
FAC'S SHEET

Newsletter of the University of Scranton Faculty Affairs Council
February 2015

February Meeting Set!

FAC Schedules Membership Meeting
for February 10th in the McIlhenny
Ballroom, 4th floor of DeNaples

The first Faculty Affairs Council meeting of the 2015 spring semester is scheduled for Tuesday, February 10th in the McIlhenny Ballroom on the 4th floor of the DeNaples Center.

Lunch will be served beginning at 11:15 a.m. with the business meeting starting at 11:30 a.m.

The Executive Committee urges all members to attend. Check in the right hand column for the agenda.

<i>FAC Meetings for 2015</i>

The FAC Executive Committee has scheduled monthly membership meetings for the upcoming academic year on the following dates and at the places indicated. All regular meetings are set for Tuesdays and begin at 11:30 a.m. Additional meetings may be called to address special issues or concerns.

February 10, 2015	Tues.	407	DeNaples
March 10, 2015	Tues.	407	DeNaples
April 14, 2015	Tues.	407	DeNaples
May 12, 2015	Tues.	407	DeNaples

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is published periodically by the Faculty Affairs Council at the University of Scranton. The editor is Betsey Moylan. Comments and suggestions from the membership are welcomed. Members may also check FAC's Web site at www.scranton.edu/fac for further information on the Faculty Affairs Council, an affiliate of the American Association of University Professors (AAUP). Copies of the Faculty Contract and Handbook are found on the site.

AGENDA

for February 10th Meeting

1. Chair's Report – Michael Friedman
 - A. Negotiations Update
 - B. Current Searches for Administrators
 - C. Rosenberg Award
2. Contract Administrator's Report – Kevin Nordberg
3. Treasurer's Report – Dan West
4. Grievance Officer's Report – Len Champney
5. Old Business
 - A. Interdisciplinarity Proposal – Parts 1 and 2
6. New Business
 - A. Student Learning Outcomes in Rank & Tenure

Rosenberg Grant Applications

The FAC Executive Committee invites applications for the Sheldon I. Rosenberg Union Leadership Grant, given annually to a member of FAC to pay for all expenses related to the faculty member's participation in the AAUP Summer Institute, tentatively scheduled for July 25- 29, 2015 at the University of Denver. The Summer Institute features seminars on subjects like academic freedom and legislative issues that impact higher education, along with training workshops that deal with contract administration, grievance procedures, and

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Minutes from December 9, 2014 FAC Meeting

The Chair thanked members for attending the meeting during finals week and immediately introduced Jennifer LaPorta, Director of the Office of Equity and Diversity, who was invited to speak about faculty responsibilities under the University's new Sexual Harassment and Sexual Misconduct Policy. Atty. La Porta gave the faculty a thorough update on changes that have occurred both at the University and nationally regarding these issues. Many questions from faculty arose, in particular the faculty member's role in the significant changes to previous policies and procedures. Atty. LaPorta offered to attend individual department meetings for more in-depth discussions.

2. Chair's Report: A. Preparing for Negotiations

–Members of FAC's Table Team met twice to begin their strategic planning for contract talks. Friedman informed the Provost that FAC is ready to begin negotiations. At last week's FAC/FPC Chairs meeting, Dr. Boomgaarden acknowledged the receipt of this message, and responded with an announcement of the Administration's table team, which is comprised of the following: Atty. Brian Jackson, Interim Associate Provost Pat Harrington, KSOM Dean Mike Mensah, Meg Cullen-Brown (Assistant Dean of CGCE), Patti Tetreault (Associate Vice President for Human Resources), Pat Donohue (Assistant VP for Budget & Financial Planning), and Rob Farrell (University Counsel).

B. Current Searches for Academic Administrators

– The Search Committee for the Associate Dean of KSOM met on December 8 and worked on the job description and dates for posting the position. The Provost is still deliberating about the searches for the two Associate Provost positions that were announced by the President in his reorganization plan.

