

## **REPORT OF THE FACULTY SENATE AD HOC COMMITTEE ON NON-REAPPOINTMENT**

On January 30, 2004, President Elizabeth Bird appointed this committee to consider the non-reappointment of Dr. Darlene Bruner and Dr. Bobbie Greenlee, USF-Lakeland, both of the Department of Educational Leadership and Policy Studies.

The members of this committee are:

Dr. James Strange, chair, Distinguished University Professor (Religious Studies) and member of the Faculty Senate,  
Dr. Susan Greenbaum, Professor (Anthropology) and Vice President of the Senate,  
Dr. Fredric Zerla, Professor Emeritus (Mathematics) and former Speaker of the Senate.

President Bird explained:

This committee is formed only to look at these two cases, and is not necessarily to be regarded as a precedent for all cases of reappointment. In most cases, the Senate does not wish to intervene in departmental decisions. The unique issue here is the question of the adequacy of departmental consultation prior to the non-reappointments, which should normally be part of any shared governance structure. The committee will explore the level of departmental consultation both prior to the initial non-reappointment and when the two faculty members' cases were reconsidered some months later.

The committee cannot consider the legality of USF's decision. The committee cannot "investigate" any circumstances leading up to the non-reappointment, or make judgments on the conduct of individuals before that point. In effect, the only point that may be considered by the committee is the academic issue of the adequacy of departmental consultation and input.

President Bird then authorized the committee to conduct itself in the following manner:

In considering this question, the committee may ask to speak with or request information from any of the principals involved, including but not limited to the two faculty members concerned, their departmental colleagues, and their supervisors, as well as other administrators who may have had a role.

President Bird then suggested the following documents to be among those that the committee might find useful as it conducts its work:

The Senate's **Principles of Shared Governance**, passed September 17, 2003, especially the following paragraph:

The faculty shall act **jointly** with the administration to make recommendations in the areas of: Policies and procedures for faculty appointment, promotion and tenure review, reward systems; discipline and termination.

**USF Rule 6C4-10. 100d**, which states that: On the part of the Administration, Academic Responsibility implies a commitment actively to foster within the University a climate favorable to responsible exercise of freedom, by adherence to

principles of shared governance, which require that in the development of academic policies and processes, the professional judgments of faculty members are of primary importance.

USF's procedures on non-reappointment, which normally include consultation with faculty, as laid out in the **Recommendation for non-reappointment of non-tenured faculty** form, (attached), which is posted on the web site of Vice Provost Robert Chang (<http://www.acad.usf.edu/faculty/chang.html>).

The committee was then given permission to develop its own operating procedures, and conduct its business the way it deems fit. The committee met for the first time on February 4, 2004. President Bird attended. The committee decided to request from the various administrators involved "all relevant correspondence, documents, and emails that originated from your office or were sent to your office. These could include memoranda of notification of non-renewal, notes and additions to these documents by hand, offers of reassignment, and the signed form entitled 'Recommendation for Non-Reappointment of Non-Tenured Faculty Member'. Please send by Wednesday, February 18, 2002." This request was sent to Steve Prevaux, Esq., Office of the General Counsel, Leonard P. Mercer, Vice President/CEO, University of South Florida in Lakeland, Dr. Renu Khator, Acting Provost, Office of Academic Affairs, Dr. Judith A. Ponticell, Chairperson, Department of Educational Leadership and Policy Studies, Dr. Philip L. Smith, Associate Provost, Office of Academic Affairs, and Dr. Colleen S. Kennedy, Dean, College of Education. At this writing the committee has not yet received any material from any of these administrators.

In order to determine the connection between the Tampa Campus and the Lakeland Campus, the committee reviewed the draft **An Overview of Regional Campus Organizational and Operational Status**. This one page outline contains the statement "USF will continue to follow the 1991 *Inter-Campus Academic Operation Guidelines* and *Inter-Campus Administrative Operating Guidelines* until such time as they are revised." The committee, then, reviewed this document as that which currently defined the relationship between the two campuses. While it contains no specific statement about the non-reappointment of tenure track faculty, in its preamble, it contains the statement, "Particular concerns center on faculty personnel issues including recruitment, assignments, annual evaluations. And promotion/tenure decisions." The committee took this broad statement to include questions of non-reappointment. The term "department" is taken to include both faculty at the Tampa Campus and the Lakeland Campus. All personnel decisions concerning a faculty member on the Lakeland Campus must involve the department on the Tampa Campus that the faculty member belongs to.

