

88

SENATE EDUCATION COMMITTEE

Minutes of Meeting - April 14, 1975

The twelfth meeting of the Senate Education Committee was held on April 14, 1975 at 2:45 p.m. in Room 323.

COMMITTEE MEMBERS PRESENT: Chairman Richard H. Bryan
Senator Schofield
Senator Blakemore
Senator Foote
Senator Young

OTHERS PRESENT: See Exhibit A

S.B. 494 - Provides for evaluation, dismissal, demoting and nonrenewal of contracts of professional employees of community colleges.

Mr. Richard Morgan, NSEA, advised that they represent a distinct majority of the community college's personnel and this bill was introduced at their request. The bill seeks to create a parallel situation for the community college personnel with that which exists with the K-12 personnel. A very stern evaluation should be held of anyone in education employment. Also seeks to provide a dismissal procedure which is consistent with the judicial decisions being rendered all across the U.S. requiring due process in the termination of employment. The language of this bill comes from the current law for K-12 employees. Section 1 of the bill provides a minimum period for evaluation of personnel; Section 2 provides alternate ways in which you can come to an evaluation; Sub-section 3 requires that when an individual is marked down for an inadequacy, he is so notified of this and given an opportunity to improve; Sub-section 4 is a warning section; Section 3 asks for a two-year probationary period, after which there must be clear demonstration that the administration has evaluated, made suggestions that have not been followed, in order to terminate an individual.

Senator Bryan commented that Chapter 391 provides for the State Board of Education to remove people who fail to respond within two-year period of time. Senator Bryan asked if we would want to involve the Board in this particular procedure that we are establishing here. Mr. Morgan stated that he would be just as happy to see the Board of Regents have this responsibility. Senator Bryan advised then, that where "State Board of Education" exists in this Chapter, we would insert "Board of Regents". Senator Bryan further questioned if the dismissal grounds for K-12 were the same for community colleges; Mr. Morgan replied that he would not object to setting out things that may be peculiar to the community colleges and not in K-12.

Mary Wardlaw, Western Nevada Community College, advised that she supports the bill because it is in the best interests of the students,

the community and the taxpayer that the community colleges provide quality instruction. Ms. Wardlaw further stated that a rigorous system of evaluation is vital (copies of student evaluation and administrative evaluation are attached hereto and marked as Exhibit B and Exhibit C). Ms. Wardlaw provided the committee with copies of excerpts from the University System Code dealing with tenure, termination, dismissal (see Exhibit D). Ms. Wardlaw further commented that Drs. Davis, Donnelly, and Humphrey have all stated in her presence that they feel the community college instructors have fair dismissal. As stated in 3.6, the CCD faculty are not eligible for tenure and Ms. Wardlaw advised that they are opposed to tenure. With reference to Section 4.9 (page 18 of Exhibit D) which states "If, under these provisions, it is determined by a division president that a hearing should be held, the special hearing.....", Ms. Wardlaw feels that this indicates that the Board of Regents, which asks for autonomy, delegates its authority for hiring and firing to the Division president. They are not now given a guarantee of due process because it is up to the Division president if a hearing should be held.

Mr. Bob Rose, faculty member of WNCC, stated that it is their understanding that although they are not granted tenure, they are granted a three-year contract after completion of probationary period which does not exceed five years. Mr. Rose stated that it appears to him that they have two kinds of probationary contracts; one being a one-year probationary contract, after which they may be granted a three-year contract. That means that the administration must notify you so that you have at least two years to seek re-employment. The faculty is concerned with an adequate evaluation technique which allows professional employees ample time to improve. The faculty would like to formalize the procedure with a document for evaluation that is more comprehensive than that submitted by Ms. Wardlaw. They would also like to see such evaluation and have an opportunity to sign it. Under the University Code, it is not clear whether the cause in 3.4.3 carries over to a hearing automatically. They would like to have procedures whereby causes must be justified after a satisfactory probation period before termination procedures can take place.

Senator Bryan referred to page 1, line 8, and asked if the wording "professional employee" was defined anywhere in the act; Mr. Rose replied that this should be defined.

Mr. Joseph Doser, Chairman of the Faculty Senate at WNCC, advised that half of the faculty are members of the National Society of Professors and the executive committee supports this bill unanimously.