C. Class Cancellation Policy – Friedman reported that there has been an increase in problems related to section 5.4.B of the *Faculty Handbook*, which requires faculty members to adhere to promulgated regulations regarding class cancellations. There is currently no promulgated policy, so FAC has brought to the attention of the Provost a draft policy put forward by Hal Baillie in 2011. The Provost's

Office received feedback on this policy from the Faculty Senate during that year, but no further progress was made in implementing the policy. The union's position, which we conveyed to the current Provost, is that a policy should be put in place through standard shared governance procedures and then enforced by the deans. Dr. Boomgaarden agreed to seek information about the feedback received from the Senate about this policy and to consider further revisions to it.

D. Executive Committee Elections – As per the by-laws of FAC, faculty members are elected to the FAC Executive Committee, and then the Executive Committee decides internally which member will hold each office. The Executive Committee has decided that, starting June 1, Trish Wright, who was recently elected to the Executive Committee, will take Kevin Nordberg's place as Contract Administration Officer, and the rest of the members will retain their current offices.

3. Contract Administrator's Report – Kevin Nordberg received an inquiry from a faculty member regarding funding for a year-long sabbatical. Some faculty interpreted that only applications with an international travel component were guaranteed such funding. Nordberg questioned the Associate Provost Joe Driesbach, who attempted to clarify this assumption. He said requirements are somewhat vague and depend on many factors, not simply international travel. The criteria are extremely "soft" and should be more transparent to those who apply.

4. Grievance Officer's Report - Len Champney stated that there are no active grievances or complaints.

5. Treasurer's Report- Michael Friedman reported for Dan West who was traveling, that all accounts are currently paid in full.

6. Old Business – Interdisciplinary Proposal, Part 2 – Several delays have resulted in moving both the faculty-approved Part 1 of the proposal forward and the still- in-discussion Part 2 of the proposal on to the faculty for a vote. Part 1, which was approved by an electronic vote of the faculty on Oct. 24, has not yet been discussed by the FPC and so cannot go

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NLRB Ruling Addresses *Catholic Bishops* and *Yeshiva*

By Michael Friedman

In a victory for unions, the National Labor Relations Board (NLRB) has issued a ruling, *Pacific Lutheran University*, which clarifies the standards used to determine whether faculty members at private higher education institutions (like the University of Scranton) may unionize under the National Labor Relations Act. The *Pacific Lutheran* ruling addresses two separate ways in which faculties at certain private colleges and universities are exempted from coverage by the NLRA: 1) because of the religious nature of the institution or 2) because they are managers, not employees. According to these new NLRB standards, it could be argued that faculty members at the University of Scranton are eligible for union membership, and therefore FAC seems less susceptible to threats of possible decertification under the *Catholic Bishops* or the *Yeshiva* decision.

In 1979, five years after FAC became a certified union, the NLRB ruled, in a case known as *Catholic Bishops*, that private religious institutions were not subject to the authority of the NLRA. However, at that time, the Board did not consider that, while an institution might be religious in nature, faculty members at that school might not play a direct role in the institution's religious function. In the *Pacific Lutheran* ruling, the NLRB establishes a standard for determining its jurisdiction, which involves judging whether a university "holds out the petitioned-for faculty members as performing a specific role in creating or maintaining the school's religious educational environment."

Such a standard cannot be satisfied by general statements that the faculty support the institution's religious goals. Rather, the faculty must be "held out as performing a *specific religious function*," such as integrating the institution's religious teachings into coursework or engaging in religious indoctrination. While faculty members at some universities are generally held out as supporting the religious mission of the institution, they may not be required to indoctrinate students or to incorporate that religion's teachings into their coursework. At such colleges, the religious exemption, as clarified in this ruling, would not apply.