In response to the committee's request for documents and to interview administrators, it received a letter from Dr. Philip Smith, Associate Provost, dated February 24, 2004, and copied to Provost R. Khator, Vice Provost R. Chang, CEO P. Mercer, Dean C. Kennedy, Chair J. Ponticell, President L. Bird, General Counsel S. Prevaux, and Associate General Counsel M. Snow. In this 3-page letter, Dr. Smith explained the difference between "termination" and "non-reappointment". He explained that while a termination would involve peer review, that non-reappointment would not. He cited that the issuance of a Notice of Non-Reappointment is a prerogative of the University. The committee does not disagree, but even the form used for this

process includes reasons for this non-reappointment and input from the departmental chair and the faculty of the department. He further cites the Collective Bargaining Agreement, which the Administration does not recognize. He cites Articles 12 and 16 as giving the University authority for its action. However, he ignores **section 12.4**, which states:

**Non-Reappointment Considerations**. If the decision not to reappoint was based solely upon adverse financial circumstances, reallocation of resources, reorganization of degree or curriculum offerings or requirements, reorganization of academic or administrative structures, programs or functions, and/or curtailment or abolition of one or more programs or functions, the university shall take the following actions:

- (a) Make a reasonable effort to locate appropriate alternative or equivalent employment first within the university and second with the State University System; and
- (b) Offer such employee, who is not otherwise employed in an equivalent full-time position, re-employment in the same or similar position at the university for a period of two years following the initial notice of reappointment.

Given that the Department on the Tampa Campus was eager to employ these two employees full time, and were told at one time that they had the resources to do so, this arrangement would have been used had the issue been grieved. The committee must assume that the non-reappointment was not occasioned by a disciplinary problem, which is the topic covered in Article 16 of the CBA, and none has been alleged. Indeed, no credible reason has ever been given for the non-reappointment.

Further, Associate Provost Smith asserts that the Faculty Senate has no jurisdiction in this matter but the committee finds this surprising. He states that personnel matters are the province of the United Faculty of Florida although he is fully aware that the UFF would rely on the Collective Bargaining Agreement which the University no longer recognizes. He knows that the UFF cannot intervene without a contract because he is the chief negotiator for the Administration, which has been involved in negotiations to obtain such a contract for over a year and a half. As he was Speaker of the Faculty Senate for two terms (1990 – 1992), he is certainly aware that a major reason the Senate was begun in 1972 was to establish and protect the Academic Relations Committee, which handled personnel matters of this sort until superceded by the United Faculty of Florida in 1976. The protection of faculty rights was probably the primary reason for the founding of the Faculty Senate. That, and the establishment of a collegial form of university governance were the motivating factors that resulted in the establishment of the Faculty Senate in May of 1972. The **Constitution of the Faculty Senate** states its mission in **Article III**.

#### **Jurisdiction, Section A. Responsibilities**

The Faculty Senate shall constitute the principal advisory body to the President of the University and the Provost and has the responsibility to review and make recommendations to them concerning decisions of the University on matters pertaining to the welfare of the University, particularly those of special interest to the academic division of the University.

Until superceded by the UFF, this statement was taken to include personnel matters. Until the Union contract is re-established, the Faculty Senate reverts to its original purpose, which includes investigating personnel matters.

The Faculty Senate has precedent for its action. When Charles Arnade was Speaker, President John Lott Brown asked the Senate Executive Committee to advise him on a problem within a department in the College of Arts & Letters. The Executive Committee interviewed each member of this department over a two week period and formulated suggestions on how the various issues it identified might be resolved. President Brown adopted the Executive Committee's recommendations and expressed his gratitude that it had resolved a festering problem in the University. Notice that at this time the United Faculty of Florida and the Collective Bargaining Agreement were in effect and operational.

As to the facts of the present case, the two faculty members will be considered individually. **Dr. Darlene Y. Bruner** joined the faculty at Lakeland Campus, USF, in Summer 2002 as an Associate Professor on a tenure track line. She had served for three years as Assistant Professor and one year as Associate Professor at Valdosta State University. She taught one course in Summer 2002 and in the Fall term was assigned to teach three graduate courses. Her teaching constituted 75% of her assignment with Research at 18.5% and Service 6.5%. The Annual Review Committee for the Department consisted of Dr. William Benjamin (Chair), Dr. Steve Permuth, Dr. Arthur Shapiro, and Dr. Karolyn Snyder. In the Annual Review of her performance dated April 14, 2003, the Review Committee considered Dr. Bruner *outstanding* in Teaching, and *strong* in both Research and Service. The Department Chairperson, Dr. Donald Orlosky echoed these sentiments and evaluated her performance as the Review Committee had done. Dr. Bruner was encouraged to continue seeking tenure.