Neil D. Humphrey, Chancellor of UNS, reviewed the structure of the University as follows: The four divisions are University of Nevada, Reno; University of Nevada, Las Vegas; 3 community colleges - one in Northern Nevada, one in Southern Nevada and one in Clark County; and the Desert Research Institute.

Chancellor Humphrey explained that the basic document for governing the University is the Code of the University of Nevada System, which is a general policy statement which is applicable for all four divisions. Under each Division, there will be adopted a set of by-laws. Chapter 3 of the University Code deals with tenure and economic security for the faculty. The difference between tenure and non-tenure is that tenure has a continuing contract for good service for the balance of a person's life or until the normal retirement age (65 in the State of Nevada). They can only be dismissed for cause. A non-tenured employee has an annual contract which need not be renewed each year providing the time limitation is met. The time limitation for the University is: 1st year of service, employee must be notified by March 1; 2nd year of service, must be notified by December 1; and 3rd year of service, must be notified a full year in advance. UNR and UNLV have tenure and DRI and the community colleges do not have tenure. As a substitute for tenure at the community college, a proposal was made for the rolling, 3-year contract after a probationary period. Chancellor Humphrey felt this was working but it is obvious now, with this bill, that it was not working. In describing how the contracts work, Chancellor Humphrey stated that the annual contract, at any time a positive notice is given, can become a 3-year contract. After that time, it is renewable annually -- it is a rolling contract -- if you are in a 3-year contract, and one year is up, a new determination is made regarding salary. If the decision was made not to renew the contract, they would have 2 years to find a new position. The rolling contract gives the opportunity to adjust the salary on a yearly basis. Chancellor Humphrey stated that this is a tenure bill -- it provides the essence of tenure for community colleges. After two years if the community college decided not to offer additional contract, they would have to show cause; therefore the essence of tenure is in the bill. From the standpoint of what is the protection of a faculty member who is probationary from being mistreated from a standpoint of not being offered a new contract, there is no provision for a hearing and cause does not have to be proven. The courts have held that if a probationary faculty member is not offered a contract, it is for reasons that are constitutionally prohibited, and that faculty member is back in his position.

Senator Bryan asked at what point the faculty at the University are considered for tenure; Chancellor Humphrey replied that they may be considered at any time, but he must be considered upon his 6th year. Senator Schofield asked what the justification would be for a person receiving tenure after one year; Chancellor Humphrey replied that in certain instances it may be the only way the University could attract certain persons to accept positions. Chancellor Humphrey explained the rolling contract at the community college as follows: at the end of one year, it is subject to renegotiation for salary and if the salary is increased, he then starts a new three-year contract. If he, after one year, is dissatisfied, he would have two

years to go, and if the University were dissatisfied with him, he would still have two years to go.

Chancellor Humphrey advised that he was not aware that the community colleges considered this to be a problem; he thought they approved of the 3-year rolling contract. There is a procedure for an amendment to the University Code, but the community colleges have not proposed such amendment to the Board of Regents.

Senator Bryan asked how other universities handle community college faculty in terms of tenure, non-renewal and dismissal; Chancellor Humphrey advised that there are 3 alternatives: the annual contract with no tenure; grant them tenure; and the rolling contract of 2-3 years.

Senator Sheerin asked if the Board of Regents had an appetite at this time to change the code so that the community colleges would have tenure; Chancellor Humphrey replied no, not that he was aware of. Senator Sheerin commented that he felt something should be done for the community colleges in the way of security. Senator Sheerin asked if there were bills being considered by the Senate Government Affairs Committee regarding collective bargaining, and if so, is the community college a part of those bills. Chancellor Humphrey confirmed that there are such bills and they would effect the community colleges in the same way it would effect the University. Furthermore, Chancellor Humphrey advised that a collective bargained contract is twice as tight as tenure. He did not feel there was this much opinion from the community colleges regarding the code. He stated that he would welcome further discussions on this.

Senator Sheerin expressed feelings that if a change should be made, it should be made by the Regents and not the Legislature. Mr. Morgan replied that it depends on the viewpoint taken -- he does not feel that the Regents, on their own, granted the merit system to the classified employees.

