

Subject: Re: [HR] Statutory Faculty Meeting-May 6th

To: Paul van Donkelaar <paulvd@uoregon.edu>, Dave Frohnmayr <dfrohn@uoregon.edu>, P... [Add to address book...](#)

Cc: Gwen Steigelman <gwens@uoregon.edu>, george_ernsteiner@ous.edu, drmillier@uorego... [Add to address book...](#)

From: Franklin Stahl <fstahl@uoregon.edu> [Add to address book...](#)

Date: Tue, 28 Apr 2009 15:13:15 -0700

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NOTE: The following HTML was modified from the original for security. Use the attachment link at the bottom to view the original.

Dear Paul and Dave,

Thank you for your letters of this date. I have responded to Paul's letter [in situ](#) below.

On Apr 28, 2009, at 9:28 AM, Paul van Donkelaar wrote:

Hi Frank:

I hope this email finds you well. I just talked to Nathan on the phone about the fact that your motion with him is not included on the agenda for the upcoming assembly meeting. The reason for this is that we felt that the meeting should be limited at this time to the minimum required by the DOJ opinion. Whereas your motion does this and more by providing a revised version of the enabling legislation, I think this may be too much information for the assembly to integrate in a short meeting.

Paul and Dave: Given that the Faculty have never received any information about how they may participate in this meeting, I have several questions. First of all, who is "we" (names, please)? And how is it that you and WHO? decided that the Faculty could handle a motion to legitimize the Senate under the framework of the present, flawed governance document, but did not even allow appearance on the agenda of a motion (submitted very shortly after a date was set for the meeting) proposing to legitimize the Senate under the framework of a minimally corrected governance document?

Paul: Moreover, you have been urged repeatedly, since last summer/fall, to get the relevant information out to the Faculty early, so they would have time to digest it. What happened? When the Senate calls an Assembly meeting, it is your responsibility to do the groundwork necessary for a successful meeting.

Dave: Ditto when you call a meeting.

I will take to the President Nathan's suggestion that the 1st motion should explicitly state that in delegating our authority to the University Senate we also ratify the current enabling legislation (with all its flaws). I agree that we need a statement to this effect to provide the formal structure to the current internal governance.

Paul: The meeting will certainly hang up if you ask the Faculty to ratify the current enabling legislation. Since that document is fatally flawed by several criteria, it would be an insult to the Faculty to ask them to ratify it: (1) The current document states that the Senate (and by implication the Assembly) is subject to the Oregon Public Meetings Law. That is nonsense. (2) The current document creates a University-wide Assembly, which is of no value. (3) The current document fails to identify a mechanism by which the Faculty will exercise the oversight on the Senate that is required by law.

I think your revised version of the enabling legislation will make an excellent starting point for the discussion after the 1st two motions have been voted on and will provide a benchmark for the subsequent work of the committee to be formed to address this very issue.

Passage of a revised enabling document is your best hope of securing a legitimate Senate for the coming year. The document that Nathan and I submitted meets the need. It departs from the present document by (1) removing the irrelevant and totally confusing reference to the Oregon Public Meetings Law, (2) by establishing a Faculty Assembly to oversee the Senate, and (3) by proposing a machinery (Faculty Oversight Committee) that will ensure that the oversight responsibility is met in an orderly and ongoing manner. Beyond that, the changes are primarily ones of clarification. If they pose problems to anyone, the makers of the motion would very likely yield to offers of friendly amendments.

We all understand that negotiation with the new president is likely to alter the document, perhaps profoundly. However, it will be a good deal more polite for us to present him with a starting point that is both legal and clear than to saddle him with the embarrassingly flawed document of 1995. For a University that, by law, is governed by the Faculty, to exclude from the Agenda a governance document that removes those flaws is similarly embarrassing.

For the sake of effective faculty governance and a joyous meeting for all concerned, I urge you to put the Stahl-Tublitz Motion on the agenda Toot Sweet.

Frank

Yours,
Paul

Begin forwarded message:

From: Human Resources <hrdist@uoregon.edu >
Date: April 27, 2009 5:02:25 PM PDT
Subject: [HR] Statutory Faculty Meeting-May 6th
Reply-To: hrdist@uoregon.edu

Dear Colleagues:

In the letter below, President Dave Frohnmayer has announced a meeting of the statutory faculty for

next Wednesday, May 6th at 3:30pm in 150 Columbia. The meeting is open to all interested UO community members, but only statutory faculty members will be eligible to vote on the motions being considered. Statutory faculty members will be restricted to those with the title of Assistant, Associate, or Full Professor, career non-tenure track instructional faculty, and emeriti faculty who continue to assume instructional responsibilities. There will be a check-in procedure upon entering 150 Columbia, so please come with your UO Identification Card.