**Dr. Bobbie J. Greenlee** joined the faculty at Lakeland Campus, USF, in Fall 2002 as an Assistant Professor on a tenure track line. In Fall 2002, she taught three courses. Teaching constituted 80% of her assignment, Research 15% and Service 5%. The Annual Review Committee, the same committee as for Dr. Bruner, while questioning the heavy teaching load for a first-term Assistant Professor, rated her *outstanding* in both Teaching and Research and *strong* in Service. Chairperson Orlosky again echoed these sentiments and evaluated her performance as the Review Committee had done. Dr. Greenlee was encouraged to continue seeking tenure.

The next document in either professor's file is a letter dated June 11, 2003, from L. Preston Mercer, Vice President CEO, co-signed by Tennyson J. Wright, Jr., over the name S. David Stamps, Provost and Vice President for Academic Affairs, who at that time was on vacation. These two letters are identical except for the inside address and greeting. These state:

As Vice President of Academic Affairs & Campus Executive Officer of the Lakeland Campus, I am providing you formal notice of non-reappointment of your tenure earning position as Assistant (for Dr. Greenlee), Associate (for Dr. Bruner) Professor in the Educational Leadership program. Your employment in that position will end at close of business on December 19, 2003. This decision was based on the determination that a different approach is needed to redirect departmental efforts. (Underline added.)

The ad hoc committee directs attention to the underlined sentence as it raises a major question of collegiality. How was the Department of Educational Leadership and Policy Studies involved in the "different approach ... needed to redirect departmental efforts"?

The ad hoc committee then had two questions of collegiality to consider, to what extent was the Department involved in the decision of non-reappointment of these two professors and to what extent it was involved in its own redirection. On March 3, 2004, Professor Strange, Chair of the Ad Hoc Committee, and Professor Zerla interviewed members of the Department. They were able to speak to Professors Art Shapiro, Carol Muller and Valerie Janesick. Later, they spoke to Former Chair Don Orlosky. Professor Zerla spoke to Dr. Bobbie Greenlee and Professor Strange to Professors Bill Benjamin and Steve Permuth. Thus the committee was able to interview the Department Chair and a majority of the Faculty Review Committee at the time the events occurred. As to the question of Department involvement in the non-reappointment, the answer was universally, absolutely none. The last statement the Department had made on the qualifications of these two faculty members was the evaluation of April 14, 2003. Each department member expressed surprise at this action. Chairman Orlosky was particularly irate that his authority had been ignored. The members of the Faculty Review Committee echoed his outrage. To the further question of the redirection of the Department, none of the people interviewed, including Chairman Orlosky, had any idea what this meant. It certainly did not originate with the Department.

The ad hoc committee was asked also to consider the “reconsideration” of these two cases some months later. Actually, the two cases were not “reconsidered”, but identical letters were sent to each faculty member by Interim Provost Renu Khator extending their service through the Spring Semester, 2004, “as a gesture of goodwill and in consideration of any misunderstandings that you might have had.” The only other correspondence on record is an email message sent by Dr. Bruner to Dr. Mercer on July 8, 2003, citing the USF Faculty Handbook requesting a written explanation concerning her non-appointment. The reply from Dr. Mercer on July 11, 2003, insisted that the Faculty handbook “is no longer applicable” because it cites the old Collective Bargaining Agreement that expired on January 7, 2003. He insisted he was under no obligation to provide a reason for non-reappointment. He did, however conclude, “we believe we can find someone better suited to the position.” Professors Strange and Zerla asked the members of the Faculty if they had been consulted in this search for “someone better suited to the position”. None had any idea what the statement meant, although it certainly impacted the Department and its policies.

Thus, the Faculty Senate Ad Hoc Committee on Non-Reappointment concludes that a serious breach of collegial governance has occurred in this case. Two tenure earning faculty members, highly praised by their chair and faculty review committee were not reappointed with absolutely no input of any kind from the Department. Such action the Ad Hoc Committee considers to be an egregious affront to collegial governance of the University unworthy an institution that aspires to maintain its status as a Rank 1 Research University.

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James Strange, Chair

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Susan Greenbaum

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Fredric Zerla

Submitted March 8, 2004