S.B. 495 - Changes name of State Advisory Council for Manpower Training and Career Education to Nevada Advisory Council for Vocational-Technical Education and reduces number of members thereof.

Senator Blakemore advised the committee that he is the State Vice Chairman for the Advisory Council of Vocational Education and they are requesting this name change and a reduction of the number of people on the Board in order to conform with the federal government. This Council is federally funded and federally mandated to evaluate the State Board of Education's Plan on vocational education. The Council is funded with about \$50,000 per year. Senator Blakemore

advised that they have found the reduction of members to be necessary to better operate and to conform with the National Advisory Council. Senator Blakemore advised that by changing line 16 to "Management and labor" makes it more workable, and they feel will give them a better handle on the categories they must work with.

Dr. Marvin Picollo spoke in favor of the bill and advised that this is an attempt to streamline the committee - it is difficult to meet with a committee that is too large. The reduction in members will make a better working committee.

Senator Blakemore moved "Do Pass"; seconded by Senator Blakemore; motion carried; Senators Foote, Neal and Sheerin absent.

S.B. 352 - Expands age range within which special instruction or services to certain handicapped minors are provided.

Senator Bryan commented that it would be likely that this bill, in its present form, would be killed in the Senate Finance Committee, and asked if the committee would consider a motion to amend and re-refer. The primary thrust of testimony was to expand the age group to 3 and 4 year olds that are mentally retarded. Senator Bryan asked what the cost implication would be; Mr. Gamble replied that it would be 12 units for 3 and 4 year olds that are mentally retarded, and if you assume that half of them are in the four year old category, you have 6 units at \$16,000 for a total of \$96,000.

Mr. Gamble advised that the national trend is to include the 3-21 age group. If this bill were changed as such, we might be losing some that do not need it in the 5-18 group and picking up some in the 4 year-old group that need it. Senator Bryan suggested that it be changed back to age 18 (line 3, Section 1). Dr. Picollo commented that in some cases you could embrace a four year old within an existing program if line 10, page 1, were to remain as "may". Mr. Gamble advised that they are taking care of most of the 18-21 year olds that are in need of service. Dr. Picollo commented that they would like to see it encompassing the 3-21 group, if "may" is added to those under 5 and over 18.

Following further discussion, Senator Schofield moved "Do Pass" and amend by adding new Section 5: "Mentally retarded minors may be admitted at the age of 4 in special programs established for such minors and their enrollment or attendance may be counted for apportionment purposes"; seconded by Senator Blakemore; motion carried; Senators Foote and Neal absent.

A.B. 389 - Authorizes commissioners of Western Regional Higher Education to contract with educational institutions outside compact region.

A.B. 389 (Cont'd.) - Senator Bryan commented that any contracts out of the compact region should have the same requirements as those inside the region. Senator Bryan offered the following amendment: "The terms and conditions of any such agreement shall adhere to the same standards which are observed in the selection of contract places for Nevada residents in graduate or professional schools within the region".

Senator Schofield moved "Do Pass" as amended; seconded by Senator Young; motion carried; Senators Foote and Neal absent.

A.B. 448 - Authorizes school districts to use student teachers from the University of Nevada System.

Chancellor Humphrey advised that this was requested by the University through the College of Education, having coordinated with the State Department of Education and the school districts. Lines 10 and 11 provide that student teachers will be considered employees of the school district in which they are teaching. The school district and University would like to have that student and district covered under liability in the event something would happen. At the present time, the student is not covered by anyone's liability insurance.

Dr. Picollo advised that they included the wording "may" so that if a county did not wish to do this, it would not be applicable. It is to protect the student and the school district. Dr. Picollo gave the example that if a parent brought suit against them because a teacher was not there to supervise, they could say that the student teacher is an employee of the district.

Senator Young moved "Do Pass"; seconded by Senator Schofield; motion carried; Senators Foote and Neal absent.

S.B. 11 - Provides additional exception to rule against employment of related persons within same school district.

