "It is certainly a big job that is much appreciated."

(All stood and were acknowledged with applause.)

Recent and current members of the Executive Committee of the Academic Council (ECAC) also stood and were applauded. Current and past members of major Academic Council committees — FCC, APC, PACOR, CFE, etc.— were also recognized.

Nancy Allen: "These committees are a significant time commitment. Currently ECAC meets about 2 hours a week and we attend other meetings as needed. As I mentioned we did invite President Brodie and we also specifically invited Professor George Christie from the School of Law whose picture was in the paper today. If you would stand George..." (Clapping)

George Christie: "Actually I'm happy enough to be recognized — but I do want to say that there were other people involved and they should also be recognized."

Nancy Allen (addressing Professor Christie): "I have in the timeline that I presented, a list of the other members of your committee which included several here who have been former chairs (Irving Alexander, Carl Anderson, Larry Evans, George Padilla) who served on that par-



George Christie then...and now.
(Arie Lewin, sitting)

ticular committee."

George Christie: "Actually Dan Tosteson and Joel Colton were involved in a preliminary stage. If I just might take advantage of the occasion. One idea which I do take credit for putting in was having the President give a state-of-the-university address. And I think the address that I heard today (referring to President Keohane's address to the faculty just preceding this meeting) should justify the inclusion of that in the recommendations."

Nancy Allen: "...The timeline that I prepared... is just a snapshot of the periods around the decades: '62, '72, '82 and '92. The Academic Council met for the first time in October of 1962 and replaced the University Council which had been chaired by the university President. For a variety of reasons... there had been controversy around 1960 that led to substantial changes in the Council. Deryl Hart was the University President in 1962 and Professor William Hamilton was elected the first chair of the Council. Also serving was Lamar Calloway, a dermatologist whom I knew in my young faculty days. James Price was secretary and additional members of the Executive Committee included Bill Anlyan, Paul Gross, Francis Pascal, Charles Vail.

"On October 26 1962, almost 40 years ago, the faculty granted full power to the Academic Council to act on its behalf...Important discussions in 1962 included Perkins Library

renovations, which had to be balanced against the need to build a new heating plant. We almost didn't get the Library changes. A resolution was at one time passed in which the Academic Council respectfully advised the President and Provost against students participation in a revised *Dixie Classic* or any similar non-conference commercial basketball tournament. (Laughing) Professor Fluke made a motion that year, which passed, expressing approval of the integration of restaurants and theaters in the city of Durham, wishing for a more hospitable area and treatment of our students. A Committee on Faculty Organization presented recommendations citing the need to avoid unnecessary duplication of committees and councils — I think many of us appreciate that — to afford consultation between Faculty and Administration, and to permit active participation in decisions related to institutional policy and modes of operation, particularly related to educational pursuits. We just have seen circulated a recent report on internationalization.

"In 1962 we had a total of 238 foreign students and related personnel. ..And we didn't actually have a Study Abroad Program. We would sanction study abroad credit for students who went to another university's program. Tallman [addressing Executive Vice President Trask], the total cost of Duke benefits in the fiscal year 62-63 was \$1.65M: Can you tell me how much to the dollar it is now?"

Tallman Trask: "That wouldn't do health care for a month."

Nancy Allen: "In one meeting in 1962 Professor Vail asked whether we might give attention to the unexplored possibilities of using a computer to process the registering of students for classes and their scheduling. (Laughing) He spoke of some successful experimentation at other institutions. Douglas Knight was University President from 1963 to 1969. I'll skip to 1971-73 when Professor Joel Colton was chair of the Council. Having been elected when he was 3,000 miles away in Switzerland — which prompted a quick change in the election procedure. I think the year before, the chair before, Don Fluke was elected when he was 300 miles away. Terry Sanford served as University President from 1969-85 and at that time an ad hoc Committee on the Nature and Role of the Academic Council (CONRAC) was chaired by Professor George Christie in the School of Law. It was appointed in 1971 and presented its report in September 1972.