One year after *Catholic Bishops*, in the *Yeshiva* decision, the NLRB ruled that, at private institutions where faculty members were involved in decision-making, they could be considered "managers" and therefore excluded from protection by the NLRA. However, the *Yeshiva* decision did not offer clear criteria for determining whether faculty members at any

particular institution were involved in decision-making to such an extent that they were no longer employees. In *Pacific Lutheran*, the Board noted the rising corporatization of the academy since 1980, whereby colleges and universities are increasingly run by administrators, with authority shifting away from faculty members.

Therefore, the Board will now examine the faculty's participation in 5 areas of decision making: "academic programs, enrollment management, finances, academic policy, and personnel policies and decisions," giving greater weight to the first 3 areas. Then, the NLRB will determine "whether the faculty actually control or make effective recommendation over those areas." If they do, the Board "will find that they are managerial employees and, therefore, excluded from the Act's protections."

However, in order to be found managers, faculty members must have "actual—rather than mere paper—authority." In other words, it will be up to a University to prove that faculty members exercise control over the five major areas of decision making by demonstrating that faculty recommendations are "almost always followed by the administration" or "routinely become operative without independent review by the administration." Mere assertions by an administration that faculty recommendations are usually put into practice will not be sufficient cause to demonstrate that faculty members are managers.

With regard to the first three areas of decision-making at the University of Scranton, faculty members exercise almost no control at all over enrollment management or finances. The Faculty Senate does exert significant control over academic programs, but the recommendations of the Faculty Senate have sometimes been ignored by our administrators (the original creation of the Freshman Seminar, which was voted down 25-0 by the Faculty Senate, stands as a clear example). Also, recommendations from the faculty routinely receive an independent review by our administration. Therefore, faculty members at the University of Scranton appear not to be managers under the NLRB's new standards.

FAC's attorney, Pat Shaw, has offered his opinion that the *Pacific Lutheran* ruling "has breathed new life into the prospects of private sector faculty unionization by 1) recognizing that the institutional decision-making of colleges and universities has changed dramatically in the three decades since *Yeshiva* with the result that faculty influence has increasingly given way to administrators, and 2) recognizing that faculty are professional educators and that professional rights and responsibilities should not be confused with effectuating and implementing management policies."

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Minutes from the December 9th meeting

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to the Board of Trustees for approval yet. The administrators on the sub-committee chose not meet prior to the December Handbook Committee meeting, so the membership did not have a final document for discussion at the FAC meeting. The chair believes that the revisions will eventually be approved, but it most likely will not occur until February or March, with a May approval date by the Board of Trustees.

7. New Business – Lack of time prevented the discussion of the use of assessment and student learning outcomes.

Respectfully submitted,
Betsey Moylan, FAC Secretary

Rosenberg Grant (Continued from Page 1)

collective bargaining negotiations. The Institute also incorporates social events and many opportunities to network with colleagues from around the country.

To be considered for a Rosenberg Grant, applicants must submit an essay of approximately 500 words (two typed pages) describing the contributions that they can make to the welfare of the University through their connection with the union. This essay should touch on the following topics: the applicant's interest for working with FAC, any background or previous experiences that would help prepare the applicant for such work, the skills that the applicant hopes to sharpen by participation in the Summer Institute, and any future plans for involvement in union activities.

Applications should include standard contact information including the faculty member's name, department, rank, campus phone number and email address. Please submit applications to Betsey Moylan, FAC Secretary, by hard copy or email attachment by **March 13, 2015**. The members of the Executive Committee will assess the applications and announce the winner of the Rosenberg Grant during the spring semester.

Luncheon Menu for February 10th Meeting

- Salad with two dressings
- Baked White & Sweet Potato Bar with toppings of
- Sour cream, Cheddar Cheese, Chives, Bacon, & Jalapenos
- Vegan Chili
- Meat Chili
- Corn bread & Butter
- Assorted Pies
- Coffee, Tea, Soda, and Water

Service will begin at 11:15 a.m. in the Ballroom, 4th floor of DeNaples Center.