Senator Sheerin, in representing the subcommittee which was formed to study this bill, stated that the reason for the nepotism law is to prevent people from hiring relatives. During the 1973 session, the wording "head of the department" was added on line 5; this year they wanted to include "department heads" on line 14. The problem with the bill was that it was difficult to define "department head" in relationship to a school district. The amendment that has come from the subcommittee is "appointing authority". Mr. Gamble offered the wording "employing authority".

Senator Sheerin moved "Do Pass" and amend to "employing authority"; seconded by Senator Schofield; motion carried; Senators Foote and Neal absent.

Senate Education Committee
Minutes of Meeting
April 14, 1975
Page Seven

94

Being no further business at this time, the meeting was
adjourned at 5:30 p.m.

Respectfully submitted,


Sharon W. Maher, Secretary

ROOM # _____

DAY _____ DATE _____

NAME	ORGANIZATION	ADDRESS 95
Mary Wardlaw	WNCC Chapt. NSP	1101 Schell Carson
Neil D Humphrey	Univ. of Nevada System	405 Marsh Ave. Reno
Joseph L. Soser	WNCC Faculty Senate Chairman	720 Glen meadow st Sparks Nevada
Shirley Wedew	Nevada P.T.A	629 S. Pt Sparks
Marvin Pucillo	Washoe Co. Sch. Dist	425 E 9th - Reno
Lynn Dunphy	Franciscan Center	Las Vegas, NV 1800 E. Sahara L.V. Nevada 8910
Janice Cyree	Nevada Assn. of Retarded Citizens	L.V. Nevada 8910
Johnny R. Ponthelli	WNCC Chapt NSP	1137 Buena Vista Reno
Joe Leonard	WNCC	1420 N. Virginia
Blaine Rose	Relab Div	308 N. Curry St
Earlene Sheets	"	"
Dow Carson	WNCC U.P. Faculty Senate NSP Chapter	CARSON CITY, NV. 89 1981 BEUGELY DR.

COMMUNITY COLLEGE DIVISION
UNIVERSITY OF NEVADA SYSTEM
PROFESSIONAL PERSONNEL EVALUATION REPORT

96

NAME _____ POSITION NO. _____

COLLEGE _____ POSITION _____

1974-75 Salary: Rank _____ Step _____ A or B Contract _____ % of Full Time or FTE _____

Approved 1975-76 Salary: Rank _____ Recommended Step _____ A or B Contract _____ % of Full Time or FTE _____

1975-76 Salary Recommendation determined as follows:

1974-75 Salary _____
Satisfactory Step Increase _____
Merit or Inequity Adjustment _____
1975-76 Salary _____

The evidence which justifies the above recommendation, based on the criteria in the University Code, is as follows:

EXECUTIVE VICE-PRESIDENT _____
(Signature) (Date)

RECOMMENDED () NOT RECOMMENDED ()

PRESIDENT _____
(Signature) (Date)

Three (3) copies of this report should be completed by the staff member's immediate superior and reviewed by each higher administrative officer. One (1) copy should be retained by the Executive Vice-President and two (2) filed with the President. It is the obligation of the evaluator to advise the individual being evaluated whether or not he is being recommended for a salary increase, and, in general, the reasons therefore. See University Code, especially Section Four of Chapter 11 for detailed instructions regarding evaluation policy and procedure.

Student Form
For Appraisal of Instruction

Name of Instructor: _____

Name and Number of Course: _____

Are you Male ___ or Female ___?

Reasons for taking course:

Required for my college program _____

General interest (elective) _____

Upgrading in present job _____

Planning to change job _____

Promotion to higher job level _____

Other (please specify) _____

The instructors of Western Nevada Community College require conscientious, positive and systematic feedback regarding their teaching techniques in order to initiate self-improvement when needed. It is for this reason that the College solicits your opinions concerning instruction. In order that the opinions expressed may be free and open, you are requested not to sign your name to this evaluation.