"I attached a summary of the Christie Report because I think it is important for us to remind ourselves about those points.. .it was an extremely thoughtful report. It passed the Council with just one [unnamed] dissenting vote...That's pretty good for a major document like this...the *Christie Rule*... is number 5:

Except in emergencies, all major decisions and plans of the administration that significantly affect academic affairs should be submitted to the Academic Council for an expression of views at some time prior to implementation or submission to the Board of Trustees. The views expressed by the Academic Council should be transmitted, along with the Administration's proposals, when these plans and decisions are considered by the Board of Trustees.

"I think that that has been a very important guiding principle for faculty, administration and trustees over the these years.. .It has stood the test of time. It has not needed to be renovated or changed significantly during these years."

In 1972 a joint resolution of the Council and of the Undergraduate Faculty Council of Arts and Sciences recommended that the Administration merge Trinity College and the Women's College, the combined entity being a single undergraduate college, the College of Arts and Sciences. Appropriate segments of the University were to be consulted and consideration given to the academic and residential relationships between the College of Arts and Sciences and the Schools of Nursing and Engineering.

Moving from the sublime to the perennial, the Chair that year also spoke about illegible paycheck stubs. The business office apparently corrected the problem by buying the forms from a new firm. In 1972, litter was a problem; a campus-wide campaign was resolved and implemented to raise consciousness and induce a sense of responsibility in potential litterers.

1972 was also the first year of *parking zones*, and of payment for parking. Some faculty comments are suitably pithy:

"Parking is neither a right nor a privilege, but an abomination."

"We should not accommodate the auto but eliminate it, at least in the central part of the campus." (attributed to Professor Kamin).

The overall planning committee report at that time was called *Steps Toward Excellence*. So the recent *Building on Excellence* shows both an appreciation for historical continuity and a belief in progress.

In the early 1980s, twenty years ago, Professors Roy Weintraub and Arie Lewin (present) served as chairs of the Academic Council. A lively topic at that time was the proposed Nixon Library and Museum, an edifice to commemorate the presidency of Duke alumnus Richard M. Nixon, of distant memory. There were many meetings on this and much blood pressure was thereby elevated.

Nancy Allen: "... Andrew Collins' article goes through a bit of the history. It's one of the few times in the minutes where I have seen letters of testimony from individual faculty, submitted to the secretary of the Academic Council for comment at the meeting. A stream of faculty provided strong opinions on the floor leading to the well known outcome that the library did not come to Duke..."

Committees on Women Faculty, on Black Faculty and on Trustee Nominations have their origins twenty years ago. The Administrative Oversight Committee, a predecessor to PACOR (The President's Advisory Committee on Resources) was created. A Code of Ethics for Faculty was discussed.

Most importantly, President Terry Sanford signed and accepted a policy on Faculty Participation in the Appointment and Retention of Administrators, which is still in force. A Task Force on Governance Report was received. And in February 1983 there was a reception for the opening of the Faculty Commons — a much-needed initiative by Provost William Bevan.

Ten years ago Professor Richard Burton was chair of the Council and Keith Brodie was President from 1985-93. The Sexual Harassment Policy was discussed; an ambiguously named Sexual Harassment Coordinator (later renamed "Harassment Prevention Coordinator") was hired and finally a Harassment Prevention Policy and Procedures were put in place. As President Sanford's term approached its end, a Search Committee headed by John Chandler of Williams College, deliberated and finally proposed President Nannerl Keohane, of

Wellesley College, as Duke's new president. The selection was approved by the Board of Trustees in December of 1992. Nan Keohane became President in mid-1993 with a gala inauguration on October 21, 1993.

The Intellectual Life Task Force — an initiative stimulated by a provocative public talk by Professor Reynolds Price deploring the (lack of) intellectual atmosphere at Duke — presented its work in 1993. Dean of the Chapel Will Willimon presented a thoughtful report on the theme "We work hard, we play hard."

The Black Faculty Strategic Initiative was launched in 1993 on the heels of the Black Faculty Initiative, then 5 years old. There was a discussion about basketball tickets for faculty along with a Planning Report on the Library. Early discussions of Managed Health Care were taking place at that time.

Nancy Allen thanked Professor Fluke for his ideas and support and encouragement and Linda Lehman, Administrative Assistant in the Academic Council, for help with preparation of these review documents. All were then invited to adjourn to the Rare Book Room in Perkins Library to for a reception.

Respectfully submitted



John Staddon
Faculty Secretary

November 5, 2002