Sincerely,

Paul van Donkelaar
University Senate President 2008-09

Dear Colleagues:

I ask your attendance at a special meeting of University of Oregon faculty on Wednesday, May 6, 2009 from 3:30-5:00 p.m. in 150 Columbia. I include background information that is highly relevant to this meeting.

Over the coming months, the University of Oregon will initiate a remarkable period of transition. My successor as University President, Richard Lariviere, will arrive at the beginning of summer, and the new Academic Plan will be adopted formally. Pursuant to the State Board of Higher Education's Internal Management Directive (IMD), the transition must also include a review of our system of shared internal governance and revisions or modifications suitable to the new president.

We are proud of our system. But the Oregon Department of Justice (ODOJ) has issued an opinion regarding the University of Oregon's internal governance system that questions the delegation of authority in our current arrangements. In an abundance of caution and after conferring with the President of the University Senate and the Faculty Advisory Council, I have decided to call a meeting of the faculty, as we believe it is properly defined (footnote 1), to bring our system into conformity with the Department of Justice opinion. I ask you to participate in that meeting, which will serve as the precursor to a more wide-ranging conversation that reviews our current system of internal governance.

As way of background, in its opinion ODOJ considered the composition of the University Senate and University Assembly (footnote 2). Under state law, "[t]he President and the professors constitute the faculty," and the law delegates to that faculty "the immediate government and discipline" of the University (ORS 352.010). At the University of Oregon, that authority has been delegated to the University Assembly and then the University Senate. Those bodies have been composed of officers of instruction, librarians, officers of administration, classified staff, and students—a group that the Department of Justice explained is broader than "the statutory faculty." The opinion went on to recommend that the faculty take action to delegate the faculty's statutory powers to the University Senate and that the faculty take action to ratify all past acts of the University Senate.

Under the authority granted to me by Oregon Revised Statute 351.004 (footnote 3) as president of the faculty and by the State Board of Higher Education's IMD 1.123(1) (footnote 4) to convene and preside over the faculty, I have scheduled a meeting of the faculty on May 6, 2009 from 3:30-5:00

p.m. in 150 Columbia. The following motions will be considered:

SF08/09-1- To legitimize the University Senate:

Preamble: The Department of Justice has provided an opinion (OP-6735) in response to a letter from 2007-08 University Senate President Gordon Sayre concerning the quorum and voting requirements of the University Assembly. The opinion recommends, as an important first step, that the faculty delegate the exercise of its statutory powers to the University Senate.

Whereas, the ruling of the Department of Justice (OP-6735) clearly states that this step is desirable to conduct the affairs of the present University Senate in a manner that leaves its actions free from challenge in its exercise of previously delegated authority;

Be it moved that, the statutory faculty delegates the exercise of its statutory powers to the University Senate.

SF08/09-2- To ratify all past acts of the University Senate.

Preamble: The Oregon Department of Justice opinion (OP-6735) concludes that the delegation from the statutory faculty to the University Senate cannot be clearly established. To ensure that the motions and resolutions that have been passed by the University Senate carry the authority of the statutory faculty, it is prudent for the statutory faculty to ratify all of the past acts of the University Senate.

Whereas,
The statutory faculty must delegate its authority to the University Senate,

And, whereas,
The past acts of the University Senate should carry the full and unambiguous authority of the delegated statutory faculty,

Be it moved that,
The Statutory Faculty hereby ratifies all past acts of the University Senate.

The agenda for the meeting and drafts of the motions are available for viewing on the Assembly website (footnote 5)

Given the limited time available for these important actions, and upon the advice of elected faculty leadership, the consideration of specific proposals for further restructuring of faculty governance procedures will not be in order.

I intend to appoint a faculty committee to develop such procedures in consultation with President Lariviere. As time permits, a discussion as a committee of the whole might be useful to suggest the issues and contours for the faculty committee's deliberations.

These actions will be the first steps in the review process surrounding whether and how best to revise the structure of our internal governance. This process will carry on into the next academic year. I fully share the belief of faculty leadership that this review will provide an opportunity to

consider important revisions. We seek to address concerns that internal governance has become less effective and more burdensome in recent years.

I encourage your active participation as we begin this important process at the University of Oregon.

Sincerely,

Dave Frohnmayer
President

1. We believe a clearly defensible and accurate definition of statutory faculty is all those with the title of assistant, associate, and full professor and career instructional NTTF. Emeriti faculty who continue to assume instructional responsibilities are included.
2. The Department of Justice opinion (OP 6735, memo of November 7, 2008) is available at <http://www.uoregon.edu/~uosenate/dirsen089/letters089.html>
3. <http://www.leg.state.or.us/ors/352.html>
4. <http://www.uoregon.edu/~assembly/dirSF/dirExtra/IMD1.123.html>
5. <http://www.uoregon.edu/~assembly/dirSF/SF6May09.html>

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