1. In your opinion, how do you rate your instructor's interest in and enthusiasm for teaching this course?

Excellent ___ Above Average ___ Average ___ Below Average ___

2. Do you feel that the instructor's preparation for class is:

Excellent ___ Above Average ___ Average ___ Below Average ___

3. In your opinion, how do you rate the instructor in terms of stimulating interest in the subject taught?

Excellent ___ Above Average ___ Average ___ Below Average ___

4. Do you feel that the instructor is meeting the objectives of the course as you understand them?

Yes ___ Almost ___ Partially ___ No ___

5. Do you feel that the instructor is successful in creating a good learning situation?

Very Successful ___ Moderately Successful ___ Not Successful ___ Not Applicable ___

6. Do you feel that the outside assignments given by the instructor are relevant to the course objectives?

Always ___ Usually ___ Rarely ___ Not Applicable ___

98.

7. Do you feel that the instructor is fair and objective in his grading practices?

Always ___ Usually ___ Rarely ___ Not Applicable ___

8. Are the instructor's methods of evaluation consistent with the objectives of the course?

Always ___ Usually ___ Rarely ___ Not Applicable ___

9. Do you find that the instructor is willing to take time outside of class to give assistance to students who need help?

Very Willing ___ Willing ___ Reluctant ___ Not Applicable ___

10. Taking into account the size of the class, is your instructor concerned about you as an individual?

Definitely ___ Sometimes ___ Seldom ___ No ___

11. Is your instructor's personal appearance appropriate?

Always ___ Usually ___ Rarely ___ Not Applicable ___

12. Does your instructor conduct himself/herself in a professional manner?

Always ___ Usually ___ Rarely ___

13. Is your instructor flexible and open to student suggestions?

Always ___ Usually ___ Rarely ___

14. Is the instructor successful in relating the content of the course to your needs? This question applies to occupational courses only.

Very Successful ___ Moderately Successful ___ Not Successful ___

15. Please comment specifically on the ways you feel the instructor is effective and ineffective in conveying the content of the course:

3.4.2 Notice of Tenure. The Board of Regents, through its official action, has the sole and exclusive authority to grant tenure. When a faculty member has been granted tenure he shall be informed immediately in writing by the president. Any defect in the notice or misstatement of Board actions shall not create against the University any enforceable legal obligations.

3.4.3 Termination, Expiration or Relinquishment of Tenure. After a faculty member has been appointed with tenure, his service may be terminated only through established University procedures for adequate cause or because of demonstrably bona fide financial exigencies, or curricular reasons.

(a) Cause. Causes for which a faculty member with tenure may be dismissed include those defined in Chapter 5 and the following:

1. Incompetence to perform the duties for which the faculty member is employed;
2. Failure to perform the duties for which the faculty member is employed;
3. Conviction of a felony or of any crime involving moral turpitude;
4. Repeated acts of insubordination;
5. Unprofessional conduct;
6. Habitual drunkenness or habitual use of narcotics or dangerous drugs as defined in the Nevada Revised Statutes;
7. Commission of any of the acts specified in Section 2.1.4 of this Code, which have been declared in said section to be the antithesis of academic freedom and responsibility;
8. Falsification of employment application or documents submitted thereto or other false or fraudulent representations made in securing employment.

(b) Financial or Curricular Reasons for Termination. A tenured faculty member may be terminated for financial exigency only if the Board of Regents has declared that a financial emergency exists in the division, college or department involved. The employment of a tenured faculty member may be terminated because a special subject has been dropped or the curriculum or course reorganized, if such reorganization results in the termination of a position held by the faculty member. If the position of a tenured faculty member is threatened because of financial exigency or because a curricular

- 4.8.3 The provisions of 4.8.1 and 4.8.2 above shall not apply to faculty members of the Community College Division or the Desert Research Institute.

SECTION 4.9 - Procedural Standards in Faculty Dismissal Proceedings

- 4.9.1 In bringing charges and making determinations as to whether adequate cause exists for dismissal or termination of employment of a faculty member for reasons specified in Section 3.4.3(a) or (b), the procedures utilized shall be those specified in Section 5.3 of this Code. If, under these provisions, it is determined by a division president that a hearing should be held, the special hearing specified in Section 5.3.11 shall be deemed the appropriate type for faculty dismissal proceedings, and the procedures specified in Sections 5.3.11 through 5.3.25 shall apply.

The report of the Special Hearing Officer with regard to proposed dismissals for incompetence (3.4.3(a)1) or failure to perform duties (3.4.3(a)2) shall contain the findings of fact relative to those causes. The Special Hearing Committee shall make a recommendation to the division president as to whether the evidence justifies dismissal for cause.

The report of the Special Hearing Officer with regard to proposed terminations for financial exigency or for curricular reasons (3.4.3(b)) shall contain findings of fact relating to the existence of bona fide financial exigency in the division, college or department involved or the existence of a bona fide curricular change or reorganization. The Special Hearing Committee shall make a recommendation to the division president as to whether the evidence justifies the termination for financial exigency or curricular reasons.

- 4.9.2 Procedures for the dismissal or termination of faculty members or professional employees before the end of their contract period for cause, financial exigency or curricular reasons, shall be the same as those set forth in Section 4.9.1 above.

SECTION 4.10 - Academic and Equivalent Ranks

- 4.10.1 Each division shall provide in its division by-laws for policy and procedure pertinent in the use of academic ranks and equivalent ranks, the appointment of faculty to these ranks and their promotion through the ranks. The by-laws shall be consistent with this Code and with generally accepted practice among American universities.

SECTION 3.5 - Economic Security Provisions for Desert Research
Institute Faculty

101

- 3.5.1 DRI faculty are not eligible for appointment to tenure; however, it is the policy of the University that these faculty members shall enjoy the maximum economic security which can be provided consistent with the method of financing the center or laboratory involved.
- 3.5.2 The center or laboratory director, in consultation with the DRI president, shall decide whether a professional contract shall be discontinued. The faculty member shall be given notification in writing by the director and the president at least seven months before the expiration of his term of employment, except as provided in Section 3.5.3.
- 3.5.3 In cases of demonstrably bona fide financial exigency, employment may be terminated in two months by notification in writing from the director and president. In such cases, the faculty member shall have the right, upon receipt of such notice, to appeal pursuant to the provisions of this Code.

SECTION 3.6 - Economic Security Provisions for Community College
Division Faculty

- 3.6.1 CCD faculty are not eligible for appointment to tenure; however, it is the policy of the University that these faculty members shall enjoy the maximum economic security which can be provided consistent with the method of financing the program and with the changing needs for personnel as program emphasis changes.
- 3.6.2 Unless otherwise stated by the president in writing, all full-time faculty appointments will be probationary until notification is sent in writing by the president to the appointee. This includes transfers from other divisions of the System. Contracts for probationary faculty will be issued for a maximum length of one year.
- 3.6.3 The probationary period cannot exceed five years plus any part of an academic year in which an appointee was employed later than the fifth day of the fall semester.

- 3.6.4 If a probationary appointee is offered a contract for the fifth year of employment, that contract shall be either for a one year period at the end of which time the employment will be terminated, or a three year contract will be offered. By June 30 of each contract year thereafter, the appointee shall either be offered a new three-year contract, or notified in writing by the president that his current contract will be allowed to terminate in two years.
- 3.6.5 Notice of non-reappointment for the coming academic year of probationary faculty shall be given in writing by March 1.

ASSEMBLY ACTION

SENATE ACTION

ASSEMBLY/ SENATE AMENDMENT BLANK

Adopted
 Lost
 Date: _____
 Initial: _____
 Concurred in
 Not concurred in
 Date: _____
 Initial: _____

Adopted
 Lost
 Date: _____
 Initial: _____
 Concurred in
 Not concurred in
 Date: _____
 Initial: _____

Amendments to Assembly/ Senate

Bill/Joint Resolution No. 11 (BDR 23-243)

Proposed by Committee on Education

Amendment No 7567

"Inconsistent with Amendment No. 8013;
Consistent with Amendment No. 8014."

Amend section 1, page 1, by deleting line 4 and inserting:

"official, or as an [official or employee] appointing authority of the University of Nevada, [or the".

Amend section 1, page 1, line 5, by deleting "of any" and inserting:

"of] any".

Amend section 1, page 1, line 14, by deleting "department" and inserting:

"person who is an appointing authority".

Amend section 1, page 1, line 15, by deleting "heads".

Amendment No. 7567 to Senate Bill No. 11 (EDR 23-243) Page 2

Amend the title of the bill to read:

"AN ACT relating to public officers and employees; revising provisions on employment of related persons; and providing other matters properly relating thereto."